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Scared Silent

Impunity for Extrajudicial Killings in the Philippines

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I. Summary

Our hopes and prayers [are] for light and justice for our son... Behind the pains that hurt the deep wound in our hearts we truly love him and we miss a great and unique man.

—Mother of shooting victim, Legazpi City, September, 2006

Right now, there is this culture of impunity covering executive officials, that they can do whatever they want and they will not be held accountable.

—Senator Rodolfo Biazon, Chair of Committee on National Defense and Security, Manila, September, 2006

It's a complete breakdown of the rule of law. Civilian rule has been replaced by military rule. The courts don't function. The prosecutors don't function. The investigative agencies don't function. Lawyers are threatened.

—Romy Capulong, human rights lawyer, Manila, September, 2006

Rei-Mon Guran, known by his parents as “Ambo,” but by his friends more colorfully as “Rambo,” celebrated his 21st birthday with friends and family in his hometown of Bulan, in Sorsogon province, on July 30, 2006. Early the next morning Guran began to return to nearby Legazpi City, where he was completing his second year as a political science student at Aquinas University. Guran’s mother and father accompanied him to the bus stop to help him load his belongings, and to wave him farewell. As Guran sat in his seat, waiting for the bus to begin its journey, a man in plainclothes walked up the center aisle of the bus and paused in front of Guran. The man pulled out a .45 caliber pistol and shot Guran four times at point-blank range, then fled.

Rei-Mon Guran was a leader on his campus and in his community. He was an elected member of his student council, the spokesperson and provincial coordinator for the

left-wing League of Filipino Students at Aquinas University, and an active member of the United Church of Christ in the Philippines' Christian Youth Fellowship.

Although the assailant was unidentified, Guran's political activities raise concerns that he was the target of Philippine security forces who deemed him to be linked to the long-running communist New People's Army (NPA) insurgency. An off-duty policeman was sitting on the bus when Guran was shot, but did not pursue the assailant. Other passengers were there, but not a single witness outside of the family will give evidence to the police. The witnesses say they are too scared, and fear reprisals from the assailants or their backers if they come forward. The police say that they cannot complete their investigation for lack of evidence and have asked Guran's family to plead with witnesses to speak with them. However, Guran's family have no means—nor the responsibility—to offer anyone protection from harassment or persecution that witnesses fear they may face in retaliation for giving evidence.

Rei-Mon Guran is just one case among hundreds of extrajudicial executions and failed prosecutions in the Philippines in recent years. This report, based on over 100 interviews and research that Human Rights Watch carried out in the Philippines between September and November 2006, documents the involvement of the armed forces in the killings of individuals because of their political activities. Witnesses and family members describe how members of left-wing political parties and non-governmental organizations, political journalists, outspoken clergy, anti-mining activists, and agricultural reform activists are being gunned down or “disappeared,” with their murders going unprosecuted.

The pattern of these unlawful killings suggests they are intended to eliminate suspected supporters of the NPA and its political wing, the Communist Party of the Philippines (CPP), and to intimidate those who work for progressive causes certain critics in the government and armed forces consider linked to the insurgency. Human rights groups, local church leaders, and politicians have repeatedly raised concerns about the impact on civilians of a government policy of “all-out war” declared against the NPA in June 2006. Most of the victims of these political killings are

members of legal political parties or organizations that the military claims are allied with the communist movement.

None of the incidents investigated by Human Rights Watch involved anyone who was participating in an armed encounter with the military or was otherwise involved in NPA military operations. Each victim appears to have been individually targeted for killing.

An investigating commission established by President Gloria Macapagal Arroyo in August 2006 under the guidance of former Supreme Court Justice Jose Melo, completed its report in January 2007, finally giving voice to what has become an open secret in the Philippines. The report determined that the “killings of activists and media personnel is pursuant to an orchestrated plan by a group or sector with an interest in eliminating the victims, invariably activists and media personnel.” Moreover, the Melo Commission concluded that “there is certainly evidence pointing the finger of suspicion at some elements and personalities in the armed forces, in particular General Palparan, as responsible for an undetermined number of killings, by allowing, tolerating, and even encouraging the killings.” Nonetheless, Human Rights Watch was unable to uncover a single case of apparent extrajudicial killing in recent years for which a member of the armed forces was successfully prosecuted.

President Arroyo announced a wealth of new measures in the wake of the Melo Commission’s conclusions and recommendations, but the president’s initial efforts to keep the Commission report secret raises serious concerns about the political will to enforce these measures. In the end, it is actions that will speak louder than words, and the only real indication of the government’s commitment to end these killings will be when the perpetrators are finally held to account in a court of law.

The Melo Commission report lamented that not a single witness came forward to provide eyewitness testimony of military participation in any extrajudicial killing. Human Rights Watch, however, was able to interview eyewitnesses to killings that identify the perpetrators as members of the military. In addition, Human Rights Watch’s investigations uncovered other sources of information that support the allegations of the involvement of military personnel in many of the killings.

Yet the Armed Forces of the Philippines (AFP) have to date wholly failed to hold any of its members accountable for these unlawful killings, including superior officers who ordered, encouraged, or permitted them. Nor has the military's high command—including Armed Forces Chief of Staff General Hermogenes Esperon, Jr.—shown any willingness to investigate senior officers for command responsibility, the doctrine by which a superior is held responsible when he or she knew or should have known about serious abuses but failed to take steps to prevent or punish the offenses.

Local police told Human Rights Watch that in some cases where they suspect military involvement in unlawful killings, they are unable to receive cooperation from military authorities in their investigations. In other cases, the police have clearly shied away from pursuing credible leads when they indicated the involvement of military personnel.

Indeed, an inquiry by the Philippines National Police (PNP), called Task Force Usig, begun in November 2006, laid the blame for most of the unlawful killings with the Communist Party of the Philippines and the New People's Army, despite clear evidence of military involvement. The government should independently investigate whether the police and army have obstructed justice by blocking efforts to uncover abuse by the security forces.

In the areas where killings have occurred, there is distrust in the investigative efforts of the police. Victims' families and witnesses interviewed by Human Rights Watch said they receive scant details about police investigations, while in some instances, police provide misleading information to victims' families. Victims' families told Human Rights Watch that the only outcome they expect from police and military investigations is impunity for the perpetrators of the killings. In many of the cases that the police consider "solved," Human Rights Watch has found that police merely filed cases in court against suspects whose identities and whereabouts are unknown, often just known NPA members. This generates widespread fear, particularly in affected rural communities, of further military abuses, and witnesses and families are afraid to cooperate with police for fear of becoming targets of reprisal.

The government and the military need to put action behind their public endorsement of protecting human rights and their denial of involvement in killings. Victims' families are unlikely to believe the government's words until credible prosecutions have been a success. President Arroyo should therefore:

- Immediately issue an executive order to the Armed Forces of the Philippines and Philippines National Police reiterating the prohibition on the extrajudicial killing of any person. This prohibition does not include lawful attacks on combatants during hostilities with NPA forces.
- Vigorously investigate and prosecute members of the security forces implicated in killings, particularly those identified by the Melo Commission report.
- Immediately direct the Armed Forces of the Philippines, the Philippines National Police, and all other executive agencies to desist from statements that are incitement to violence, such as by implying that members of non-governmental organizations are valid targets of attack because of alleged association or sympathy with the Communist Party of the Philippines or the New People's Army.
- Order the Inspector General of the Armed Forces of the Philippines, the Deputy Ombudsman, and the Provost Marshal of the Armed Forces to investigate and report publicly within 90 days on the involvement of military personnel in extrajudicial killing, and to identify failures within the Armed Forces of the Philippines investigative agencies to prosecute such criminal offenses, including, where appropriate, senior officers under the principles of command responsibility.
- Order the director of the National Bureau of Investigation to investigate and report publicly within 90 days on the failures of the Philippines National Police and Task Force Usig to adequately investigate and recommend for prosecution those military personnel implicated in extrajudicial executions. The report should also explain why Task Force Usig and the Melo Commission came to different conclusions with regards to the complicity of superior military officers.
- Order the Department of Justice to conduct a review within 60 days and publicly report on the failures of the current witness protection program and

propose reforms. The Department of Justice should also circulate an explicit set of operational guidelines for the police stipulating individual police officer's duties to provide protection to witnesses and individuals who report threats on their lives. The guidelines should stipulate clear sanctions for officers who fail to provide necessary protection in conformity with these guidelines.

II. Methods

Research for this report was conducted in the Philippines between September and November 2006. Human Rights Watch conducted more than 50 interviews with witnesses, family members, and close friends of victims. These interviews—conducted in English, Tagalog, Cebuano, Bicolano, and Ilonggo, either directly with the report’s authors or with the assistance of an interpreter—provided first-hand testimony of 19 incidents of extrajudicial executions or enforced disappearances that occurred between October 2005 and November 2006. We also spoke with four survivors of attempted killings carried out during 2006. Human Rights Watch visited the site of eight killings.

Cases were identified through consultations with journalists, church members, and non-governmental organizations in the Philippines and a survey of Philippine press accounts. Mindful of the broad spectrum of political organizations and “cause-oriented” organizations in the Philippines, Human Rights Watch made attempts to solicit cases from a variety of interest groups, as well as some cases where no political affiliation was apparent.

Interviews and field investigations were carried out in the following provinces: Albay, Bulacan, Compostela Valley, Davao, Davao del Norte, Davao del Sur, Metropolitan Manila, Negros Oriental, North Cotabato, Nueva Ecija, Sorsogon, and Tarlac.

Human Rights Watch also interviewed more than 50 government officials, lawmakers, academics, lawyers, diplomats, representatives of non-governmental agencies and civil society organizations, police, and members of the Philippines military. Human Rights Watch has also been in communications with the Embassy of the Republic of the Philippines in Washington, D.C., the Philippines Mission to the United Nations and International Organizations in Geneva.

Where names have been changed to protect the identity of interviewees because of security considerations, such changes are referenced in the footnotes.

III. Recent Military Relations with Government and Civil Society

People don't just get killed without any particular reason. There's always a motive. Some of them, I'm sure have personal reasons. For some of them, there are reasons for concern.

—Fernando Gonzalez, Governor of Albay province, Albay, 2006

Military involvement in politics

For more than 30 years, the Armed Forces of the Philippines (AFP) have been deeply involved in politics. Successive presidents, hoping to keep their hold on power, have fostered expectations of impunity by members of the military by implementing measures intended to placate restive officers—including amnesties or lenient punishments to coup plotters and human rights violators.

The disputed results of the snap election of 1986 between then-President Ferdinand Marcos and challenger Corazon Aquino, in which Marcos was officially declared the winner despite massive evidence of fraud, led directly to an aborted military takeover by young colonels allied with the then defense minister. When the plan to topple the government and put in place a junta was discovered by Marcos and its leaders threatened with arrest, the mutineers quickly made common cause with Aquino and the Roman Catholic Church and appealed for popular support—“people power”—that quickly propelled Aquino to the presidency.

Having come so close to power, the rebellious colonels quickly grew dissatisfied with Aquino's government and within months were plotting to topple her administration, very nearly succeeding on several occasions. But punishments for the plotters during the Aquino years were generally light, thus reinforcing impunity.

Aquino was succeeded in 1992 by Fidel Ramos, a career military officer, whose standing with the military and involvement in overthrowing Marcos to some extent helped check that impunity. He declared an amnesty for rebel soldiers, opened peace talks with communist insurgents, and presided over a period of relative economic strength and political calm.

When Vice-President Joseph Estrada, a former movie actor who had been close to Marcos, was elected president in 1998, political upheaval was again in the wind. Wildly popular with the poor majority of Filipinos for his cinematic exploits, Estrada was soon accused of corruption and immorality in office. A coalition of church leaders, the business elite, and the military again emerged to challenge him after he was implicated in a financial scandal. With Estrada still in office and impeachment proceedings against him not yet concluded, the coalition shifted, and the military moved its support to then-Vice-President Gloria Macapagal Arroyo and helped install her in office. Although the changeover was validated by a decision from the Philippines Supreme Court, critics questioned the constitutional legality of Arroyo's assumption of the office, and her administration has been under a cloud ever since.

While Arroyo has insisted that she is doing everything possible to investigate extrajudicial killings, the campaign of killings seemed to shift into a higher gear in February 2006 after leftist political parties were accused by members of the government of allying themselves with military rebels planning to overthrow her government. In the aftermath of that coup attempt, which failed when the military hierarchy rejected overtures from rebel colonels, Arroyo declared a state of emergency and castigated a handful of leftists from legal political parties who have gained seats in Congress. Cases have been filed against a number of politicians for allegedly backing the attempt to overthrow her.

Human rights activists remain concerned that Arroyo remains beholden to the military officers who put her in power, and that they are preventing her from disciplining those in the military who may be implicated in rights violations. As one commentator told Human Rights Watch, this puts the president in a position where her ongoing survival depends on weakening the political opposition—particularly from the vocal left—while feeding “the loyalty of the key state players crucial to her political survival, notably, the military,”¹ whom she is increasingly unable or unwilling to control.

¹ Presentation by Miriam Coronel Ferrer, to Forum on Violence Against Movements, Movements Against Violence, organized by the Institute for Popular Democracy and the University of the Philippines College of Social Sciences Student Council, September 12, 2006.

Military campaign against the New People's Army

The New People's Army (NPA) is the armed wing of the Communist Party of the Philippines (CPP), which since 1969 has been engaged in an armed rebellion with the goal of establishing a Marxist state.² Military estimates put the armed strength of the NPA at around 7,500 guerrillas,³ and the rebels are supported by a broad network of non-combatant supporters. The NPA and the CPP continue to exact what they call "revolutionary justice" against individuals in areas under their control, including the kidnapping and unlawful killing of those government officials, police, landlords, business owners, and local thugs whom they consider to be criminals against the people.

Such attacks on civilians constitute grave abuses of individuals' fundamental human rights and are violations of the laws of war. As such, they deserve the strongest condemnation, and the Philippine government is obliged to prosecute such violations to the fullest extent of the law. However, such abuses by insurgents do not justify the military or the government committing further human rights violations through extrajudicial killings and enforced disappearances of any person, including members of political groups and civil society organizations that are sympathetic to the insurgents' cause.

Peace talks between the government and the NPA collapsed in September 2005, following the government's refusal to seek the removal of the NPA, the CPP, and their uniting organization, the National Democratic Front (NDF), from the terrorist watch-lists of the European Union and the United States. Reports about the NPA's strength vary considerably, though in certain areas its presence can affect local security considerably.⁴

² Other armed opposition groups in the Philippines are the Moro Islamic Liberation Front (MILF), Abu Sayyaf, and Jemaah Islamiah.

³ Human Rights Watch interview with Major General Jovito Palparan (ret.), November 4, 2006. Other estimates vary, with Armed Forces Commander General Hermogenes Esperon saying in January 2007 that the NPA was down to 7,100 fighters due to combat losses. "AFP: Reds strength down to 7,100 and weakening," Jan. 6, 2007, <http://www.gmanews.tv/story/25885/AFP-Reds-strength-down-to-7100-and-weakening>.

⁴ Human Rights Watch interview with Senator Rodolfo Biazon, Senate Office, September 13, 2006; Human Rights Watch interview with Joel Rocamora, Executive Director Institute for Popular Democracy, September 26, 2006; Human Rights Watch interview with Major General Juanito Gomez, October 27, 2006; Human Rights Watch interview with Major Gen Jovito Palparan (ret.), November 4, 2006.

In June 2006 President Arroyo declared a new strategy of “all-out war” against the communist insurgency designed to eliminate the NPA once and for all. “The CPP-NPA has done enough in setting back peace and development for more than 30 years,” said Ignacio Bunye, Arroyo’s spokesman, at the time of the announcement. “The time has come to finally defeat this threat through a combination of military operations, law enforcement and pro-poor programs.”⁵

President Arroyo also budgeted 1 billion pesos (US\$20.5 million) towards this goal, and is committing thousands more troops to the anti-insurgency campaigns in central and southern Luzon and the Bicol region. There is reason to fear that this new pressure on the military to produce results may be leading to an increase in serious violations of human rights. As one commentator told Human Rights Watch, the President giving this order “to root out an insurgency that’s been going on for the last 30 years... creates an atmosphere within the military, where the President says we have to get this done, and we can’t get it done on the battlefield, so let’s get at them by other means... [and] take shortcuts.”⁶

Congressman Teodoro Casiño, a member of the left-wing Bayan Muna party, says the foiled February coup plot was also being used as an excuse to go after leftist opponents of the government out of revenge. He saw a direct relationship between the February coup plot, the June declaration of an “all-out war,” and the rise in political killings. “[The military] have removed the distinction between combatants and those who are in civilian groups,” he says.⁷

The military and leftist political and civil society groups

The Philippines has one of the largest, best organized, and most active communities of non-governmental organizations (NGOs) in the developing world, representing a broad spectrum of political perspectives.⁸

⁵ Palace allays fear of authoritarian rule, press release, Office of the President website, June 19, 2006, available at: <http://www.op.gov.ph/news.asp?newsid=15458>.

⁶ Human Rights Watch interview with Joel Rocamora, Executive Director Institute for Popular Democracy, September 26, 2006.

⁷ Human Rights Watch interview with Representative Teodoro A. Casiño, Party-List Representative for Bayan Muna, National House of Representatives, September 12, 2006.

⁸ Clarke, Gerard. *Politics of NGO's in Southeast Asia: Participation and Protest in the Philippines*, Florence, KY: Routledge, 1998, p 68.

Many left-wing NGOs are especially vocal in their opposition to the Arroyo administration. It is the members of such organizations—particularly civil society groups viewed by the military as being associated with the CPP and NPA—who appear to have been targeted in the spate of political killings. For many decades, the CPP-NPA-NDF coalition have had considerable influence on many left-wing NGOs, including the establishment of new NGOs to support their revolutionary cause, and by extracting funding from supportive NGOs to further the armed rebellion.⁹

The relationship between such sympathetic NGOs and the CPP-NPA-NDF alliance has sometimes been contentious. Most damaging was the rift that developed within the CPP in the early 1990s between those who “reaffirmed” and those who “rejected” the Party’s continued following of Marxist-Leninist-Mao Zedong ideology and the chairmanship of the Party by Jose Maria Sison. Many of the legal organizations who were previously sympathetic to the underground left also fragmented along similar lines, with different sides seizing different organizational assets.

The scars of this split still permeate the progressive NGO community today. For example, a comparison of the public lists of unsolved political killings during the first six months of 2006 claimed by the “reaffirm” NGO Karapatan and the “reject” NGO Philippines Alliance for Human Rights Advocates, contained only one name in common. Members of some NGOs complained to Human Rights Watch that other NGOs tended to be highly proprietary with their research and data on extrajudicial killings and harassment of their members, harming the ability of NGOs to build a stronger coalition to oppose such developments. As one leading journalist told Human Rights Watch, the consequence is that “NGOs are suffering from a lack of sympathy problem, [only] crying when their own people are hurt.”¹⁰

The progressive and activist NGOs are also often affiliated with political parties, in particular the so-called “party-list” organizations. In the 250-member House of Representatives, certain interest groups, such as the rural poor or the elderly, are represented through “sectoral representatives,” selected by the popular vote. Any

⁹ Ibid, p. 113-120.

¹⁰ Human Rights Watch interview with Glenda M. Gloria, Managing Editor, *Newsbreak*, September 12, 2006.

organization that wins more than 2 percent of the vote is awarded one seat for every 2 percent that they received, up to a maximum of three representatives.

The three party-list organizations most closely aligned with the “reaffirm” leftist activist groups are Bayan Muna, Anakpawis, and Gabriella. All three are legal political parties. Bayan Muna was formed in 1999 by representatives from various grassroots organizations, and played a prominent role in the “people power” uprising of 2001 that displaced President Estrada and launched Arroyo into power. Bayan Muna won the most electoral support for a party-list organization in the 2001 elections, and therefore claimed the maximum three seats in the House of Representatives. By the 2004 elections two of Bayan Muna’s representatives established ties with two new sectoral groups—Anakpawis and Gabriella—in an effort to increase the overall representation of progressive leftist interests in the Congress. In the 2004 elections Bayan Muna again won the most votes for party-list representatives and captured the maximum three seats, and Anakpawis and Gabriela each received one seat.

Despite their original supportive role in the public demonstrations that brought Arroyo to the presidency, these three party-list organizations now count as some of her most vocal opposition, and have proved highly efficient in mobilizing public protests against her rule. As a prominent journalist explained to Human Rights Watch: “The left has been supplying the bodies for the anti-Gloria rallies.”¹¹

Some political analysts view the increased electoral success of these sectoral groups, and the role they play in fomenting popular opposition to the Arroyo administration, as key reasons behind increased harassment and pressure on such groups. One commentator explained: “People like [National Security Advisor Norberto] Gonzalez are really obsessed with dealing with Bayan Muna and other CPP fronts.”¹²

Legal NGOs and political parties in the Philippines have long had uneasy relations with the security forces because of their perceived or real ties to the CPP-NPA-NDF. In

¹¹ Human Rights Watch interview with Glenda M. Gloria, Managing Editor, *Newsbreak*, September 12, 2006.

¹² Human Rights Watch interview with Joel Rocamora, Executive Director Institute for Popular Democracy, September 26, 2006.

the late 1980s NGO workers and human rights activists and lawyers were frequent targets for arbitrary arrest, torture, and killing as a result of their perceived sympathies with the underground left and their high profile in local elections.¹³ These violations were variously carried out by members of the AFP or members of anti-communist “vigilante” groups established and armed by the army.¹⁴ The AFP also established local militias to assist in its counter-insurgency operations.¹⁵

In 1992 President Ramos de-criminalized membership in the CPP through the repeal of an old Anti-Subversion Law as part of attempts to end the conflict. The establishment of the party-list system in 1995 also provided an opportunity for organizations linked with the CPP to seek election and participation in the legal, democratic political process as an alternative to armed struggle.

Although antagonism between the military and the NGOs waned during the mid-1990s, suspicions continued on both sides. The ongoing ideological splits within the NGO community has made it relatively easy for military officials to dismiss the claims of the NGO Karapatan and other left-wing groups as ideologically biased and has contributed to putting activists at risk when military authorities accuse them of being allied with the insurgency. It has also meant that Karapatan and many military officers simply refuse to talk to one another to resolve disputes. Major General Juanito Gomez, the commander of the army’s 7th Infantry Division in Central Luzon, refuses to meet members of Karapatan on the subject of extrajudicial killings. “Personally I would say they are biased,” General Gomez told Human Rights Watch. “We will not be discussing [anything] with them.”¹⁶

Human Rights Watch is concerned that the pressure of Arroyo’s declaration of a two-year deadline for the military to eradicate the communist insurgents has had a dangerous effect on civilians in areas targeted for counter-insurgency actions. Josie dela Cruz, the Governor of Bulacan Province, met with the then-AFP commander in

¹³ Clarke, Gerard. *Politics of NGO’s in Southeast Asia: Participation and Protest in the Philippines*, Florence, KY: Routledge, 1998, p 83. See also, Asia Watch and Lawyers Committee for Human Rights, *Lawyers Under Fire: Attacks on Human Rights Attorneys in the Philippines*, New York, 1988.

¹⁴ See generally Lawyers Committee for Human Rights, *Vigilantes in the Philippines: A Threat to Democratic Rule*, New York, 1988.

¹⁵ See generally Lawyers Committee for Human Rights, *Out of Control: Militia Abuses in the Philippines*, New York, 1990.

¹⁶ Human Rights Watch interview with Major General Juanito Gomez, October 27, 2006.

her region, General Jovito Palparan, on numerous occasions to discuss his military operations. As she put it: “In his terminology there are no sympathizers, you are either with the NPA or not, either with the military or not.... As far as Palparan is concerned, once you deal with the NPA you are the NPA.”¹⁷

Although General Palparan—retired since September 2006—denies allegations from local human rights organizations that political killings escalated wherever he was in charge of counter-insurgency efforts, he has noted on more than one occasion that the extrajudicial killings were “helping” the armed forces by eliminating individuals who oppose the government and commit “illegal activities” in support of the NPA.¹⁸ While still in command, General Palparan noted that the killings were “being attributed to me, but I did not kill them. I just inspired [the triggermen]...We are not admitting responsibility here, what I’m saying is that these are necessary incidents.”¹⁹

Palparan has been vocal in explaining his view that legal left-wing groups are in partnership with the CPP: “It is my belief that these members of party lists in Congress are providing the day-to-day policies of the [rebel] movement.”²⁰ He has also singled out party-list leaders, saying “even though they’re in government, no matter what appearance they take, they are still enemies of the state.”²¹ Palparan also alleges that the rebel network also includes hundreds or thousands of outwardly legal NGOs infiltrated or directed by the CPP that “provides the materials, the shelter” for the NPA, and he describes such organizations are “legal but they’re doing illegal activities.”²² In response, as reported by *Agence France Presse*, Palparan proposed that:

¹⁷ Human Rights Watch interview with Governor Josefina Mendoza Dela Cruz, September 13, 2006.

¹⁸ “Palparan: Leftists making me symbol of military abuses,” *Philippine Daily Inquirer*, October 28, 2005, p. A1; “General Palparan: Leftist rebellion can be solved in 2 years,” *Agence France Presse*, February 2, 2006.

¹⁹ Major General Jovito Palparan, quoted in Fe B. Zamora, “In his all-out war against the reds, this General dubbed the butcher claims conscience is the least of his concerns,” *Sunday Inquirer Magazine*, July 2, 2006.

²⁰ “General Palparan: Leftist rebellion can be solved in 2 years,” *Agence France Presse*, February 2, 2006.

²¹ Major General Jovito Palparan, quote in Tonette Orejas, “Palparan Says Army Infiltrated NPA,” *Philippine Daily Inquirer*, May 16, 2006, p. A13.

²² Major General Jovito Palparan, quoted in Tonette Orejas and Norman Bordadora, “Make Communism Illegal Again,” *Philippine Daily Inquirer*, May 21, 2006, p. A2.

“We need to strengthen our legal offensive” against this network, while warning that an effective counter-insurgency campaign will necessarily be messy and that, “There will be some... collateral damage but it will be short and tolerable, (and in the end) acceptable...The enemy would blow it up as a massive violation of human rights, but to me it would just be necessary incidents compared to what will happen really if we do not decisively confront the problem.”²³

Human Rights Watch collected first-hand accounts of military personnel implicated in the harassment, arbitrary detention, and other human rights violations in areas targeted for counter-insurgency activities. Such measures appear intended to intimidate the civilian population from supporting the insurgents. According to Miriam Coronel Ferrer, a professor at the University of the Philippines’ Center for Integrative and Development Studies:

The unprecedented high number of killings of political activists associated with national democratic organizations... in [a] compressed time is part of this "collective punishment" frame. The extrajudicial killings we have seen share the same features of rural community-based counter-guerilla warfare: indiscriminate or dismissive of the distinction between combatants and non-combatants, and clouded by “hate language” and demonization of the enemy.... The killings’ desired impact is the same: fear, paralysis, scuttling of the organizational network, albeit not just in the local but the national sense. The goal is to break the political infrastructure of the movement whose good showing in the past election (under the party list system) and corresponding access to pork barrel funds and a public platform, were, from the point of view of the anti-communist state, alarming.²⁴

²³ “General Palparan: Leftist rebellion can be solved in 2 years,” *Agence France Presse*, February 2, 2006.

²⁴ Presentation by Miriam Coronel Ferrer, to Forum on Violence Against Movements, Movements Against Violence, September 12, 2006.

Senator Rodolfo Biazon, a former AFP chief of staff, attributed the rights violations to military personnel who feel constrained in fighting the insurgency:

It may be because of frustration by people operating on the ground... [That these are legal groups that] are allowed to participate in the political process... and the perception continues that this Communist Party—although they don't call themselves the Communist Party—are providing support to the rebels, and the [military] can do nothing about it.”²⁵

Many close observers of the military's counter-insurgency campaign expressed to Human Rights Watch their concern that the military's heavy-handed tactics against noncombatants would prove counter-productive. Drawing on his own experiences fighting the NPA, Senator Biazon told us:

My concern here is my belief that when you are fighting an insurgency, it is not just a military problem, it is also an economic and social problem... You need to isolate the insurgents from the people... Somehow I think it's a wrong tack for the government to take, because it could drive our people into the arms of the insurgents... We could be pushing more and more people to consider extra-constitutional means to effect these reforms and changes... [because of this] perceived adoption of a government policy that encourages political killings, “disappearances,” and simple violations of the human rights by our security forces... Because that's what I saw under Martial Law.”²⁶

Recent Developments

Since Human Rights Watch conducted its initial field investigation into the issue of extrajudicial executions in the Philippines in September 2007, three major investigations have released their own findings, or preliminary findings. Two of these investigations were carried out by government-appointed bodies: Task Force Usig

²⁵ Human Rights Watch interview with Senator Rodolfo Biazon, Senate Office, September 13, 2006.

²⁶ Human Rights Watch interview with Senator Rodolfo Biazon, Senate Office, September 13, 2006.

and the Melo Commission. A third investigation was conducted by the UN's Special Rapporteur on Extrajudicial Executions.

Task Force Usig

In August 2006 President Arroyo created a special police body, Task Force Usig, which she charged with solving 10 cases of killings of political activists or journalists within 10 weeks. During its 10-week mandate the Task Force claims that 21 cases were solved by filing cases in court against identified suspects, all of them members of the CPP and NPA. Only 12 suspects involved in these incidents were actually in police custody.

Following its initial 10-week mandate, Task Force Usig has continued its investigations and is the lead investigatory body within the PNP on cases of killings of political activists and members of the media.

Melo Commission

Later in August 2006 President Arroyo also created a commission to further probe the killings of media workers and left-wing activists since 2001. The President appointed former Supreme Court Associate Justice Jose Melo to lead the commission, which was comprised of National Bureau of Investigation Director Nestor Mantaring, Chief State Prosecutor Jovencito Zuño, Bishop Juan de Dios Pueblos, and Nelia Torres Gonzales, a member of the Board of Regents of the University of the Philippines.

Opposition and human rights groups criticized the Melo Commission for having little power to carry out investigations and for its membership of only government-selected commissioners.

Perceiving that the composition of the Commission indicated a bias in favor of the Arroyo administration, many activist and human rights groups refused to provide testimony to the Commission, and may have advised some victims not to appear before the Commission. Nonetheless, the Commission proceeded with its investigations, calling representatives of the military, the police, and speaking with the family members of certain victims.

The Commission concluded its report in January 2007, but the President initially fought to keep the report secret. Under pressure from United Nations Special Rapporteur on Extrajudicial Executions, Philip Alston—who conducted a 10-day visit to the Philippines in February 2007—the government released the report on February 22, 2007. In the report the Commission concedes that it was not created to solve any of the killings by pinpointing the actual gunman involved. That task, the report notes, will “take years and an army of investigators and prosecutors to finish, [and] would be best left to the regularly constituted law enforcement authorities and the Department of Justice.”²⁷

However, the report found that “there is no shirking the fact that people, almost all of them activists or militants, have been killed.... [T]he victims, of which this Commission is concerned, were all non-combatants. They were not killed in armed clashes or engagements with the military.”²⁸ The report also concludes that the “killings of activists and media personnel is pursuant to an orchestrated plan by a group or sector with an interest in eliminating the victims, invariably activists and media personnel.”²⁹

The ultimate finding of the Commission was:

There is no official or sanctioned policy on the part of the military or its civilian superiors to resort to what other countries euphemistically call “alternative procedures”—meaning illegal liquidations. However, there is certainly evidence pointing the finger of suspicion at some elements and personalities in the armed forces, in particular General Palparan, as responsible for an undetermined number of killings, by allowing, tolerating, and even encouraging the killings.³⁰

²⁷ Independent Commission to Address Media and Activist Killings, “Report,” January 22, 2007 (hereafter “Melo Commission report”), p. 3.

²⁸ Melo Commission report, p. 1.

²⁹ Melo Commission report, p. 6.

³⁰ Melo Commission report, p. 53.

President Arroyo announced a number of new measures in the wake of comments by members of the Melo Commission about the substance of their report, but before she allowed the report to be made public. These measures included:

- The Department of National Defense (DND) and the Armed Forces of the Philippines are to come up with an updated document on command responsibility;
- The Department of Justice (DOJ) and the DND shall coordinate with the Commission on Human Rights to constitute a Joint Fact-Finding body to delve deeper into the alleged involvement of military personnel in unexplained killings, file charges against those responsible and prosecute the culpable parties;
- The DOJ to broaden and enhance the Witness Protection Program;
- The Chief Presidential Legal Counsel to request the Supreme Court to create Special Courts for the trial of cases involving killings of a political/ideological nature.
- Request technical assistance and investigators from the European Union and the governments of Spain, Sweden, Finland, United Kingdom, Ireland, Italy, Germany and the Netherlands in order to assist Philippine Government efforts to resolve this issue.³¹

In early March 2007 the Chief Justice of the Supreme Court, Reynato Puno, issued Administrative Order 25-2007 designating nearly all of the 99 trial courts across the country as special tribunals to try cases of political killings, a designation which is apparently intended to give priority to such cases in the courts' trial calendars. The order also mandates continuous trials for such cases, and limits the duration of such trials to 60 days after their commencement, with judgment to be rendered within 30 days of the close of trial. These "special courts" will be required to submit a report on the status of their cases, and failure to do so constitutes grounds for withholding

³¹ Letter from Ambassador Willy C. Gaa, Embassy of the Philippines, Washington D.C., to Human Rights Watch, February 12, 2007.

the salaries and allowances of the judges, clerks of court, and branch clerks of court concerned.³²

Although only time will tell the effectiveness of these new proposed measures, they do not all necessarily address problems identified by either the Melo Commission report, nor by this report by Human Rights Watch. In particular:

- The President has ordered the DND to produce a new summary of the existing laws on command responsibility. However, it is the current failure of the Philippines National Police and the Armed Forces of the Philippines to actually enforce existing laws and regulations—found in both international treaties to which the Philippines is a party, customary principles of the laws of war, and the Philippines own Articles of War—that has led to the failure to prosecute superior officers. Therefore, the most important indication of commitment by the AFP and PNP to ending extrajudicial killings will not be when they produce new documents summarizing existing laws, but instead, when they choose to start using the existing laws to prosecute culpable superior officers.
- By proposing that the DND, the DOJ, and the Commission on Human Rights develop a joint-fact finding body to investigate military involvement in extrajudicial killings, the president seems to ignore that the real problem, which is that the police already have the power and responsibility to investigate and bring charges against responsible individuals, yet chose not to do so. The president should not charge the responsibility for investigating and prosecuting military involvement to agencies that lack the necessary legal or technical capacity to do so credibly. If the president believes it is imperative to assign this responsibility to additional agencies rather than just ensuring that the police carry out their existing duties, whichever government agencies are encouraged to investigate military involvement in political killings must be given the necessary legal and technical powers to carry out

³² Jay B. Rempillo, “SC Designates Special Courts for Extrajudicial Killings,” *Court News Flash*, March 2, 2007, available at: <http://www.supremecourt.gov.ph/news/courtnews%20flash/2007/03/03020703.php>; see also Amando Doronila, “Corpses as trophies,” *Philippine Daily Inquirer*, March 14, 2007.

such an investigation, including the power to subpoena individuals, compel testimony, lay criminal charges, and provide protection to witnesses.

- Although a broadening and enhancement of the Witness Protection Program is to be welcomed, it should be noted that even the current program is not being implemented to provide protection to witnesses, and the DOJ should be required to report on why the existing witness protection program is being underutilized.
- The new “special courts” proposed by the president and established by the Supreme Court chief justice must be established and used to facilitate the prosecutions of persons accused of political killings in accordance with international fair trial standards—and not to deny justice for the victims and their families. Moreover, if the president and the Supreme Court chief justice have identified failings within the existing prosecutorial and judicial system which hinder the prosecution of individuals involved in extrajudicial executions, then it is imperative that such failings in the existing system are also corrected.
- Human Rights Watch welcomes the invitation of international observers and fact-finders, but notes that, as shown in this report, international investigators who have previously investigated killings in the Philippines have been blacklisted from entering the Philippines because of their work, and at times have been harassed and threatened by the military.

Visit by the Special Rapporteur on Extrajudicial Executions

From February 12 to 21, 2007, the United Nations’ Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, Philip Alston, visited the Philippines at the invitation of the government, where he met with government officials, civil society representatives, witnesses of extrajudicial killings, and the family members of victims.³³

Despite his official invitation from the government, the Special Rapporteur was vehemently criticized by certain individual members of the government and military. Justice Secretary Raul Gonzalez called the Special Rapporteur a “*muchacho*” (lowly

³³ “Special Rapporteurs” are independent experts appointed by the United Nations human rights mechanisms to receive and investigate allegations of human rights violations. Special Rapporteurs report to the UN Human Rights Council in Geneva.

servant) at the UN, and also accused him of having been “brainwashed” by leftists.³⁴ According to the Special Rapporteur, the Defense Secretary Hermogenes Ebdane called him “blind, mute and deaf,” while the chief of staff of the Armed Forces was apparently “less eloquent but equally dismissive.”³⁵ In a statement before the UN Human Rights Council in Geneva, the Special Rapporteur said:

Part of me appreciates the substitution of frank insults for the usual diplomatic platitudes, but anyone reading between the lines will receive a far more disturbing message: Those government officials who must act decisively if the killings are to end, still refuse to accept that there is even a problem.³⁶

In a statement released at the end of his mission, the Special Rapporteur stated his opinion that “the AFP remains in a state of almost total denial... of its need to respond effectively and authentically to the significant number of killings which have been convincingly attributed to them.” He went on to note that it was the responsibility of the president to persuade the military that “its reputation and effectiveness will be considerably enhanced, rather than undermined, by acknowledging the facts and taking genuine steps to investigate.”³⁷

Regarding the government’s response to the crisis of extrajudicial executions, the Special Rapporteur noted that:

There has been a welcome acknowledgment of the seriousness of the problem at the very top. At the executive level the messages have been very mixed and often unsatisfactory. And at the operational level, the allegations have too often been met with a response of incredulity, mixed with offence.³⁸

³⁴ Amando Doronila, “Strong parting shot,” *Philippine Daily Inquirer*, February 28, 2007; “Filipino lawyer vouches for Alston’s integrity,” *Philippine Daily Inquirer*, February 23, 2007.

³⁵ Statement by UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions before the Human Rights Council, March 27, 2007; *see also* Raul Pangalangan, “What the reports really say about us,” *Philippine Daily Inquirer*, March 2, 2007.

³⁶ Statement by UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions before the Human Rights Council, March 27, 2007.

³⁷ UN Special Rapporteur Philip Alston, Press Statement, February 22, 2007.

³⁸ UN Special Rapporteur Philip Alston, Press Statement, February 22, 2007.

The Special Rapporteur's statement highlighted the need "to restore accountability mechanisms that the Philippines Constitution and Congress have put in place over the years, too many of which have been systematically drained of their force in recent years."³⁹

The press statement stressed that the failure to provide adequate protection to witnesses and their vulnerability was a "rampant problem."⁴⁰

The Special Rapporteur emphasized the need to provide "legitimate political space for leftist groups." Noting how former President Ramos had pursued a strategy of reconciliation to provide an incentive for such groups to enter mainstream politics, the current executive branch, "openly and enthusiastically aided by the military, has worked resolutely to... impede the work of the party-list groups and to put in question their right to operate freely." Such actions were intended not to destroy the NPA, but "to eliminate organizations that support many of its goals and do not actively disown its means."⁴¹

³⁹ UN Special Rapporteur Philip Alston, Press Statement, February 22, 2007.

⁴⁰ UN Special Rapporteur Philip Alston, Press Statement, February 22, 2007.

⁴¹ UN Special Rapporteur Philip Alston, Press Statement, February 22, 2007.

IV. Extrajudicial Executions

Since President Arroyo came to power in 2001, extrajudicial executions have been on the rise.

A number of local and international actors have attempted to qualify the number of victims of politically motivated killings in the Philippines since the beginning of the Arroyo administration in 2001. The conclusions of these different efforts vary, as does the methodology of data collection for each effort, and the ideology of the groups doing the collecting.

In a December 2006 update, the Philippines National Police's investigation into political killings, Task Force Usig, concluded that there were 115 cases of "slain party list /militant members" since 2001, and 26 cases of "mediamen."⁴² The human rights group Karapatan, which is closely aligned with the far-left political parties and groups, asserts that 206 people were victims of extrajudicial executions just in 2006, of whom 99 were political activists, and the remainder civilians suspected of sympathizing with leftist groups. Karapatan's list of extrajudicial executions since Arroyo came to power in 2001 tops 800 people. Other human rights groups, such as the Philippine Alliance of Human Rights Advocates (PAHRA) and Amnesty International have also come up with different statistics for different time periods. Amnesty has estimated 50 killings between January and June in its report of August 15, 2006,⁴³ and PAHRA gave the same number for the same period.⁴⁴ The *Philippine Daily Inquirer* reports 299 killings between October 2001 and April 2007.⁴⁵

Human Rights Watch does not have the capacity to verify any one particular set of numbers or list of victims. However, our research, based on accounts from eyewitnesses and victims' families, found that members of the Armed Forces of the Philippines (AFP) were responsible for many of the recent unlawful killings. The

⁴² Philippines National Police, "Update on Tasforce 'Usig'," December 11, 2006.

⁴³ Amnesty International, "Philippines: Political Killings, Human Rights and the Peace Process," August 15, 2006, section 1.

⁴⁴ Human Rights Watch interview with Max De Mesa, PAHRA Chairperson, September 12, 2006.

⁴⁵ See e.g. Alcuin Papa, "3 US solons to PNP: Respect human rights," *Philippine Daily Inquirer*, April 18, 2007.

motive for the killings often appears to be the political activities, or the perceived political activities, of the victim.

The unlawful killing of individuals because of their political affiliation, or the perceived political nature of their activities, is not a new phenomenon in the Philippines. However, opposition politicians claim that killings are increasingly frequent. Congressman Teodoro Casiño, a member of the leftist Bayan Muna political party, which claims to have lost more than 100 members to illegal killings since President Arroyo came to power in 2001, explained:

We've had them since [President Ferdinand] Marcos' era, and it hasn't stopped. But we've noticed that since 2001 the numbers have escalated at an alarming pace. Previously, a significant number of victims were with armed underground groups. But we have noticed that since 2001 nearly all of these victims are not members of armed groups, but are members of legal groups who are very critical of the Government.⁴⁶

In the Philippines such killings by the security forces or by the NPA are colloquially referred to as “political killings,” and they are occurring throughout the archipelago (see Figure 1). These include instances, including “disappearances,”⁴⁷ in which individuals are abducted and never heard from again, never released, and a body is never located, leading to people being considered “disappeared.”

⁴⁶ Human Rights Watch interview with Representative Teodoro A. Casiño, Party-List Representative for Bayan Muna, National House of Representatives, September 12, 2006.

⁴⁷ According to the International Convention for the Protection of All Persons From Enforced Disappearance, “enforced disappearance is considered to be the arrest, detention, abduction or any other form of deprivation of liberty committed by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law” (Article 2), E/CN.4/2005/WG.22/WP.1/REV.4, 23 September 2005, (not yet in force).

Number of Suspected
Political Killings, 2006
as reported in the
Philippines Daily Inquirer,
by province

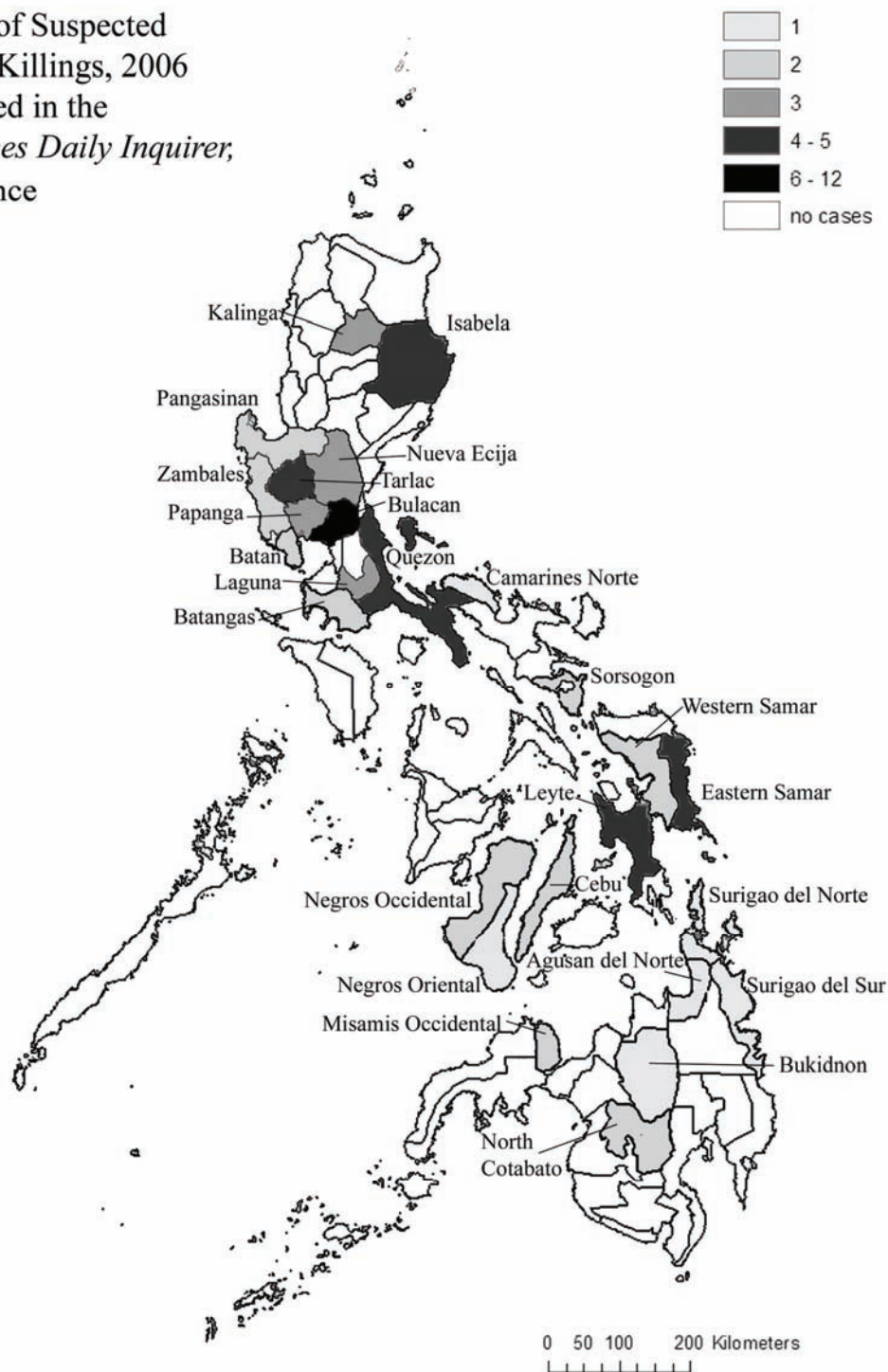


Figure 1: Suspected Political Killings as Reported in the *Philippines Daily Inquirer* during 2006, by location.
© 2006 Elena Semenova

Victims of political killings or “disappearances” come from a number of professions and backgrounds, including members of the left-wing “party list” political parties Bayan Muna, Anakpawis, and Gabriela. Others include student activists, anti-mining activists, political journalists, clergy, and agricultural reformers.

The large number of killings does not tell the whole story. Some of the victims of this spate of extrajudicial executions had national political reputations. For example, Sotero Llamas, who was shot in his car on the morning of May 29, 2006, as he and his driver passed through his home town of Tabaco City, in Albay province, had been the former Bicol region NPA commander (see case below). The death of an individual who severed ties with the CPP-NPA many years earlier suggests that the targeted killings may not be time-bound to current activities, which can create even more fear and uncertainty in a community, particularly for those who put down their weapons years ago. The majority of victims of the political killings, however, were involved in political activism at a low-level, with at most local notoriety. The cases of two student members of the left-wing League of Filipino Students who were gunned down in the Bicol region in 2006 exemplifies this (see below).

In a few other cases involving military personnel, non-political reasons may be behind the crime. Murder has long been a common method to settle scores in the Philippines, including local political rivalries, disputes over land, corruption, and personal disputes.

Extrajudicial executions

This is how it always happens since time immemorial with these insurgency campaigns. They get out of hand.

- Governor Josie dela Cruz, Manila, September, 2006

In a number of cases of unlawful killings Human Rights Watch investigated, there was strong evidence implicating military personnel. These cases come from around the country, including five incidents in Central Luzon, two in Bicol, and two in Mindanao.

Pastor Isias de Leon Santa Rosa

The killing of Pastor Isias de Leon Santa Rosa in Bicol on August 3, 2006, provides clear physical evidence of involvement by military personnel. Just before 8 in the evening that day, there was a knock on the door. The victim's wife Sonia Santa Rosa recounted what happened:

Immediately when I opened the door, about 10 armed men entered the house. [One of them] was shouting, commanding the others "Enter!" and to us "Lie down!" All of us lay down and they pointed guns at our heads... A short firearm. After 5 minutes they brought my husband to the room of my younger daughter... They asked him if he is Elmer. My husband did not answer. Then he answered, "I am not Elmer. You can even verify, look at my ID." We don't know who Elmer is. We've never heard the name before... All the time I was just comforting our [four] children, because the children were really crying. One of the men said "Just follow our orders and you will not be harmed." They searched the living room and the other rooms. They took with them the laptop, the printer, and a bag of personal belongings of my husband, including some cash and cell phones, and a samurai knife that was being displayed [on the wall]... My husband was dragged out and all the men left. Knowing that the group had fled, I went outside to get the help of neighbors. I shouted "Help! Help!" Many neighbors came here, gathered here, and then we heard nine gunshots. [That was] 5 minutes after my husband was dragged out of the house... [We heard the] gunshots at about 8 p.m.⁴⁸

The shots appeared to be coming from a nearby stream. Local police arriving at the ditch leading down to the stream found not one, but two, bodies. Santa Rosa's body lay face down, and about five meters away lay another body, face up.⁴⁹

⁴⁸ Human Rights Watch interview with Sonia Santa Rosa, September 20, 2006.

⁴⁹ Crime Scene Sketch from Daraga Municipal Police, copy on file with Human Rights Watch; Human Rights Watch interview with Ray Sun Santa Rosa, September 20, 2006.

According to the police report, the second body was of a male, wearing a balaclava over his face. A .45 caliber Llama pistol and one magazine loaded with six bullets were found by the body.⁵⁰ Local police also discovered a brown wallet on the body containing an AFP identification card in the name of Corporal Lordger Pastrana, serial number 850278 (see Figure 2). Also found on Pastrana's body was a mission order marked "SECRET" from the 9th Military Intelligence Battalion for Pfc. Lordger Pastrana, serial number 850278, authorizing him to carry a .45 caliber Llama pistol from July 1, 2006, until September 30, 2006 (see Figure 3).⁵¹ Pastor Santa Rosa's brother confirmed to Human Rights Watch that the body belonged to one of the men who entered their house, identifying him by his clothing, and said that the dead man was the one that the rest of the men called "Sir."⁵²

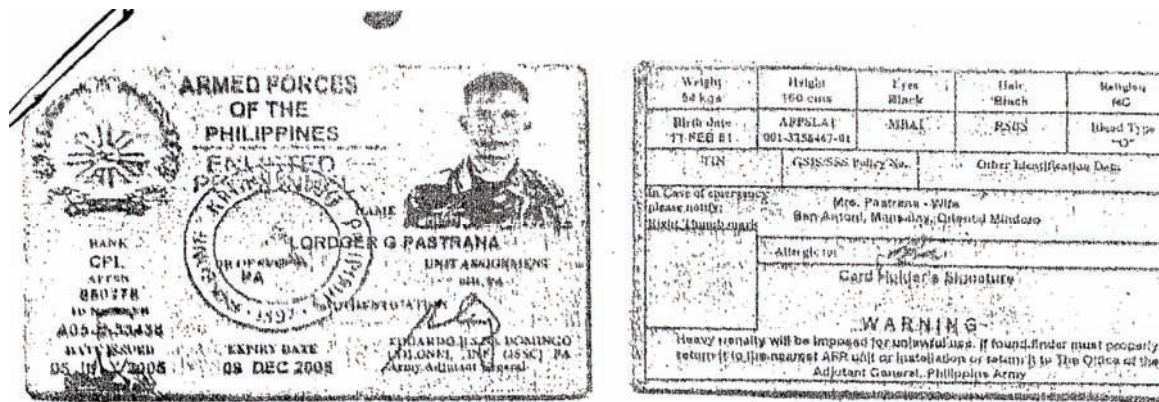


Figure 2: A military identification card in the name of Lordger Pastrana, found on the body of one of the assailants who dragged Father Isias de Leon Santa Rosa from his home. From the police file of investigation of the killing of Isias de Leon Santa Rosa, Daraga Municipal Police. © 2006 Bede Sheppard

⁵⁰ Memorandum, Daraga Municipal Police Station, August 21, 2006.

⁵¹ Photocopy of AFP ID and mission order on file with Human Rights Watch.

⁵² Human Rights Watch interview with Ray Sun Santa Rosa, September 20, 2006.



SECRET
HEADQUARTERS
9TH MILITARY INTELLIGENCE BATTALION
 9th Infantry Division, Philippine Army
 Camp Weene, Marikina, Pili, Camarines Sur



1 July 2006
 Date

MISSION ORDERS

NUMBER 128-3

TO: Pfc Lordger G Pastrana 850278 (Inf) PA

- I. DESTINATION: Region 4, 5 & NCR Only
- II. PURPOSE: **SECRET**
- III. DURATION: 01 July 2006 - 30 September 2006
- IV. AUTHORIZED ATTIRE/UNIFORM:

BDA: (X) HBT: (X) Civilian (X)
 V. AUTHORIZED TO CARRY FIREARMS: (X) Yes () No

CALIBER	MAKE	KIND	SERIAL NR	MR/LICENSE NR	NR AMMO
.45	Ulama	Pistol	07-04-12934-98	MR	50 rds
x-x-x-x-x-x	x-x-x-x-x-x	x-x-x-x-x-x	Nothing Follows	x-x-x-x-x-x	xx-X

VI. SPECIFIC INSTRUCTIONS:

- a. For personnel in uniform, the firearm shall be placed in a holster securely attached to the belt; personnel in uniform without holster and personnel in civilian attire ensure that their firearms are concealed unless in actual and lawful use.
- b. It is prohibited to carry firearms where people gather for political, religious, social and educational purposes such as churches or chapels, carnival grounds or fairs, night clubs, cabarets, dance halls, dancing places during fiestas, movies, cockpits, racetracks etc; except when the person concerned is on official mission to such places for which he is authorized to carry firearms.
- c. When the mission orders is requested for verification by personnel of the enforcement unit like the PNP and MP, the same should be presented without resentment to avoid misunderstandings.
- d. Implicit to this Mission Order is the injunction that the confidential instructions will be carried out through all legal means and do not cover any actuation in violation of laws; in the latter event this Mission Order is rendered inoperative in respect to such violation.

VII. OTHER INSTRUCTIONS:

ERNEST MARC P ROSAL
 MAJOR (INF) PA
 Commanding Officer

UNDERTAKING: As bearer hereof I certify that I have read and fully understood the contents of To Apprehending Authority and hereby bind myself to strictly abide by and comply with the instructions contained herein.
 Pls conceal the identity of the bearer.

(SIGNATURE)

Figure 3: A mission order marked "SECRET" from the 9th Military Intelligence Battalion © 2006 Bede Sheppard

Forensic testing by the police of the firearm confirmed that one of the cartridge cases found at the scene of the shooting matched the pistol authorized by the AFP to

Pastrana and found in his possession. However, another two slugs submitted for examination, including one found in Santa Rosa's body, did not match the firearm.⁵³ The official autopsy indicates that Pastrana was shot from the side, with the bullet passing from his left armpit and out through his right shoulder.⁵⁴ Together, this evidence suggests—but is not conclusive—that Pastrana may have been shot by accident by another member of his team while either he or another team member attempted to execute Pastor Santa Rosa.

Sonia was uncertain why her husband was killed. According to Sonia, “My husband was a writer. He wasn’t outspoken. He wrote anti-mining brochures, against the Lafayette mining at Rapu-Rapu... [and] on [agrarian reform] issues.”⁵⁵

Ricardo Ramos

Ricardo “Ric” Ramos was the president of the Central Azucarrera de Tarlac Labor Union and also a local village official. In September 2005 he received a funeral wreath that said: “RIP Ricardo Ramos.” According to Ramos’ brother, there had been a list of communist sympathizers circulated with Ramos’ name on it, along with a local village official and labor leader named Abel Ladera, who was shot and killed in March 2005.⁵⁶

On the morning of October 25, 2005, the Department of Labor and Employment visited the hacienda where Ramos worked. They came to oversee the distribution of wages to the 700 or so union workers covered by an agreement that had just been struck during a strike in which Ramos had been involved. One eyewitness told us: “I noticed during the distribution of the money that the army was around. Ric [Ramos] told the soldiers to go away.”⁵⁷

⁵³ Firearms Identification Report No. FAIB-67-2006, Regional Crime Laboratory Office 5, Camp General Simeon A Ola, Legazpi City; Firearms Identification Report No. FAIB-76-2006, Regional Crime Laboratory Office 5, Camp General Simeon A Ola, Legazpi City.

⁵⁴ Autopsy Result, Lordeger Pastrana, August 8, 2006. Copy on record with Human Rights Watch. The autopsy indicates gunshot point of entry at left axilla, and point of exit at right deltoid area.

⁵⁵ Human Rights Watch interview with Sonia Santa Rosa, September 20, 2006.

⁵⁶ Human Rights Watch interview with Romero Ramos, October 28, 2006.

⁵⁷ Human Rights Watch interview with George Gans, October 28, 2006.

Two soldiers, whom the witnesses saw among these military personnel, went to see Ramos later in the afternoon. He was resting in a traditional thatch hut used as a meeting hall by the union and village leaders. Told that Ramos was sleeping, the two soldiers returned between 7 and 8 p.m. when Ramos was talking to other people, and they were again turned away and told to come back later. Around 9 o'clock that evening, a group of around 20 men were seated at a table in the hut, drinking and talking. Ramos was seated facing a wall and looking down sending a text message on his cell phone. Witnesses told Human Rights Watch that they heard two shots and saw Ramos shot in the head: "His brains splattered against the roof... with a wet sound."⁵⁸

Two eyewitnesses took Human Rights Watch to the site of the killing, then walked us away from the hut to a spot just inside a small fence by a neighboring house, from where there is a clear line of fire about 10 meters to where Ramos had been sitting. It is possible to see through the slats of the hut to the inside. The victim's brother told us that it was here that police found two shells from an M14 rifle. The M14 is a Philippine army issued weapon, often used as a sniper rifle.

At the time of the killing, the army had a small detachment about 50 meters from where the shooting occurred. Yet it was security guards from the hacienda who were the first to respond. According to witnesses, the detachment was then removed: "That night after the killing, an [armored personnel carrier] arrived, with a large truck and a helicopter to take the soldiers away."⁵⁹

The eyewitnesses told Human Rights Watch that an arrest order had apparently been issued for the two soldiers accused of killing Ramos. However, charges against one of the accused, a private, were later dropped, and according to the victim's brother, the remaining suspect, a sergeant with the 7th Infantry Battalion, remains free and apparently still on active service.⁶⁰ "I appeal to General Esperon to execute the warrant of arrest," Ricardo Ramos' brother told us.⁶¹

⁵⁸ Human Rights Watch interview with George Gans, October 28, 2006.

⁵⁹ Human Rights Watch interview with Romero Ramos, October 28, 2006.

⁶⁰ Human Rights Watch interview with Romero Ramos, October 28, 2006.

⁶¹ Human Rights Watch interview with Romero Ramos, October 28, 2006.

Attempted Killing of “Nestor Gonzalez”

When Human Rights Watch met “Nestor Gonzalez,” he had been hiding in a church sanctuary with members of his family since being released from the hospital having survived being shot four times. He took one bullet to his neck, damaging the bundle of nerves running from his neck to his right arm, leaving his arm in constant pain. Nestor Gonzalez’s family was reliant on charity from prominent individuals in town to cover the cost of necessary painkillers and medication, and to fund an upcoming operation to improve the condition of his arm. Fighting the pain in his body, Nestor Gonzalez recounted what he remembers of the evening in late 2006 he was shot:

That night, I was in my house taking care of my wife who just gave birth to my youngest son. Then suddenly I hear someone calling me from outside: “Big Brother! Big Brother!” When I tried to see [through the window] who was calling for me I saw a gun pointed at me, so I tried to duck, and I was shot in the neck. The police told me that the shells are from a .45 caliber pistol. I saw a small gun. I only saw one man. That was the one who shot me. He was wearing a uniform. Because it was dark, I could not know what kind of uniform, but I saw a jacket, pants, hat. Also I was not able to see his face because when I was shot the blood ran into my eyes. He said nothing... My house is made of bamboo, so I was shot at the window. It was dark outside and we had lights inside so the men could see me. This was between 7 and 8 p.m. I was shot first in the neck. After I was hit in the neck I tried to roll away to avoid the three following shots.⁶²

Gonzalez suspected that he was shot as a result of his unwillingness to publicly support local military efforts to stamp out the NPA:

I do not know who would have wanted to kill me, because I have no enemies around the village. I have no idea. There’s no reason for me to be targeted by the military. No reason for me to be targeted by the NPA... The military conducted a village meeting, and presented a paper saying that anyone who wants to kill an NPA should sign up the paper.

⁶² Human Rights Watch interview with Nestor Gonzalez (not his real name), date omitted, 2006.

When it was my time to sign, I told them “I will not accept the offer because I want a peaceful life for my two children.”⁶³

Although Nestor Gonzalez claims that he never had any political affiliations with the left, his brother was a former member of the NPA, who had given up his arms in 1992, and local soldiers had been accusing the family of being NPA sympathizers.

Gonzalez’s brother explained that Nestor and his family had been harassed by members of the military prior to the shooting. The brother explained:

Since May, when the military came to our village, the military were inviting and interrogating [members of the community]. Some of them were beaten by the military. These people invited for interrogation and beaten by the military, they reported to our family that we should take care because we were one of the targets of the military as suspected NPA. When I learned about this from my neighbors I fled from my [home] for Manila... According to the neighbor interrogated by the military, [the military say that] our family are members of the NPA and that they would kill all of us. During the 1980s, I was a member of the NPA and I surrendered in 1992. The military knows that I was a “returnee”. [But my brother] was never in the NPA, because he is a church person, involved in church work.⁶⁴

Gonzalez’s home was about 100 meters from the nearest AFP outpost. It therefore seems unlikely that any other armed, uniformed individuals would have been able to be present in the area, discharge their weapon four times, and escape without being apprehended.

According to Gonzalez’s brother, the local police unofficially conceded that the involvement of the military in the attempted murder was likely: “Based on police investigation, the suspects are the military based near [town names omitted]. Yes,

⁶³ Human Rights Watch interview with Nestor Gonzalez (not his real name), date omitted, 2006.

⁶⁴ Human Rights Watch interview with Joseph Gonzalez (not his real name), date omitted, 2006.

the police told [our family] this based on their investigation. So the police advised us to file complaints against the military.”⁶⁵

Pastor Jemias Tinambacan

Pastor Malou Tinambacan described the attack that left her husband, Pastor Jemias Tinambacan, dead. Both were members of the United Church of Christ in the Philippines (UCCP), a church involved in human rights and social justice projects that has led critics to charge that it is associated with left-wing causes and the NPA. Just past 5 o'clock on the afternoon of May 9, 2006, Malou and Jemias were driving out of the town of Lopez Jaena, Misamis Occidental, in Mindanao in a van, en route to Oroquieta to buy some printer ink. They were driving along an uphill road near the village of Mobod when they heard a bang. Jemias asked Malou: “Is that a blown tire?”⁶⁶

As Malou was trying to look out a window to see what happened, two motorcycles approached the car. Two men were riding a red motorcycle, one man rode a blue motorcycle. At that moment, the van started weaving, went off the road, and struck a tree. She heard a series of shots and saw that Jemias was hit. Malou tried to duck from other shots and Jemias was leaning against her, wounded. As she lay in the well of the passenger side she heard one of the men say, “The woman is still alive.”

“It all happened very fast. I touched my hair and found an empty shell there,” Malou told Human Rights Watch.⁶⁷ Her scalp was lacerated by the shell and bleeding. Terrified, she tried to lay still. “I played as if I was dead. I laid down close to the door.” She heard more shooting but then heard the sound of a bus approaching, slowing, and then the men speeding away on their motorcycles. People from the bus tried to help but, “I could see that Jemias was already dead.” He died from four .45 caliber bullet wounds.

Malou recognized the three assailants. Two are brothers who lived on land owned and rented out by Jemias's family. One is a corporal in the Philippines army,

⁶⁵ Human Rights Watch interview with Joseph Gonzalez (not his real name), date omitted, 2006.

⁶⁶ Human Rights Watch interview with Reverend Marielou “Malou” Lumayad Tinambacan, November 2006.

⁶⁷ Human Rights Watch interview with Reverend Marielou “Malou” Lumayad Tinambacan, November 2006.

according to Malou. She identified the third assailant as a former NPA rebel who now is known as a “military asset” – a government informant.⁶⁸ She told Human Rights Watch she recognized him from “his voice.”⁶⁹ Malou says that this man always called her “woman” at the church and called Jemias “man” as it was his way of telling the two apart instead of calling them each pastor.⁷⁰

Malou believes the attack was motivated at least in part for political reasons. Reverend Jemias was active in local leftist politics as the provincial chairman of Bayan Muna and the executive director of an NGO called the Mission for Indigenous and Self Reliance People’s Assistance (MIPSA), which organizes local people and conducts livelihood programs.⁷¹ Several MIPSA members previously had been threatened by the military. In December 2005 a former MIPSA employee, a driver named Junico Halem, who also worked as a coordinator for Bayan Muna, was killed by two men riding on a motorcycle. That case has gone nowhere and his wife and daughters fled into hiding. The Tinambacan case is complicated by the couple’s relationship to the suspects. According to Malou, one of the brothers had come recently to Jemias and asked for 30 thousand pesos (US\$620) to pay debts related to the land. Jemias refused. One possible scenario is that given the ties of the assailants to the military, they perhaps were paid to do the killing.⁷²

Pastor Andy Pawikan

Three eyewitnesses currently in hiding told Human Rights Watch of the involvement of soldiers in the death of Pastor Andy Pawikan, a member of the UCCP. After Pastor Pawikan led church services in Pantabangan, Nueva Ecija, on May 21, 2006, at about noon, Pawikan, his wife and 7-month-old daughter, along with three women from the church headed to the Pawikan home. They were stopped by a group of about 20 soldiers. The women, including Pawikan’s wife, were allowed to proceed but the soldiers detained Pawikan, who was carrying the baby.⁷³

⁶⁸ Human Rights Watch interview with Reverend Marielou “Malou” Lumayad Tinambacan, November 2006.

⁶⁹ Human Rights Watch interview with Reverend Marielou “Malou” Lumayad Tinambacan, November 2006.

⁷⁰ Human Rights Watch interview with Reverend Marielou “Malou” Lumayad Tinambacan, November 2006.

⁷¹ Human Rights Watch interview with Reverend Marielou “Malou” Lumayad Tinambacan, November 2006.

⁷² Human Rights Watch interview with Reverend Marielou “Malou” Lumayad Tinambacan, November 2006.

⁷³ Human Rights Watch interview with Conrado Alarilla, Jose Gomez, and Joey Castillo (not their real names), October 14, 2006.

After about 30 minutes, those who had just been with Pawikan heard “many” shots. They were too afraid to investigate. After some time a group of soldiers came and returned the child to Pawikan’s mother-in-law. The baby was covered in blood but otherwise uninjured.

The next day people from the village went to the area where Pawikan had been detained and found his body. They had been afraid to go there earlier because of the military presence. When they arrived there were about 10 soldiers still in the area. These soldiers, who were from the locally based 48th Infantry Battalion, told the villagers Pawikan had fought the soldiers and they had no choice but to shoot him. The soldiers insisted they had no choice. Even if one accepts that the pastor could have posed any risk to the soldiers, the villagers question how the pastor could have fought the soldiers while holding his baby daughter.⁷⁴

“Gloria Fabicon”

In 2006 “Gloria Fabicon” was found dead with multiple bullet wounds. Her sister said she had been under surveillance from the AFP at least three months prior to her killing:

Before the incident, my sister... told me there was an invitation coming from the military men, and that she’s included in a list of seven names written on a piece of white paper that these soldiers told the village captain that they are looking for... They called a special meeting to confront the seven people on the [list]. My sister... was number six... Soldiers conducted a personal interview with each of them, in a home located in our town... Allegedly [according to the military], the seven persons gave support to the NPA or are a member of the NPA. My sister denied this. [The military] were from outside. Outside combat control... My sister asked my advice, and I advised my sister to consult the village captain in order to clear her name. But the village captain gave no response until now... My sister was nervous when investigated by the military men.⁷⁵

⁷⁴ Human Rights Watch interview with Conrado Alarilla, Jose Gomez, and Joey Castillo (not their real names), October 14, 2006.

⁷⁵ Human Rights Watch interview with Maria Fabicon (not her real name), date withheld, 2006.

A local police officer working on this case confirmed that the victim's name had appeared on some sort of list by the military. According to this police officer, the police asked the local military to confirm whether the victim's name appeared on any list, and the military confirmed that it had, but claimed opaquely that it was a list used "only to verify her identity."⁷⁶ However, the victim had worked for a local rights organization that critics viewed as being affiliated with the insurgency, and her family and the organization were confident that her death was a result of the victim's work.

"Disappearance" of two women

Human Rights Watch met with a teenage boy in Central Luzon who witnessed the abduction of two women, Karen Empeno and Sherlyn Cadapan, who were conducting research sympathetic to farmers, and who are now considered to be victims of a forced disappearance. The boy described their abductors as "military men" because they were wearing camouflage fatigues, and because "They called each other 'Sir!' [and] it is only the military that have guns."⁷⁷ He told us:

Around 2 a.m... I was asleep and I was awakened with [one of the women] screaming "Mother help me!" The military told us to go outside and I was tied up... Six of the military men were wearing camouflage [fatigues], the rest [of the 15 men were wearing] civilian clothes, just like anyone else. T-shirts, shorts... All of them had guns. The guns were carried in front, holding them. They were long guns. Black... Everyone was quiet. Someone said "Sir, we already have the two [women]." The military tied me up like this [with hands behind my back], and picked me up by my collar [and carried me] outside of the house. The military carried me by the back of the neck. They used plastic straw to tie my hands... They pushed me to lie down... Outside were [the two women], carried outside of the house. The six men who were wearing uniforms came out. My father was also outside. My father was also tied up... The military men asked us about our names. They asked [one of the women] and then [the other]. [The first woman]

⁷⁶ Human Rights Watch interview with Chief of Police working on case (name and date withheld).

⁷⁷ Human Rights Watch interview with Antonio Pestana, (not his real name), date withheld, 2006.

gave her name, and then [the second woman] gave her name... After that they boarded the jeep. It was a stainless [steel colored] jeep. The jeep is very long... no paint... The jeep looks like a passenger jeepney... A guy in civilian clothes was driving.⁷⁸

Members of the women's families succeeded in getting the courts to issue a writ of habeas corpus against the military for the pair, but the military has denied having them in custody.

"Manuel Balani"

Military personnel may have been involved in the killing of "Manuel Balani," a local agrarian and anti-mining activist in late 2006. Remembering the morning before her husband was killed, Balani's widow told us:

Before [Manuel] went to his work, at 5 or 5:30 a.m., he received a text message [on his cell phone] that he has to watch out because there is a roaming military foot patrol [nearby]—armed people in uniforms... I don't know who sent [the text], a friend of [Manuel's]. So I tried to convince [Manuel] not to report to work, but he received another text that the foot patrol was in an area higher up, further away from here, two kilometers from here. So [my husband] decided to report to work.⁷⁹

The wife said that witnesses told her that her husband was stopped later that morning on his way to work by seven armed men in fatigues. They reportedly told her husband "You are the one who doesn't want the [mine] to open" and then shot him dead.⁸⁰ Human Rights Watch visited the location of the execution where an impromptu shrine for the victim had been built on the side of the road. Meters away, we found a tree containing a hole consistent with having been shot.

⁷⁸ Human Rights Watch interview with Antonio Pestana, (not his real name), date withheld, 2006.

⁷⁹ Human Rights interview with Maria Balani (not her real name), date withheld, 2006.

⁸⁰ Human Rights interview with Maria Balani (not her real name), date withheld, 2006; a local human rights NGO also confirmed to Human Rights Watch that witnesses they had spoken to confirmed this series of events.

Danilo Hagosojos

Sixty-one-year old Danilo Hagosojos was riding home on his motorbike with his 7-year-old daughter who he had just picked up from school, when he was shot multiple times in the chest and head by two unidentified assailants, on July 19, 2006, in Sorsogon, in the Bicol region. Hagosojos had been a leftist activist during the rule of President Marcos and was a retired public school teacher who worked principally as a farmer during his retirement, but had also recently worked as a coordinator for a small NGO teaching literacy to rural adults.⁸¹ Hagosojos was also an uncle to then-House Minority leader Francis Escudero and a cousin of then-Vice Governor Kruni Escudero, vocal critics of the Arroyo administration.⁸²

According to the son of Danilo Hagosojos, the local police told him that they suspected the involvement of the military in the shooting of his father: “The police told me that the suspects are military, but that it is hard for them to go there because it is dangerous to investigate about the case.”⁸³ Although Human Rights Watch was unable to get a comment from the local police on this case, the police investigation report notes that the shooting was perpetrated “by two men of skilled, clever, disciplined, patient and determined person and very careful in exposing their identity [*sic*]...The commission of the crime shows that it is a well planned operation and the suspects are well versed in the [use] of firearms and very careful in exposing their identity [*sic*].”⁸⁴ The report also recommends that the case be “temporarily closed and be reopened upon the acquisition of material evidence.”⁸⁵ As described in detail in the next chapter, police appear highly reluctant to follow leads that require investigation of the military.

Armando Javier

Armando Javier was a peasant rights activist and local coordinator for the party list group Anakpawis in near Cuyapo, Nueva Ecija, Central Luzon. On the evening of October 2, 2005, Armando and his wife Jocelyn were at home watching television.

⁸¹ Human Rights Watch interview with Ian Hagosojos, September 21, 2006; Human Rights interview with Belen Santos, September 21, 2006.

⁸² “Rights Group Leader Shot Dead in Sorsogon,” *Philippines Daily Inquirer*, July 21, 2006.

⁸³ Human Rights Watch interview with Ian Hagosojos, September 21, 2006.

⁸⁴ Investigation Report, July 20, 2006, Casiguran Municipal Police Station.

⁸⁵ Investigation Report, July 20, 2006, Casiguran Municipal Police Station.

They lived in a simple home with a thatch roof and split bamboo walls. Around 8:45 p.m. a hail of bullets filled the room. The police report says the assailant used an M16 assault rifle. Nine bullets hit Armando, and one grazed Jocelyn's shoulder.⁸⁶ When Human Rights Watch visited the Javier home a year after the shooting, the bullet holes were still visible in the wall.

Armando was a “rebel returnee”—having left the NPA in 1994 in order to marry Jocelyn. His name was on a list of supposed NPA sympathizers that was read off by soldiers who called villagers to meetings to inform them that their area was to be cleansed of communist influence. According to Armando's family, a detachment of soldiers camped nearby frequently called Armando for questioning, asking him to identify members of the NPA. Because of this attention, the family is certain that the military are responsible. Javier's mother told us: “He had no information and so he was killed.”⁸⁷

Attempted Killing of Roderick Abalde

Roderick Abalde, a coordinator for the Anakpawis political party in Kidapawan City, Mindanao, survived an apparently politically motivated murder attempt on May 7, 2006. He told Human Rights Watch:

I was inside the [Anakpawis] office with the Secretary General of Bayan... We finished our talks around 9 p.m., and we were about to go to the office of Bayan to drop-off the Secretary-General of Bayan... We were still in the compound of the Anakpawis office on our motorbikes, ready to start the engines, when we discovered that there was a white DT motorcycle going from the highway... to the school, 100 to 200 meters from the office. Just a few meters in front of the school, they U-turned very quickly. We were about to start the engines and suddenly in front of my motorcycle, the persons on the white DT threw a grenade at us as he was going back to the highway... Two people were on the motorbike. There was a driver wearing a helmet, but the rider behind had no helmet... The motorcycle was about seven to 10 meters away,

⁸⁶ Human Rights Watch interview with Jocelyn Javier, October 27, 2006.

⁸⁷ Human Rights Watch interview, October 27, 2006.

so I could not clearly see the [rider on the back of the bike's] face because he was moving very fast. The back rider threw the grenade. Both men wore a white shirt and jeans. The back driver wore a sleeveless shirt. The grenade landed behind my motorcycle. Three meters behind. I never saw the grenade when it was thrown. I only found out when it exploded. I thought it was just a stone. At first I didn't feel I was wounded. I tried to help my companion because I saw he had blood on his body. My companion was wounded in his stomach and his thigh. I didn't discover that I was wounded until I lost my energy when I saw someone coming to try and help me... Shrapnel had entered my back and gone into my lungs. Our neighbor helped take us to the hospital... I was awake, but had blurry sight. I was in a critical condition because of the shrapnel that penetrated my lung. The shrapnel had exactly struck [my right] lung, and the lung was starting to collapse... Very painful. I was in the hospital for two weeks.⁸⁸

Sotero Llamas

Three motorcycle-riding gunmen shot and killed Sotero Llamas, the former Bicol region commander of the NPA, while he was riding in his car on the morning of May 29, 2006, through his home town of Tabaco City, in Albay province. His bodyguard was wounded in the attack.

As detailed later in this report, responsibility for the killing is unclear, but Llamas' history raises concerns of political motivations. Llamas joined the NPA in 1971, briefly surfaced from his underground life during the ceasefire of the Aquino administration, and then was captured and imprisoned in 1995 by government forces in Sorsogon province. Released in 1996 as part of resumed peace talks, Llamas spent six months as a political consultant for the peace process, before becoming a founding member and the director of internal affairs for the political party Bayan Muna.

⁸⁸ Human Rights Watch interview with Roderick Abalde, September 15, 2006.

In 2003 Llamas left Bayan Muna for health reasons and to spend more time with his family. Llamas made a run for governor in 2004 without the backing of the leftist parties. After the election in 2004, he was in the scrap metal business. His widow says that he was completely out of the NPA and retained no more connections with the underground movement, and had not since 2003. Even the local governor, who had run against Llamas in 2004, confirmed that Llamas was no longer associated with the underground movement.⁸⁹ In February 2006 Llamas was one of the 51 people whom the police accused of rebellion and insurrection and being involved in the conspiracy to overthrow the Arroyo administration.⁹⁰ A judge dismissed the charges, but state prosecutors subsequently re-filed the case, which was still pending at the time of his death.

League of Filipino Students (LFS) in Bicol

Two members of the left-wing League of Filipino Students (LFS) were gunned down in Bicol in March and July 2006 respectively, and a third was shot in February 2007. The LFS is a national student organization with international affiliated chapters. Although the motives behind the killings are uncertain, LFS members have long been targeted by the security forces for alleged links to the NPA.⁹¹

Cris Hugo, the regional coordinator for LFS and a fourth-year journalism student at Bicol University, was shot and killed by an unidentified gunman on the evening of March 19, 2006, while walking along the streets of Legazpi City with one of his professors. Hugo's professor told police he could not identify the perpetrator, and the police say that they cannot solve the crime. Provincial Governor Fernando Gonzalez questioned: "The problem here is the motives are obscure. It's intimated that this is related to his position with the student council, and that it's said to be a militant group—they fight for causes. But there was no indication that he was a very influential person. There was no reason [for this killing] based on his activities."⁹²

⁸⁹ Human Rights Watch interview with Fernando Gonzalez, Governor of Albay, September 20, 2006.

⁹⁰ "Four party-list representatives among 51 persons linked to conspiracy to oust PGMA," Official website of the Republic of the Philippines, February 27, 2006, <http://www.gov.ph/news/default.asp?i=14522>.

⁹¹ See, for example, Lawyers Committee for Human Rights, *Vigilantes in the Philippines*, pp. 32-33.

⁹² Human Rights Watch interview with Fernando Gonzalez, Governor of Albay, September 20, 2006.

A friend of Hugo's told Human Rights Watch that, prior to being gunned down, Cris had received death threats. This led Cris to attempt to change his behavior and appearance, perhaps either trying not to be identified, or because he was trying to look less radical. The friend said: "He changed his image because of these threats on his life. He got his hair cut, changed how he dressed. Before, he was not fond of wearing polo [shirts], but after the threats he looked like a seminarian. Also, he started wearing eyeglasses. From an activist to a seminarian!"⁹³

Rei Mon "Ambo" Guran, was the LFS provincial spokesperson and a student at Aquinas University in Legazpi City in the Bicol region. Guran was shot and killed on July 31, around 6 a.m. on a crowded bus in his hometown of Bulan, in Sorsogon province. His father described him as a "jolly person [who] wanted to make people laugh in their saddest of moments. He committed no crime in his entire life... That's why I feel so sad that my son was so brutally killed the day after his 21st birthday."⁹⁴

A third killing in the Bicol region possibly linked to membership in LFS is that of Farly Alcantara II, a 22-year-old graduating business administration student at Camarines Norte State College in the town of Daet, Camarines Norte. While riding home on a motorcycle with one of his professors in the late evening of February 16, 2007, Alcantara, a former spokesperson for LFS in the province, was shot five times in the head by unidentified men. The police found four empty shells and two slugs at the scene, and identified that Alcantara had been shot. Colonel Henry Ranola, police director of Camarines Norte, identified the weapon as a .45 caliber pistol. The professor was unhurt.⁹⁵ The gunman remains unidentified.

Ongoing impunity for military personnel

Human Rights Watch is unaware of any apparent politically motivated killing in recent years where military or police personnel were successfully prosecuted. The PNP's Task Force Usig identified six cases implicating soldiers or militia members in political killings. However, of these six cases, four were dismissed or dropped

⁹³ Human Rights Watch interview with Lessa Lopez, September 19, 2006.

⁹⁴ Human Rights Watch interview with Arnel Guran, September 21, 2006.

⁹⁵ Randy David, "Now, they're killing students," *Philippine Daily Inquirer*, February 18, 2007; Ephraim Aguilar, "Student activist slain in Camarines," *Philippine Daily Inquirer*, February 17, 2007.

because of a lack of evidence; in the fifth case, the soldier was discharged; and the sixth is pending before the prosecutor's office in Naga City.⁹⁶

Human Rights Watch has likewise failed to find any cases where prosecutions of commanding officers have been pursued based upon the principle of command responsibility—legal liability derived from the responsibility of commanders to control the actions of their subordinates. Instead, there is a perception that military officers who at the least condone killings of suspected NPA members, however unlawful, are rewarded. General Jovito Palparan, who was the commander of the AFP forces in Central Luzon until September 2006, told the media that the killings were “necessary incidents in a conflict. Because they [the rebels] are violent. They have killed a number of people already so we cannot just take a back seat.”⁹⁷ Yet General Palparan has publicly received only praise and promotion from the Arroyo administration. As Senator Biazon, the chair of the Senate's Committee on National Defense and Security, explained to Human Rights Watch:

[There are] continuous statements, even from the President, like when she said, “I give the military two years to solve the insurgency problem in the country,”... and then she proceeds to laud the performance of General Palparan... [who], wherever he has been assigned... seems to have been a magnet to the occurrences of alleged political killings. That developed a perception that this guy is responsible for the extrajudicial killings. It may or may not be true. It may be half true. Now, when the President lauded his performance, [and made him] the poster boy of the President on counter-insurgency policies, the question of the public is, “Is this now the policy of the Commander in Chief?” If this is not the policy, the projections to the units in the field is that it is, and that they will be protected. A perception helped along

⁹⁶ Christine Avendaño and Dona Pazzibugan, “Arroyo to seek Europe help in probing slays. Melo panel told: Why stop with Palparan?,” *Philippine Daily Inquirer*, January 31, 2007.

⁹⁷ General Jovito Palparan, as quoted in “General Palparan: Leftist rebellion can be solved in 2 years,” *Agence France Presses*, February 2, 2006; and quoted in Fe B. Zamora, “In his all-out war against the reds, this General dubbed the butcher claims conscience is the least of his concerns,” *Sunday Inquirer Magazine*, July 2, 2006.

by a pronouncement to the public of an adoption of a total war against the insurgency.⁹⁸

The Philippines government strenuously denies any involvement in or policy in favor of the killings. In a letter to Human Rights Watch, the Permanent Representative of the Philippine Mission to the United Nations in Geneva stated:

The administration is absolutely not involved in, nor condones, the torture and/or murder of journalists, party-list members, and military *[sic]* or leftist activists.... The administration is not covering up for the perpetrators of these crimes, and in fact, the President has condemned these killings and ordered that they be thoroughly investigated and that those responsible be charged in court.⁹⁹

The Philippine Mission also reported to Human Rights Watch that according to the Philippine National Police Chief Oscar C. Calderon, 110 members of party-list political parties have been killed during the period 2001 to October 2006, of which “military personnel are suspects in a mere 10 of the above incidents while a police member is a suspect in 1 incident.”¹⁰⁰ Human Rights Watch notes that according to the government’s own assessment its security forces are already suspects in 10 percent of cases of killings.

⁹⁸ Human Rights Watch interview with Senator Rodolfo Biazon, Senate Office, September 13, 2006.

⁹⁹ Letter to Human Rights Watch from Enrique A. Manalo, Permanent Representative, Philippine Mission to the United Nations and Other International Organizations, October 12, 2006.

¹⁰⁰ Letter to Human Rights Watch from Enrique A. Manalo, Permanent Representative, Philippine Mission to the United Nations and Other International Organizations, October 12, 2006.

V. Failures to Investigate and Prosecute

The killing is not just between the people, because it has an impact on the whole community, that you can just kill someone.

—Father Jovic Lobrigo, Albay, September 2006¹⁰¹

The Philippines government is consistently failing in its obligations under international human rights law to hold accountable perpetrators of politically motivated killings. Victims' families are denied the justice they deserve as the killers literally get away with murder. With inconclusive investigations, implausible suspects, and no convictions, impunity prevails.

Lack of Successful Prosecutions

Although a handful of hitmen have been successfully prosecuted for murdering journalists, Human Rights Watch could not identify a single successful prosecution for any of the political killings in recent years cited by local civil society and human rights groups. Importantly, despite the evidence of the involvement of military personnel in many killings in recent years, data from the Armed Forces of the Philippines confirms that as of March 2007 no military individual has yet been convicted. The armed forces indicate that they believe that just 12 accusations have been made against specific individual officers and enlisted personnel of the AFP. Out of these 12 cases, three cases have charges pending, five have been settled, acquitted, or dismissed by the DOJ, and four cases still remain “under investigation.”¹⁰²

Of the three cases filed in court:

- Corporal Alberto Rafon, went “Absent Without Leave” (AWOL) while being investigated and was thus discharged from the military. The military states he is therefore no longer under their jurisdiction.

¹⁰¹ Human Rights Watch interview with Father Jovic Lobrigo, September 19, 2006.

¹⁰² Lieutenant Colonel Bartolome V. O. Bacarrio, “Status of AFP Members Implicated in Unexplained Killings,” Armed Forces of the Philippines press release, March 17, 2007.

- Corporal Estaban Vibar, is currently in custody.
- Master Sergeant Antonio Torilla, has been charged with three counts of murder, however, the military contends that the killings were the result of “legitimate encounter against DTs (dissident terrorists).”¹⁰³

The United Nations Special Rapporteur on Extrajudicial Execution concluded after his investigation to the Philippines that “on paper,” accountability mechanisms in the country remain strong. However: “there is a passivity, bordering on an abdication of responsibility, which affects the way in which key institutions and actors approach their responsibilities in relation to such human rights concerns.”¹⁰⁴ The Special Rapporteur went on to criticize prosecutors for refusing to take a role in gathering evidence, and instead being purely passive, waiting for the police to present them with a file, and if the file was insufficient, seeing their role as being simply to return it and hope that the police would do better next time. The Special Rapporteur further criticized the Ombudsman’s office for, despite the existence of a separate unit designed to investigate precisely the type of killings that have been alleged, having “done almost nothing in recent years in this regard,” failing to act in any of the 44 complaints alleging extrajudicial executions attributed to State agents submitted from 2002 to 2006.¹⁰⁵

State responsibility and command responsibility

One apparent roadblock to prosecutions is the seeming unwillingness of senior military officials to even recognize that superior commanders may be legally responsible for acts of their subordinates as a matter of command responsibility.¹⁰⁶ AFP Chief of Staff, General Hermogenes Esperon, Jr. told the media: “Criminal acts

¹⁰³ Lieutenant Colonel Bartolome V. O. Bacarrio, “Status of AFP Members Implicated in Unexplained Killings,” Armed Forces of the Philippines press release, March 17, 2007.

¹⁰⁴ “Preliminary note on the visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, to the Philippines (12-21 February 2007),” A/HRC/4/20/Add.3, March 22, 2007, p. 4.

¹⁰⁵ “Preliminary note on the visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, to the Philippines (12-21 February 2007),” A/HRC/4/20/Add.3, March 22, 2007, p. 5.

¹⁰⁶ Command responsibility has been defined as when a commander or other superior knew or should have known that subordinates were committing or about to commit crimes and failed to take all necessary and reasonable measures to prevent them or to punish the persons responsible. See, for example, Rome Statute of the International Criminal Court, 2187 U.N.T.S. 90, *entered into force* July 1, 2002, article 28.

only involve the individual.”¹⁰⁷ In testimony before the Melo Commission—the Commission created by Arroyo in August 2006 to investigate the killings of media workers and left-wing activists—General Esperon similarly claimed that command responsibility does not include criminal liability for a superior officer when subordinates commit an illegal act that is criminal in nature.¹⁰⁸

Philippine commanders have suggested that investigations of military personnel for alleged offenses are detrimental to the armed forces. In his same testimony to the Melo Commission, General Esperon claimed that carrying out an investigation into the actions of General Palparan while he was still an active member of the armed services and “neutralizing the NPA” would have been “unproductive.”¹⁰⁹ He also added that investigations could “muddle, or obstruct any on-going operation.”¹¹⁰ This view by the head of the AFP is of serious concern, as it sends worrying signals to lower officers that they are free to act with impunity. General Esperon’s negative view of the impact of investigations is also mistaken: prosecuting soldiers for human rights violations serves to promote discipline within the forces, demonstrates respect for the rule of law, and reassures the public of the military’s role in protecting the lives of civilians.

A state is responsible for violations of international human rights and humanitarian law committed by members of their armed forces or other state entities and their agents. This also includes persons empowered to exercise elements of governmental authority, such as militias. A state remains responsible for such acts even when the individuals involved exceed authority or contravene instructions.¹¹¹

Under international principals of command responsibility (or superior responsibility), superior officers can be held criminally liable for the actions of their subordinates, when the superior knew or had reason to know, that their subordinate was about to

¹⁰⁷ General Hermogenes Esperon Jr., quoted in Christine Avendaño, Dona Pazzibugan, “Arroyo to seek Europe help in probing slays,” *Philippine Daily Inquirer*, January 31, 2007.

¹⁰⁸ AFP Chief of Staff, General Hermogenes Esperon, Jr., paraphrased in Melo Commission Report, p. 17.

¹⁰⁹ AFP Chief of Staff, General Hermogenes Esperon, Jr., paraphrased in Melo Commission Report, p. 17.

¹¹⁰ PNP Deputy Director General Avelino I. Razon, Jr., paraphrased in Melo Commission Report, p. 9.

¹¹¹ See generally, *Draft Articles on the Responsibility of States for Internationally Wrongful Acts, Report of the ILC on the Work of its Fifty-third Session*, UN GAOR, 56th Sess, Supp No 10, p 43, UN Doc A/56/10 (2001).

commit or had committed a crime, and the superior failed to take necessary and reasonable measures to prevent the crime or to punish the perpetrator.

The duty to prevent a crime renders a military superior officer responsible for the resulting crime when the superior fails to consider elements that point to the likelihood that such crime would be committed. This would include if a commander is aware of a series of killings being committed by his or her subordinates and does nothing to prevent them. Superior officers only successfully discharge their duty to prevent crimes carried out by subordinate soldiers when they employ every means in their power to do so, including providing appropriate training and orders, and carrying out vigorous investigations and prosecutions in the case of violations. The failure of superior officers to carry out investigations or to take action against soldiers involved in the killings or “disappearance” of civilians also leads to military liability.¹¹² Military commanders are also responsible for ensuring that their subordinates are aware of the laws of armed conflict.¹¹³

The Melo Commission’s official findings state that “there is certainly evidence pointing the finger of suspicion at some elements and personalities in the armed forces, in particular General Palparan, as responsible for an undetermined number of killings, by allowing, tolerating, and even encouraging the killings.”¹¹⁴ Noting that General Palparan had told the Commission that if his men kill civilians suspected of NPA connections, “it is their call [about whether to do so],” the Commission concluded that “under the doctrine of command responsibility, General Palparan admitted his guilt of the said crimes... Worse, he admittedly offers encouragement and ‘inspiration’ to those who may have been responsible for the killings.”¹¹⁵ Accordingly, the Commission concluded that General Palparan “may be held responsible for failing to prevent, punish, or condemn the killings under the principle of command responsibility.”¹¹⁶ Human Rights Watch welcomes any such investigation

¹¹² See Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), Art. 86 (many provisions of Protocol I are recognized as reflective of customary international law).

¹¹³ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), Art. 19.

¹¹⁴ Melo Commission Report, p. 53.

¹¹⁵ Melo Commission Report, p. 59.

¹¹⁶ Melo Commission Report, p. 61.

by prosecutorial agencies into whether it is appropriate to hold General Palparan accountable under the doctrine of command responsibility. However, the scope and depth of the current problem of extrajudicial executions by members of the military requires that any investigation not be limited to only one individual, but should extend to all who may be responsible for serious criminal offenses, including active duty officers and civilian officials.

“Solved” cases unsolved

Police in the Philippines appear all too willing to call a case “solved,” regardless of whether a perpetrator has been arrested, or even identified.

According to the police, a case is labeled “solved” when a suspect has been identified and charges have been filed before the prosecutor or the court.¹¹⁷ Such a definition is deceptive, as it includes cases where the persons accused and the evidence presented are so uncertain as to raise significant doubts that a viable case could ever be presented before a court. The alleged perpetrator is very rarely in custody or is not even capable of being apprehended, since those named are frequently long-wanted members of the NPA, or the alleged assailants are referred to only by the moniker “John Doe” –to indicate that the perpetrator’s identity is actually unknown.

For example, the case of George and Maricel Vigo has been deemed “solved” since June 23, 2006—a week after they were killed—when a criminal complaint was filed before the city prosecutor’s office against an alleged former member of the NPA and three “John Doe’s.” The Vigo couple worked in Kidapawan, North Cotabato, on Mindanao for a small NGO called the People’s Kuyahan Foundation, and George Vigo had a local radio show which dealt with agrarian reform issues. The Vigos were also political supporters of a local congresswoman and another woman who was running for mayor against an entrenched local politician. The pair were gunned down by four assailants on motorcycles while they rode together on a motorcycle on June 19, 2006.

¹¹⁷ Testimony by PNP Deputy Director General Avelino I. Razon, Jr. to the Melo Commission, noted in Melo Commission Report.

The police considered the case solved despite failing to identify three of the suspects, or locate the fourth. The investigators apparently gave up their efforts to identify the perpetrators after just three days. As a relative of the Vigos explained:

During the wake for Maricel and George, [then Chief of the PNP] General [Arturo] Lomibao came, and before he left he assured us that the killing of George and Maricel would be given justice. He assured us that as soon as possible George and Maricel would be given justice. The next day, the PNP made a group—"Task Force Vigo"—and then they pinpointed a man after just three days.¹¹⁸

However, neither of the victims' mothers (see Figure 4) is satisfied that the case is closed.¹¹⁹



Figure 4: The mothers of George and Maricel Vigo hold pictures of their children-in-law. © 2006 Lin Neumann/Human Rights Watch

¹¹⁸ Human Rights Watch interview with Maribel Alave, September 15, 2006.

¹¹⁹ Human Rights Watch interview with Marianita Vigo, September 15, 2006; and Human Rights Watch interview with Norma Alave, September 15, 2006.

Poor policing

In the provinces there is a real lack of faith in the police and the justice system.

—Glenda Gloria, Managing Editor, *Newsbreak* magazine, Manila, September 2006¹²⁰

Public distrust in the government's investigative effort is profound. Witnesses and victims' families interviewed by Human Rights Watch said they expect no real results from government investigations, and they predict impunity for those involved in the killings.

The brother of slain labor activist Ricardo Ramos told Human Rights Watch that an arrest order had been issued on June 6, 2006, for the accused killer, Sergeant Roderick de la Cruz, a soldier with the 7th Infantry Battalion stationed at Fort Magsaysay in Central Luzon. Yet the police appear to have failed to execute the arrest order. According to the brother, he and others have seen the accused soldier wandering around the local hacienda and in Tarlac City: "He appears to be on active service. The government is just fooling... It makes a lie that they are protecting us."¹²¹ We asked Ramos' widow if she thought her family would receive justice. "No," was all she said.¹²²

Families consistently told us that they received little or no information from the police about the state of the investigation, and that the police show almost no concern as to whether the victim's family still has unanswered questions or concerns. One widow explained: "We've had no contact [with the police] since the killing until this letter [we just received]. That's why we don't trust them. Because it's been almost two months, and the investigation doesn't seem resolved."¹²³

Some of the poor policing practices indicate a lack of police interest in conducting a credible investigation. The sister of one victim shared this concern: "After the

¹²⁰ Human Rights Watch interview with Glenda M. Gloria, Managing Editor, *Newsbreak*, September 12, 2006.

¹²¹ Human Rights Watch interview with Romero Ramos, October 28, 2006.

¹²² Human Rights Watch interview with Lily Ramos, October 28, 2006.

¹²³ Human Rights Watch interview with Sonia Santa Rosa, September 20, 2006.

internment of my sister, the police investigators invited me to come talk to them... Okay, I went. They asked me for my statement, so I gave them the same statement I'm giving you now. But I noticed that the investigator did not write down my statement... They did nothing.”¹²⁴

A similar lack of commitment to carry out serious investigations is evident in the case of the killing of Danilo Hagosojos. The police investigation report relates eyewitness testimony regarding the shooting, including the fact that the perpetrators stole the motorcycle of the victim, and the directions used by the perpetrators to escape. The report also notes that ballistic evidence was collected at the scene of the shooting. Despite all this preliminary evidence, and the fact that the investigation report was written just one day following the shooting, the report nonetheless goes on to say that it is, “Highly recommended that this case be temporarily closed and be reopened upon the acquisition of material evidence, either physical or testimonial.”¹²⁵ Hagosojos’ son told Human Rights Watch: “When I got the police report saying that because of the sensitivity of the case [they were going] to close it temporarily until strong evidence will come out, my suggestion to them was ‘You should not wait for strong evidence to just come up. As police, you have to investigate.’”¹²⁶ Hagosojos’ son was led to believe by the local police that the “sensitivity” involved in the case was the possible involvement of the military stationed nearby in the killing.¹²⁷

One father expressed similar exasperation with the unwillingness of the police to actually investigate. He told us that the investigation into his son’s shooting was “still ongoing, but these agencies are very much dependent on us in soliciting witnesses and some news.”¹²⁸

On July 6 the police filed murder charges against alleged NPA members Edgardo Sevilla, Edgar Calag, ex-military corporal Totoy Calag, and a “John Doe” for the killing of Sotero Llamas.¹²⁹ Although the police did name suspects as current members of

¹²⁴ Human Rights Watch interview with Maria Fabicon (not her real name), date withheld, 2006.

¹²⁵ Investigation Report, July 20, 2006, Casiguran Municipal Police Station.

¹²⁶ Human Rights Watch interview with Ian Hagosojos, September 21, 2006.

¹²⁷ Human Rights Watch interview with Ian Hagosojos, September 21, 2006.

¹²⁸ Human Rights Watch interview with Arnel Guran, September 21, 2006.

¹²⁹ Mello Commission Report, pp 43-44; *Manila Times*, “‘Breakthrough’ in Llamas’s murder a dud,” October 6, 2006.

the NPA (a finding that the family disputes), records from the local city prosecutor's office regarding the initial hearing against the accused, indicate that the police made little or no effort to locate, let alone arrest, the individuals. First, the police had not provided either accurate or complete addresses for the accused individuals, which is a procedural necessity in the eyes of the prosecutor in order to subpoena the individuals to appear at their hearing. However, it emerges from the prosecutor's notes that the effort required to obtain the necessary information was minimal, but the police had simply failed to make the necessary effort prior to the scheduled hearing: "When queried further as the correct and complete family residences of the [the accused], [the] police officers [had] difficulty giving them for several minutes; but at last they were able to do so after conferring with each other and by supposedly contacting through cellular phone their colleagues while the hearing was going on."¹³⁰ Thus, the date set aside for consideration of the evidence and merits of the case was lost due to procedural deficiencies caused by a failure of the police to collect even the most basic information on the individuals that they accused of being involved in a murder.

The manner in which a suspect in the case of the killings of George and Maricel Vigo was identified contains worrying inconsistencies. In the June 9, 2006, police report on the killings the police note that:

Based on the account of the witnesses, the driver of Honda XL motorcycle [ridden by the perpetrators] was wearing a safety helmet and black jacket while his back rider who shot to death the couple was

¹³⁰ P/Supt Nestor Y. Tiempo v. Edgardo Sevilla, et al, I.S. No. T-2006-104, Joint Resolution, City Prosecution Office, Tabaco City, September 4, 2006, pp. 17-18. The notes read: "The hearing was scheduled on August 8, 2006 but no clarificatory *[sic]* inquiry was had on that date regarding the merit of the case, the declarations of the witnesses and the evidence because the respondents [i.e. the two accused individuals] cannot and have not been subpoenaed since they cannot be found in the given addresses. This is aside from the fact that the addresses are incomplete, in the first place. That hearing day allotted for clarificatory inquiry has to be utilized instead by the investigating prosecutor to still seek confirmation from P/Supt Tiempo and his witness (P/CInsp Berdin) whether the given addresses were really that of the respondents, to which they replied with apparent and initial hesitance that [the village of] Jovellar is that of Edgar Calag while [the village of] Lion is Edgardo Sevilla's but [the village of] Tiwi is a place where he was previously sighted and expected to visit. When queried further as the correct and complete family residences of the respondents, said police officers have difficulty giving them for several minutes; but at last they were able to do so after conferring with each other and by supposedly contacting thru cellular phone their colleagues while the hearing was going on... A new set of subpoenas including the complaints and appendages were again tried to be served to the respondents in their supposed complete addresses."

wearing white t-shirt with face towel covered on his head and face, wherein the witnesses could not identify them.¹³¹

Sworn statements collected by the police from two witnesses who saw the shooting and helped take the bodies to hospital, also confirm that one of the riders was wearing a helmet, while the other wore a handkerchief or a towel over the lower half of his face. However, by the time of the complaint filed by “Task force Vigo,” the police allege there were four perpetrators, and the complaint contained cartographic sketches showing the full faces of three of the suspects, and one with his face covered with a towel.

The basis by which the suspects in the case were identified is also of concern. The one named accused in the case was identified from a cartographic sketch produced by one individual who did not actually see the shooting take place, but who saw a “suspicious looking person” among the crowd of policemen and onlookers following the shooting. According to this witness: “this man who wore a dark jacket, had a helmet in his left arm, busy texting, more or less five feet tall, medium built... When I looked into his eyes, he also looked at me sharply and his eyes were seemingly at the state of anger.”¹³² The police suspect was also apparently identified by a man who claims to have seen the suspect in his billiards hall two days prior to the shooting with a gun tucked in the back waistband of his pants.¹³³

Another composite sketch was taken from a shopkeeper who was inside his shop at the time of the shooting, but who later that day saw one man on a red Kawasaki motorcycle who stopped and asked about the route to a nearby place, but who was driving in the wrong direction. This store owner told the police “I suspected him to be involved in the shooting to death because of his actuation [*sic*] and he is very much uneasy when he asked me and then he immediately left the place.”¹³⁴

¹³¹ Memorandum: Written Report on Shooting to Death of Spouses George and Maricel Vigo, Kidapawan City Police Station, June 06 [*sic*], 2006.

¹³² Sworn statement to police of Pampilo Alvendia Dela Cruz, Jr., June 24. Copy on file with Human Rights Watch.

¹³³ Sworn statement to police of Ireneo Tiemsan Rabino, June 23, 2006. Copy on file with Human Rights Watch.

¹³⁴ Sworn statement to police of Joseph Ferolino Tabano, June 22, 2006. Copy on file with Human Rights Watch.

The mother of Maricel Vigo, who does not speak English, told us how local police tricked her into filing a complaint against the suspect pinpointed by the police:

Two policemen came here and told me to go to the police station and asked me to sign an affidavit that allegedly said that Maricel and George were my children. It was in English. The police did not explain what the context was except that. I did not know that it said in the last paragraph that I was signing a complaint saying [this man] is the killer.... When I realized from my daughter what I had been made sign, I got so mad and angry, and I was crying.¹³⁵

The suspects in the Vigos case remain at large.

The high level of suspicion about the police meant that Roderick Abalde, who survived a grenade attack on a local Bayan Muna party office, did not even report the attack to the local police. He told us:

I did not complain to the police because it was not clearly identified who did the throwing of the grenade. For me, it would be useless, because it already [appeared] that it was part of the plan of the regime to repress those who are critical and progressive. We have already had this scenario that if you complain to the police nothing will happen. Like in General Santos [City], where a grenade was thrown and nothing came from the investigations. So we felt that it would be useless. Even the past bombing in Kidapawan City had no report.¹³⁶

In only one of the incidents investigated by Human Rights Watch had a suspect even been arrested by the police.

¹³⁵ Human Rights Watch interview with Norma Alave, September 15, 2006.

¹³⁶ Human Rights Watch interview with Roderick Abalde, September 15, 2006.

Harassment of families and acquaintances following killings

Following a killing, surviving family members or close acquaintances of victims reported to Human Rights Watch of harassment or intimidation from anonymous sources, some of which they perceived as death threats.

The oldest daughter of Sotero Llamas showed Human Rights Watch a text message received on her mobile phone reading “Another person in your family will be next” (see Figure 5). She explained:

At the moment I’m receiving texts saying someone will follow members of the family. I don’t know if it’s a threat or a warning. He says in some of the texts that he knows who killed my father and that I should go talk to him. I don’t know who he is. I just have his number... [I’ve received around] twenty. Saying things like “Don’t investigate or we’ll get your family.”¹³⁷

The daughter has kept a log of the messages she has received, which she shared. Previous messages included “If I tell you who shot your Father will you meet me?,” “If you won’t, I will meet you anywhere, your husband and I are always in the same bus,” and “I will wait for you at the corner.”¹³⁸

¹³⁷ Human Rights Watch interview with Marilyn Llamas, September 21, 2006.

¹³⁸ Translations of text messages kept in log by Marilyn Llamas. According to her log, these texts were received respectively on August 26, 2006, at 7:21 a.m., August 23, 2006, at 4:02 p.m., and August 26, 2006, at 3:38 p.m.

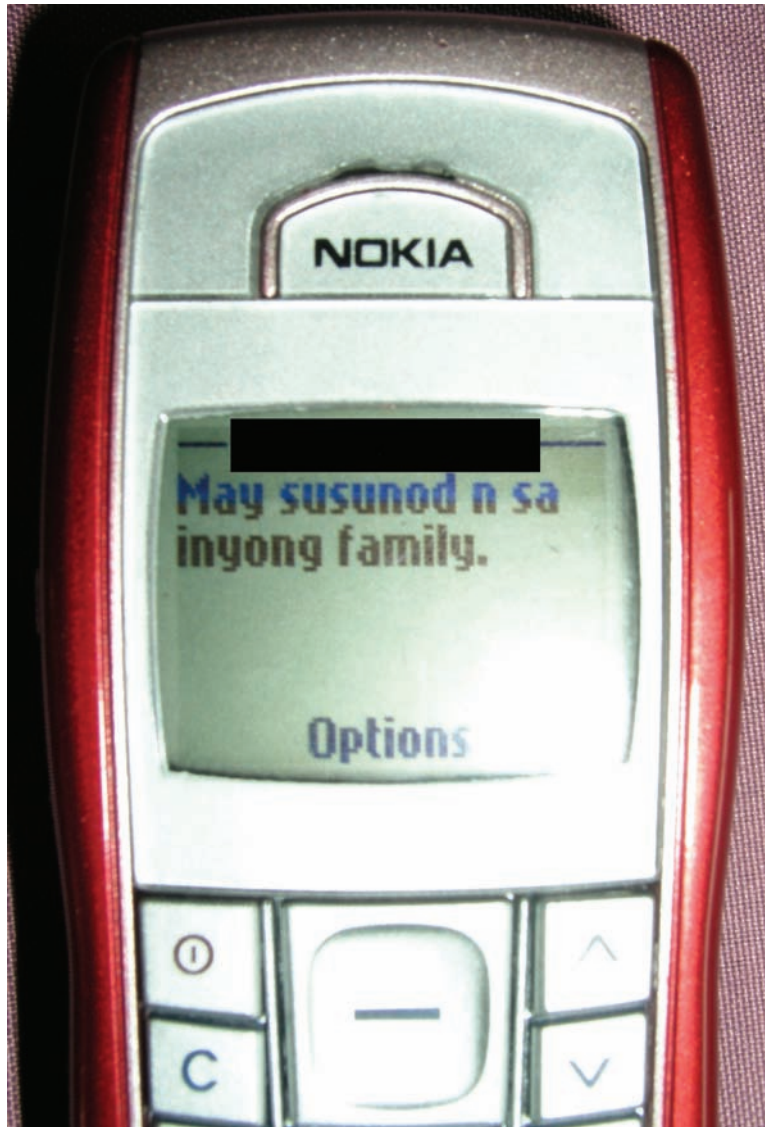


Figure 5: A threatening text message to Sotero Llamas' daughter warns "Another person in your family will be next." © 2006 Bede Sheppard

Malou Tinambacan, an ordained pastor of the United Church of Christ, has also received text messages that have frightened her since the death of her husband. One read "Be Careful."¹³⁹ After the shooting of her husband Malou is still afraid because she saw unfamiliar men hanging around the office of her husband's organization, and she worried that she too might be killed. Malou left Mindanao out of such safety concerns.

¹³⁹ Human Rights Watch interview with Reverend Marielou "Malou" Lumayad Tinambacan, November 2006.

The mother of Maricel Vigo told Human Rights Watch: “After the killings there were warnings. Information was being passed around that we would be next.”¹⁴⁰ Her son also believes he is being watched and followed by men on motorcycles: “They haven’t talked to me, but I know that they are doing surveillance on me.”¹⁴¹

The younger brother of Pastor Santa Rosa shared similar concerns:

We want to go to the city because we fear for our safety, because I noticed that when I am out there are unidentified people following me, riding on a motorcycle. It’s already been three times. One time I saw they were carrying a gun. [This was] recently, [each incident] about three days apart. From here [at home] they followed me to outside the city. They were looking suspicious. They looked like a military person [in their physique and posture]. They were wearing a cap almost covering their face. And when I stopped, they looked at me.¹⁴²

Villagers from the hometown of Pastor Andy Pawikan, who was believed killed on May 21, 2006, told Human Rights Watch that a week after Pawikan’s body was found a squad of seven soldiers came to the village and fired their guns in the air.¹⁴³

Two families told Human Rights Watch that government security forces monitored the funerals held following killings in a manner that the families found harassing.¹⁴⁴ On the day of the funeral for Danilo Hagosojos, family members reported that:

At 6 a.m. on the day of the funeral, three helicopters were hovering around town... While the priest was celebrating mass, [a] helicopter was going around the church. [It was flying] very low. The soldiers could have almost easily jumped [out to the ground. It was probably]

¹⁴⁰ Human Rights Watch interview with Norma Alave, September 15, 2006.

¹⁴¹ Human Rights Watch interview with Gregorio Alave, September 15, 2006.

¹⁴² Human Rights Watch interview with Ray-Sun Santa Rosa, September 20, 2006.

¹⁴³ Human Rights Watch interview with Conrado Alarilla, Jose Gomez, and Joey Castillo (not their real names), October 14, 2006.

¹⁴⁴ Human Rights Watch interview with Ian Joel Guran, September 21, 2006; Human Rights Watch interview with Ian Hagosojos, September 21, 2006.

because there were some human rights activists who had joined us during the funeral.¹⁴⁵

Witnesses and victims' families' fears of retribution

Up until now there is no progress in the investigation, because, according to the investigators, no one wants to be a witness... There is no cooperation... They cannot convince the witnesses to tell the truth.

—Mother of victim, September 2006

As long as the military stays in our [village], the threat is still there and we won't go back.

—A man attacked allegedly by military personnel who is currently living in hiding, September 2006

Witnesses and victims' families are being scared silent. Numerous families told Human Rights Watch that they are afraid to cooperate with police because of a deep fear of becoming a target for reprisal by the perpetrators. After all, these families note, the perpetrators are armed and have so far proven their ability to act with impunity. A number of family members and witnesses have taken their protection into their own hands, and have fled their homes to live in hiding either in bigger cities or in the sanctuary of churches. Many witnesses were unwilling to be interviewed by Human Rights Watch, despite assurances we made about protecting their anonymity and offers to interview them outside of their home villages to avoid surveillance by local security forces.

At a hearing before the US Senate in March 2007, Bishop Eliezer Pascua, the General Secretary to the UCCP, which reports 15 members killed since 2001, said:

With such an appalling death toll of extrajudicial killings in our country at this time of the Arroyo administration, nobody could ever claim that she/he is not afraid... I admit that I have that fear... much more with those who have always been there who were close or in proximity with the victims within their household or even in their community when

¹⁴⁵ Human Rights Watch interview with Ian Hagosojos, September 21, 2006.

they were assassinated. You can all imagine the chilling effect among the people that these extralegal killings have been causing.¹⁴⁶

A witness protection program is provided for under Philippine law, but it provides little real protection in practice. Under the Witness Protection Security and Benefit Act,¹⁴⁷ the Department of Justice is tasked with providing secure housing and a means of livelihood to “any person who has witnessed or has knowledge or information on the commission of a crime and has testified or is testifying or about to testify before any judicial or quasi-judicial body, or before any investigating authority.”¹⁴⁸ Yet police consistently fail to offer or arrange protection, and victims and witnesses are wary of having to rely on the government for protection while they are accusing government officials of serious abuses, including murder.

According to human rights lawyer Romy Capulong: “We have a very weak witness protection program... We have experienced instances of building cases and filing cases only to have them fall apart in court because witnesses refused to testify for some reason.”¹⁴⁹

There are also serious structural concerns involved with a witness protection program run by the police, given that many witnesses and family members may perceive the police as being closely aligned with the military—the very group from whom they fear they need protection.

The ineffectiveness of current witness protection is illustrated in the case of the Santa Rosa family. The local Chief of Police investigating the killing of Pastor Santa Rosa told Human Rights Watch “I have asked my higher-ups to provide me money to provide security to the family,”¹⁵⁰ but as of more than seven weeks after the shooting, the police had not provided any protection to the family, except for asking local officials to patrol the area more.

¹⁴⁶ Bishop Eliezer Pascua, General Secretary of the United Church of Christ in the Philippines, statement to the United States Senate Sub-Committee on East Asian and Pacific Affairs, March 14, 2007.

¹⁴⁷ Witness Protection, Security and Benefit Act, Republic Act No. 6981, April 24, 1991.

¹⁴⁸ Witness Protection, Security and Benefit Act, Republic Act No. 6981, April 24, 1991, section 3.

¹⁴⁹ Human Rights Watch interview with Romy Capulong, attorney, September 23, 2006.

¹⁵⁰ Human Rights Watch with Jose Lipa Capinpin, Chief of Police Daraga, September 22, 2006.

The only individual that Human Rights Watch has found to have received witness protection in a murder case actually was a soldier, Sergeant Rowie Barua, a member of a military intelligence company stationed in Cotabato City.¹⁵¹ Barua was originally arrested along with three accomplices in connection with the murder of Marlene Esperat, a journalist and whistleblower shot in the face in front of her children on March 24, 2005, in Tacurong City, Sultan Kudarat. As a former employee in the Department of Agriculture, Esperat had uncovered various cases of graft and corrupt practices by public officials. Following his arrest Sgt. Barua opted to become a prosecution witness, testifying that on the order of two officials in the Department of Agriculture—Osmeña Montañer and Estrella Sabay—he had arranged the hitmen who carried out the killing. A court in Cebu City convicted Barua’s three accomplices—former Sergeant Estanislao Bismanos, Gerry Cabayag, and Randy Grecia—while Barua himself was acquitted for insufficiency of evidence.¹⁵² The criminal case against the two alleged masterminds is still pending.

Government officials frequently cite the lack of willing witnesses as an excuse for failed investigations or even to impugn the credibility of the cases. But this misplaces the blame, as it is the government’s failure to provide credible assurances of protection and a poor track record of successful prosecutions.

The sister of Danilo Hagosogos explained to us why witnesses to the shooting of her brother are reluctant to testify to the police: “It’s life preservation. They are concerned for their lives, for themselves and their family. Because they know that [the perpetrators] were military, and they are always there. They don’t want to testify in court or sign any statement. Their lips are sealed.”¹⁵³

A lawyer working on one case for a victim’s family told us: “The witnesses that I have talked to seem reluctant to testify because of fear for their lives if the [local political family] are still there.”¹⁵⁴ The daughter of another victim explained: “There were

¹⁵¹ Lieutenant Colonel Bartolome V. O. Bacarrio, “Status of AFP Members Implicated in Unexplained Killings,” Armed Forces of the Philippines press release, March 17, 2007.

¹⁵² *People of the Philippines v. Bismanos, Cagayag, Barua, Grecia, Montañer, and Sabay*, decision, 7th Judicial Region, Branch 21 Cebu City, Criminal Case No. CBU-75556, September 28, 2006.

¹⁵³ Human Rights Watch interview with Belen Santos, September 21, 2006.

¹⁵⁴ Human Rights Watch interview with Attorney Roberto Orlanda (not his real name), date withheld, 2006.

witnesses, but they're afraid. And they remain silent until this time. They're afraid to also get killed. They are [scared of] the killers of my father."¹⁵⁵

When Human Rights Watch interviewed Maria Balani she was visibly nervous to be talking to us about what had happened to her husband, Manuel. She spoke in a hushed whisper, and her eyes darted constantly around, checking to see if any of her neighbors were watching or listening in, and quieting whenever a stranger approached. She informed us what has happened to the witnesses to her husband's killing:

[One witness] has already disappeared. The other witnesses are afraid of the situation here. They are afraid that the perpetrators will begin to kill them also, because they were [warned] by the perpetrators that they will come back and kill them if they talk about the incident... I am afraid that their families will also be killed if they stand up regarding the incident.... If I push the case I'm afraid of what might happen to [me and my family]. So I'm not quite sure if I'll pursue the case or not.¹⁵⁶

Concerns about security also prevent victim's families from pushing the local authorities to carry out a thorough investigation. One family member told us how she was petrified of having any contact with local security forces following the killing of her sister:

I am afraid to pursue the case. After the internment of my sister, [a representative of the] Civil Relations Service of the AFP nearby told me that he wants to talk to me. He wants me to come talk to him. But I refused. Sorry. I ignored the request... I'm also afraid when I go home at night. Please, pray for my protection. I'm in text communication [with my sister's] children, because I'm too afraid to go to them.¹⁵⁷

¹⁵⁵ Human Rights Watch interview with Marilyn Llamas, September 21, 2006.

¹⁵⁶ Human Rights Watch interview with Maria Balani (not her real name), date withheld, 2006.

¹⁵⁷ Human Rights Watch interview with Maria Fabicon (not her real name), date withheld, 2006.

The governor of Bulacan, Josie dela Cruz, has been active and outspoken in trying to find justice for citizens in her province. Even though she is the senior political figure in her province, she shared with Human Rights Watch the difficulties even she has convincing witnesses and families of victims to provide evidence. Governor dela Cruz told us: “People are so afraid that they would rather leave Bulacan than file an affidavit of complaint.”¹⁵⁸

According to the governor, in one “disappearance” case, “the wife appealed [to us] to be silent about it, because she was told if she keeps quiet then [her husband] will be returned. But I have to conclude that those who have not come back are probably dead.”¹⁵⁹ In another “disappearance” case, where a man was taken from his home, she said: “The family was the most aggressive in asking me to leave the case alone.... They did not report it right away.... The mother might still be hoping. And that’s the thing, I want to get to the bottom, but in most cases the family would rather not [risk the consequences of the attention].”¹⁶⁰

Jocelyn Javier abandoned her home and some of her most precious possessions when she fled following the killing of her husband, afraid that the soldiers she blames for her husband’s murder would return to kill her. It was not until a year later that Jocelyn returned to her home again for a visit with Human Rights Watch. Portions of the simple thatch roof have fallen in and the split bamboo walls were in disrepair. Most of the furnishings in the one-room dwelling were gone. The bullet holes are still visible in the bamboo walls. In addition to losing her husband, because of her fear of returning, Jocelyn had also lost her home. “My house is gone,” she cried.¹⁶¹

When the police have difficulty getting witnesses to come forward they may put pressure on the families to try and convince witnesses to testify. The cousin of Rei-Mon Guran told us:

The local police were at the home of [the victim’s parents], and asked us for help in finding witnesses because according to them they had a

¹⁵⁸ Human Rights Watch interview with Governor Josefina “Josie” Mendoza Dela Cruz, September 13, 2006.

¹⁵⁹ Human Rights Watch interview with Governor Josefina “Josie” Mendoza Dela Cruz, September 13, 2006.

¹⁶⁰ Human Rights Watch interview with Governor Josefina “Josie” Mendoza Dela Cruz, September 13, 2006.

¹⁶¹ Human Rights Watch interview with Jocelyn Javier, October 27, 2006.

lot of difficulty finding witnesses because witnesses believed that the perpetrator was a member of the military, which is why they had mistrust about telling [what they saw]. This is why the agencies wanted us to get in touch with witnesses to establish trust.¹⁶²

Families typically lack the necessary resources to protect witnesses. As the victim's cousin said: "I asked [the police] what security measures can they give us, because it's very difficult and risky for us to get witnesses. We don't have any guns or any money to get witnesses."¹⁶³ Families in a criminal matter should not have to bear the burden of finding witnesses or protecting witnesses. Unlawful killings—especially those committed by government security forces—are a crime against the whole of society, and it is therefore the government's duty to actively locate and prosecute those responsible.

Witnesses need protection so as to feel safe to come forward. This is particularly the case when the perpetrators are suspected of being local military forces or other strong political players. Police must earn cooperation from victims and witnesses, but bad community relations, general mistrust by victims families of the government security forces, and poor policing are impediments to building such trust.

Impediments to investigating military involvement in political killings

Philippines law provide the national police jurisdiction over all criminal offenses, including those committed by members of the armed forces. Yet intransigence by military personnel in response to investigations by civilian authorities presents a clear impediment to effective investigations and prosecutions. The Philippines military is an obstacle, rather than a facilitator of criminal investigations by the police. As a result, the police frequently and routinely fail to pursue credible leads when they indicate the involvement of military personnel in serious crimes.

For instance, in the case of Nestor Gonzalez, police were utterly unwilling to pursue investigations that may point to military involvement. According to Gonzalez' brother:

¹⁶² Human Rights Watch interview with Ian Joel Guran, September 21, 2006.

¹⁶³ Human Rights Watch interview with Ian Joel Guran, September 21, 2006.

Based on the police investigation, the suspects are the military based near [town names omitted]. Yes, the police told [our family that it was the military] based on their investigation. So the police advised us to file complaints against the military. The detachment is 100 meters from [my brother's] home. The police told us that we should file but didn't say that the police would file [any case] against the military.¹⁶⁴

Gonzalez' brother decided not to file a complaint, in part because the family was concerned that they were exposing themselves to risk with no certainty that the police would push the investigation forward.

Rather than pursuing investigations themselves against the suspected perpetrators, the police have given the Gonzalez family the invidious choice of receiving no justice or directly confronting the military themselves. It is not the victim's burden to challenge those suspected of a criminal offense; it is the responsibility of the state.

The impotence of the police when it comes to investigating possible illegal activity by the military is illustrated by the observation of Jose Lipa Capinpin, the chief of police in Daraga, in eastern Luzon who told us: "The whole area of Daraga is supposed to be my area, but there are many parts of my area that I can't conduct investigations because they're [within the area of operations of] the Filipino Army."¹⁶⁵ But it is not the case that the police are legally unable to investigate the military; it is simply that they choose not to do so.

Chief Capinpin went on to explain the efforts that his office had undertaken in the investigation into the killing of Pastor Santa Rose, who was found dead alongside one of the suspected perpetrators, Colonel Lordger Pastrana: "I wrote a letter to the unit where Pastrana was at the time. And there's no response yet."¹⁶⁶ When Human Rights Watch pressed Chief Capinpin further on how long the military had been delaying, he answered that he had only gotten around to following the lead of asking the local battalion about Pastrana "yesterday"—more than seven weeks after Pastor

¹⁶⁴ Human Rights Watch interview with Joseph Gonzalez (not his real name), date omitted, 2006.

¹⁶⁵ Human Rights Watch interview with Jose Lipa Capinpin, Chief of Police Daraga, September 22, 2006.

¹⁶⁶ Human Rights Watch interview with Jose Lipa Capinpin, Chief of Police, Daraga, September 22, 2006.

Santa Rosa was murdered. Instead, the police's earlier approach was to rely on the family members to identify the suspects.

The local head of the governmental Commission for Human Rights was a little quicker to approach Colonel Pastrana's unit to ask for an explanation. According to Director Pelagio Señar, he spoke with Pastrana's commanding officer, as indicated on Pastrana's mission order, who denied that Pastrana was still under his line of authority at the time of the murder. "So our work now is working out who Pastrana was under," the Commissioner told us.¹⁶⁷ Human Rights Watch is concerned that the army's failure to identify the appropriate unit and commanding officer of a soldier implicated in a serious offense raises the possibility of criminal obstruction.

The reluctance to investigate the involvement of military personnel in killings appears to affect not only local police, but also goes straight to the top of the police. When questioned by the Melo Commission, the PNP Deputy Director General Razon, Jr., admitted that Task Force Usig had never summoned General Palparan, whose possible role in abuses had been frequently raised, for questioning or investigation. General Razon incorrectly claimed that General Palparan was not under the jurisdiction of the PNP.¹⁶⁸ General Razon then went on to again incorrectly claim that the PNP was not legally empowered to investigate Major General Palparan in the "absence of evidence."¹⁶⁹ The general counsel of the Melo Commission noted in response that it was the purpose of an investigation to gather evidence. A third incorrect statement made by General Razon before the Melo Commission was that the PNP cannot investigate superior officers of suspected perpetrators if the suspect "remains silent or refuses or fails to point to the involvement of a superior officer."¹⁷⁰ It is the responsibility of the police to conduct appropriate investigations regardless of the intransigence of suspects. Because the legal principle of command responsibility includes liability for both actions and omissions by superior officers, failing to take a prosecution beyond the statements of suspected junior officers will

¹⁶⁷ Human Rights Watch interview with Pelagio Señar, Regional Human Rights Director, Philippines Commission on Human Rights, Legazpi City, Regional Office V, September 20, 2006.

¹⁶⁸ PNP Deputy Director General Avelino I. Razon, Jr., paraphrased in Melo Commission Report, p. 9. AFP Chief of Staff General Hermogenes Esperon later conceded before the Commission that the PNP is indeed entitled to proceed with criminal investigations against members of the military; paraphrased in Melo Commission Report, p. 15.

¹⁶⁹ PNP Deputy Director General Avelino I. Razon, Jr., paraphrased in Melo Commission Report, p. 9.

¹⁷⁰ PNP Deputy Director General Avelino I. Razon, Jr., paraphrased in Melo Commission Report, p. 9.

almost certainly hinder efforts to prosecute all those responsible for a crime, regardless of rank.

The AFP has also failed to assist the national Commission on Human Rights in its investigations. Reflecting this, the Commission in August 2006 held Major General Palparan's 7th Infantry Division in contempt for failing to give adequate answers to the Commission at a hearing on political killings in Central Luzon carried out by the Commission.¹⁷¹

Other civilian oversight bodies have also had difficulty getting co-operation and response from the military. Human Rights Watch spoke with Senator Rodolfo Biazon, the current chair of the Senate Committee on National Defense and Security, and himself a former Chief of Staff of the AFP in 1991. Senator Biazon shared with us letters that he had sent to the AFP in May 2006, requesting the AFP take action in response to allegations the senator had received about human rights violations allegedly perpetrated by elements of the AFP in the province of Bulacan. Almost four months after he sent the request, the senator told us: "[Up] until today, I have yet to receive any feedback from them."¹⁷² Senator Biazon also shared similar concerns about the ability of Congress to provide oversight to those raised later by the Special Rapporteur for Extrajudicial Executions, who cited the executive branch for having "stymied the legislature's efforts to oversee the execution of laws," because of its policy that any official requested to appear before the Congress has to seek approval from the President about whether or not they may appear.¹⁷³

Identification of NPA as perpetrators

The experience here [in Davao City] is every time there is a killing the police float a name and they say the case is closed... we expect the police find the real perpetrators. But it hasn't happened yet... Usually they float names of members of the NPA.

—NGO representative in Davao City, September 2006

¹⁷¹ "CHR Holds Palparan Army Unit in Contempt for Snub of Probe," *Philippine Daily Inquirer*, August 26, 2006.

¹⁷² Human Rights Watch interview with Senator Rodolfo Biazon, Senate Office, September 13, 2006.

¹⁷³ "Preliminary note on the visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, to the Philippines (12-21 February 2007)," A/HRC/4/20/Add.3, March 22, 2007, p. 5.

Is there any evidence for this theory [that the NPA are responsible for the spate of extrajudicial executions] that might shake one's certainty regarding the evidence for the military's responsibility? There is not. I repeatedly sought from the military evidence to support these contentions. But the evidence presented by the military is strikingly unconvincing.

—U.N. Special Rapporteur Philip Alston, statement to the U.N. Human Rights Council, Geneva, March 27, 2007

During its 10-week mandate Task Force Usig claimed that it solved 21 cases by filing cases in court against identified suspects, all of them members of the CPP or NPA. The Philippines military continue to assert that extrajudicial killings and “disappearances” are being carried out by the NPA and CPP as part of an internal purge ordered by the CPP founding chair Jose Maria Sison.¹⁷⁴ In his testimony before the Melo Commission, PNP Deputy Director General Avelino I. Razon, Jr., claimed that police records indicate that the spate of killings is a result of CPP-NPA “own purging of financial opportunism.”¹⁷⁵ However, when asked by Chairman Melo whether the police actually had any data on whom among those killed were financial officers, General Razon could point to only two victims who were allegedly involved in financial operations.¹⁷⁶

In most of the cases examined by Human Rights Watch in which the police considered the matter “solved,” the alleged suspects were members of the NPA. In each of these cases, this finding seemed unlikely given the available facts on the ground and consistent rebuttals from the victim’s families. Moreover, experts on the NPA have found no evidence that large-scale intra-NPA killings have persisted beyond the early 1990s, and that the current killings do not reflect the typical pattern of killings by the NPA, thus calling the PNP’s explanation into question.

When Nestor Gonzalez was in the hospital recovering from being shot, local authorities initially told his mother that it was NPA rebels who were responsible.

¹⁷⁴ See, for example, statement by Captain Lowen Marquez, Civil Relations Service of the AFP in Western Visayas, in Nestor P. Burgos, Jr., “Ilonggo folk shocked over abduction,” *Philippine Daily Inquirer*, April 21, 2007.

¹⁷⁵ Philippines National Police Deputy Director General Avelino I. Razon, Jr., quoted in the Melo Commission report.

¹⁷⁶ Melo Commission Report, p. 9.

Gonzalez finds this impossible: “The military say it was the NPA who shot me, but I find it unusual because the [local AFP] detachment of the military is just 100 meters away from my house, but they were unable to respond and catch the perpetrators.”¹⁷⁷

The police concluded that it was also the NPA who were responsible for killing Sotero Llamas, a former senior NPA commander. Apparently one of the supposed NPA suspects was identified using a police composite artist and, according to the local police superintendent in charge of the case, Nestor Tiempo, “very reliable information, very reliable because the informant was also an NPA, but we only got that information very confidentially.”¹⁷⁸ Llamas’ family members dismiss such an idea. When presented with the police’s two alleged suspects, Llamas’ daughter responded: “In our point of view, these are not the killers of my father... The spokesman of the NPA appeared on national TV and said they could not do that to my father after 33 years of dedicated service.”¹⁷⁹ The Melo Commission noted that the supposed suspect in the Llamas case was “at best dubious.”¹⁸⁰

When asked why the NPA would have issued a denial about its involvement in the killing of Llamas, the police superintendent replied: “That is their opinion of course, they should not claim it. But as far as the result of our investigation, the perpetrators are members of their organization.”¹⁸¹

Llamas’ daughter believes the police have ulterior motives for alleging NPA responsibility: “Because when you conduct an investigation on personnel of the NPA...you can’t do anything because the people aren’t around. You can’t issue them a subpoena, because they won’t show up.”¹⁸²

The fact that the NPA issued a statement denying involvement in the Llamas killing deserves some credence, as the NPA is typically vocal when it does in fact kill

¹⁷⁷ Human Rights Watch interview with Nestor Gonzalez (not his real name), date omitted, 2006.

¹⁷⁸ Human Rights Watch interview with Nestor Tiempo, Police Superintendent, CDIG, Camp Simeon A Ola, Legazpi City, September 21, 2006.

¹⁷⁹ Human Rights Watch interview with Marilyn Llamas, September 21, 2006.

¹⁸⁰ Melo Commission report, p. 41.

¹⁸¹ Human Rights Watch interview with Nestor Tiempo, Police Superintendent, CDIG, Camp Simeon A Ola, Legazpi City, September 21, 2006.

¹⁸² Human Rights Watch interview with Marilyn Llamas, September 21, 2006.

someone. The website of the CCP/NPA, for example, includes press statements in which there are admissions of punishing former cadre, including their murders.¹⁸³ As Congressman Casiño explained: “Our experience with the NPA is that when they kill—what they call ‘revolutionary justice’—it comes with an explanation and an admission. But in all these cases when the government says [a political killing occurred because of] an internal struggle, there is none of this.”¹⁸⁴

When the police identified a person named Dionisio Madanguit as an NPA member responsible for the killings of George and Maricel Vigo, the spokesperson for the NPA’s Magtanggol Roque Command in Southern Mindanao, Ricardo Fermiza, also issued a statement denying that the NPA was responsible for the killings, and that, “There is no Dionisio Madanguit listed in the roster of membership in the NPA.”¹⁸⁵

Human Rights Watch spoke with Joel Rocamora, author of “Breaking Through: The Struggle within the Communist Party of the Philippines,” which details in-fighting within the CPP during the 1980s. Rocamora’s book was entered in evidence before the Melo Commission by Armed Forces chief of staff General Esperon to demonstrate that the CPP and NPA kill their own members.¹⁸⁶ When asked to compare the anti-infiltration purges of the 1980s with the situation today, Rocamora told Human Rights Watch:

To be sure, the CPP continues to kill people. Not just combatants, but also Party collectors of so-called revolutionary taxes who get suspected of not turning in the money... They continue to kill what they call ‘barrio devils,’ what they call despotic landlords, unrepentant [cattle] rustlers, unrepentant rapists. The NPA runs a system of rough justice in the areas they control... And undoubtedly they still kill a number of their own people who they suspect of being “deep

¹⁸³ For example: Rafael De La Cruz, Wilfredo Zapanta Command, Front 18 Operations Command, Southern Mindanao, “Enemy Intelligence Agent Punished,” February 14, 2006.

¹⁸⁴ Human Rights Watch interview with Representative Teodoro A. Casiño, Party-List Representative for Bayan Muna, National House of Representatives, September 12, 2006.

¹⁸⁵ Ricardo Fermiza, “Murder of Couple is the Handiwork of AFP Death Squads,” public statement, June 23, 2006, available at <http://www.philippinerevolution.net>.

¹⁸⁶ James Mananghaya, “843 civilians, 384 soldiers and cops killed by NPAs — Esperon,” *The Philippine Star*, September 19, 2006; Fe Zamora, “Reds killed over 1,200, Esperon testifies,” *Inquirer*, September 19, 2006.

penetration agents” [military informants known as DPAs]. But the anti-infiltration killings were a very specific phenomenon, where... the Party launched mass campaigns against agents, DPAs, and general paranoia. It’s something that has been documented... We know what happened and we know when the last of these campaigns happened. For all intents and purposes, there weren’t any since 1989. The Party is a very large organization, and we would hear about it if there was anything like a major anti-DPA campaign going on.¹⁸⁷

Author Bobby Garcia, whose works were also presented as evidence by General Esperon to the Melo Commission, is a former NPA guerrilla who has written on his experiences of interrogation and torture during the anti-infiltration purges of the 1980s. He wrote to us:

While I am not particularly surprised that the military would use the bloody “anti-infiltration operations” done by the CPP-NPA in the 1980s as a powerful propaganda ammunition in their counter-insurgency work, I was nevertheless taken aback when my book was offered as “evidence” against the Communist Party in the recent spate of political killings. My immediate strong reaction is that these issues should never be confused.... [My book] supposedly “supported the military contention that it was the CPP-NPA that were behind the (political) killings” over the past five years. My book was published in 2001, and it chronicled the CPP’s internal violence in the 1980s, under which I myself suffered. It cannot possibly cover events after it was launched, unless I am gifted with prescience. But obviously the logic has to do with establishing a pattern, i.e. the CPP-NPA demonstrated the capacity for brutality before, it is not impossible to imagine that they can still do it now. Perhaps.... [The] problem with all this is that we have a case where the pot and the pan are both calling each other black and greasy. The AFP and the CPP-NPA hold dismal human rights

¹⁸⁷ Human Rights Watch interview with Joel Rocamora, September 26, 2006.

records, thus when one squeaks about violations, the other can easily squawk: “Look who’s talking!” There is a credibility problem here.¹⁸⁸

Police identification of unlikely perpetrators

On a scale of one to 10, I think there is a minus one chance of [the police] getting the right person.

—Cousin of victim, Sorsogon, September 2006¹⁸⁹

The police have also explained killings by quickly and without evidence attaching blame to organizations besides the NPA with which the victim was involved. Often, these intra-organizational conflicts seem concocted by the police. For example, the attempts by the police to identify a perpetrator in the shooting of Cris Hugo demonstrate how police sometimes appear to be more interested in “solving” a case by quickly identifying someone as their suspect, rather than conducting a serious investigation.

Twenty-year-old Cris Hugo was shot while walking on the streets of downtown Legazpi City, in the province of Albay on March 19, 2006. First, the police suggested that the killing may have been the result of a “frat war” between different social fraternities on campus at Bicol University where Cris Hugo was a student and a member of the Alpha Phi Omega fraternity. Neither Hugo’s mother nor friends who know him find this even remotely plausible. Human Rights Watch spoke with a member of Cris Hugo’s fraternity who denied that any such feud existed. Instead, he noted, “All frats in this region are united. [The only competition we have is] traditional Filipino games competitions, like a band competition, or a literary writing competition. There’s no war.”¹⁹⁰ Three days after the shooting, all of the three fraternities on Bicol University campus made statements confirming that there was no such “frat war.”

The local police then suggested that Cris had been shot due to rivalries within the left-wing League of Filipino Students (LFS), an organization of which Cris was

¹⁸⁸ Robert Francis Garcia, email to Human Rights Watch, October 16, 2006.

¹⁸⁹ Human Rights Watch interview with Ian Joel Guran, September 21, 2006.

¹⁹⁰ Human Rights Watch interview with Daven Tarog, September 19, 2006.

regional coordinator. More than a month after the shooting, the police director for Bicol, Chief Superintendant Victor Barbo Boco told a national newspaper:

I was able to talk to the parents of Cris Hugo who confirmed the report that their son had written a formal letter of resignation as a member of the LFS to the organization's head office in Manila in January this year... [But the LFS did not accept Hugo's resignation] because he already knew too much.¹⁹¹

Human Rights Watch spoke with Cris Hugo's mother, who contested this analysis: "[The police] are insisting that, but I do not agree. I know that until the very moment of his death he was still active."¹⁹² She also told us:

[The investigators] are asking [my husband and I] to make some statements about Cris' activities prior to this crime. I know that their questions will be leading me to make the perpetrators a member of LFS or NPA... Maybe the investigator wants to finish the investigation, so they are asking some affidavits of us. They will throw questions to me. According to them my statements will help the process of the investigation... They present so many angles and stories about Cris' death. They insinuate stories about Cris' killings. Even though they are insisting, I do not accept that Cris was killed by a member of LFS, but that is what they are trying to put in the investigation... I don't believe it because what is the reason? His whole time was dedicated to this organization, he even disregarded his studies a little for the organization, so how could the organization kill Cris?¹⁹³

A representative from LFS told Human Rights Watch:

We are students. How can we kill someone like Cris? It was a brutal murder. I don't think a student could kill someone like that. We have

¹⁹¹ Chief Superintendant Victor Barbo Boco, quoted in Celso Amo, "Camarines Norte Head of Bayan Muna Slain," *The Star*, April 28, 2006.

¹⁹² Human Rights Watch interview with Rowena Hugo, September 21, 2006.

¹⁹³ Human Rights Watch interview with Rowena Hugo, September 21, 2006.

no guns... There was no such rivalry in our organization. We, the members, elected Cris as leader of our organization. There was no such rivalries in our organization... Cris was a very kind man, a very loving man, and a kind friend.¹⁹⁴

Eight months following the shooting, the police told Cris Hugo's parents that there is still no new progress in their investigations.

Threats and Harassment of human rights lawyers

Human Rights Watch met with three human rights lawyers who have received death threats and other harassment because of their work with members of leftist civil society groups, which inhibits their ability to provide effective legal counsel to defendants and to press for prosecutions on behalf of victims' families. Their harassment reflects their persecutors' view that the work of these lawyers—either in defense of NGO members or in advocating for the rights of victims of abuse—as supportive of the CPP and NPA.

A lawyer working on the case of one activist who was killed, who asked not to be named in our report because of concerns of reprisal for speaking out, related a recent threat: "I received a [piece of] manila paper sent by commercial carrier to my office, addressed to me, saying 'Death to Supporters of the Communist Party'... After that there were several [threatening] calls that I received to my landline. I consider it serious... My children are now fearing for me."¹⁹⁵

Romy Capulong, a human rights lawyer who was also appointed as a United Nations ad litem Judge for the International Criminal Tribunal for the former Yugoslavia, believes that he escaped yet another assassination attempt on June 25, 2006.¹⁹⁶ Another lawyer told us how she had become accustomed to being sued for libel when she became involved in human rights cases, or in cases against powerful local

¹⁹⁴ Human Rights Watch interview with Lessa Lopez, September 19, 2006.

¹⁹⁵ Human Rights Watch interview with Attorney Roberto Orlanda (not his real name), date withheld, 2006.

¹⁹⁶ Human Rights Watch interview with Romy Capulong, attorney, September 23, 2006; National Lawyers Guild, "Philippines: The NLG condemns the killings of members of the legal profession in the Philippines," press release, August 7, 2006.

political interests, but that she had now started receiving death threats by text message as well.¹⁹⁷

Harassment of international human rights workers

I could see on the screen the word “blacklisted” and my name. There was something flashing. I do remember seeing the word blacklisted flashing. It was a bit like in the movies.

—Brian Campbell, American lawyer for International Labor Rights Fund, Washington, D.C., December 2006¹⁹⁸

Although President Arroyo has made numerous public announcements welcoming international assistance in investigating unsolved killings in the Philippines, her government’s treatment of international observers at times belie this public commitment.

In response to an Amnesty International report on political killings in the Philippines in August 2006, an association of retired generals—the Association of Generals and Flag Officers—called for the organization to be declared *persona non grata* and banned from the Philippines. According to the association, whose current ex-officio co-chairman is AFP Chief General Hermogenes Esperon Jr., Amnesty International’s investigators were “obnoxious and undesirable aliens that inflict harm and injury upon the reputation of the Filipino people.”¹⁹⁹ In September 2006 President Arroyo visited Amnesty’s International Secretariat in London to publicly and personally invite the organization to assist in the investigation of the political killings. Then in early November 2006 a spokesperson for the AFP, Rear Admiral Amable Tolentino, chief of the Armed Forces Civil Relations Service (CRS), said the AFP agreed with the association of retired generals’ recommendation and also wanted Amnesty International members banned from the Philippines.²⁰⁰

¹⁹⁷ Human Rights Watch interview with Maria Fiel (not her real name), attorney, date withheld, 2006.

¹⁹⁸ Human Rights Watch interview with Brian Campbell, December 12, 2006.

¹⁹⁹ Aris R. Ilagan, “AFGO calls Amnesty Int’l report unfair,” *The Manila Bulletin Online*, August 19, 2006.

²⁰⁰ Joel Guinto, “AFP backs ex-generals’ ‘*persona non grata*’ tag on Amnesty,” *Philippine Daily Inquirer*, November 14, 2006.

In November 2006 three Canadians—a lawyer, a nurse, and a trade unionist—who had been invited by Karapatan to conduct a fact-finding mission in Quezon province, reported being harassed and detained by the military.²⁰¹ Ning Alcuaz-Imperial, the lawyer in the group, said that Lieutenant Colonel Bustillos of the 74th Infantry Battalion threatened to charge the group with obstruction of justice if they tried to visit San Pablo, Laguna, south of Manila on November 16.²⁰² According to the trade unionist, Jennifer Efting, the three were prevented by military officials from entering a town south of Manila on November 16, and then taken to a police station. Although they were not charged or put in cells, they were threatened with arrest and kept at the police station for a total of 13 hours on November 16 and 17.²⁰³

On December 7, 2006, Brian Campbell, an American lawyer working for the Washington, D.C.-based NGO, the International Labor Rights Fund, was barred from entering the Philippines at the international airport in Manila. Campbell had previously participated in fact-finding investigations on killings in the Philippines, and had helped organize international protests against them. Campbell was traveling again to the Philippines at the request of a number of local NGOs. While being detained in a side room by immigration officials prior to his deportation, Campbell was shown an official list. As he explained:

Then [the immigration official] came back with the blacklist. He said to me “So you were [previously in the Philippines] on an international solidarity mission?” And he asked if there were Taiwanese and Koreans on this mission. And I said “Yes, there were.” Obviously, he was looking through this list and he’s seeing names that were from various other counties... He then showed me the first page of the list. He said, “I’m just trying to understand why your name is on this list. Do you recognize any names on the list?” Then he shows me this list. Then on the top of this list, about seven names down is [an American lawyer, name withheld], then a few lines down [another American lawyer, name withheld]. Then a series of fathers, I presume priests

²⁰¹ Carlos H. Conde, “3 Canadian activists say Philippines military harassed them,” November 19, 2006.

²⁰² <http://www.pcij.org/blog/?p=1323>, accessed May 30, 2007.

²⁰³ <http://www.straight.com/article/soldiers-held-local-activists>, accessed May 30, 2007.

from different churches. And I saw some Chinese and Korean names, but I don't know if they were people who were on my mission. Immediately I said, "I recognize some of these names because they are also American human rights lawyers." He put a check on the list next to [name withheld]'s name. But none of these people came to the Philippines with me, they didn't come on the mission with me... By that point I was aware that the criteria for inclusion on this list: participation in a fact-finding mission of some sort, and investigations into these political killings.²⁰⁴

Human Rights Watch contacted the Philippines Embassy to the United States to request a copy of this blacklist. The embassy informed us that the blacklist had been developed to ensure security during the Association of South East Asian Nations (ASEAN) summit meeting being held in the Philippines in December 2006. In January 2007 the embassy assured Human Rights Watch that the blacklist had now been lifted, and had only been in effect for the summit. The embassy would not explain to us, however, why the identified human rights lawyers were considered a security threat, but suggested that the list had been developed in consultation with the Philippines domestic intelligence agencies and in cooperation with other similar agencies in ASEAN and other countries.²⁰⁵ The embassy could also not confirm how many names were on the blacklist. When shown the blacklist by the immigration officer, Campbell recalled:

It was an A4 sheet of paper, [maybe] 14 point font... The writing started about six inches down, one name per line, so I don't know what that works out to be. That's probably about 40 lines a page, and about three or four pages of names. I'm speculating that all pages had names, but I know for sure that two pages had names.²⁰⁶

²⁰⁴ Human Rights Watch interview with Brian Campbell, December 12, 2006.

²⁰⁵ Human Rights Watch interview with Gines Gallaga, January 29, 2007.

²⁰⁶ Human Rights Watch interview with Brian Campbell, December 12, 2006.

VI. Recommendations

To the President:

- Immediately issue an executive order to the AFP and PNP reiterating the prohibition on the extrajudicial killing of any person. This prohibition does not include lawful attacks on combatants during hostilities with NPA forces. Vigorously investigate and prosecute members of the security forces implicated in killings, particularly those identified by the Melo Commission report.
- Immediately direct the Armed Forces of the Philippines, the Philippines National Police, and all other executive agencies to desist from statements that are incitement to violence, such as by implying that members of non-governmental organizations are valid targets of attack because of alleged association or sympathy with the Communist Party of the Philippines or the New People's Army.
- Immediately implement the full recommendations of the Melo Commission.
- Immediately implement the full recommendations contained in the preliminary note of the United Nations Special Rapporteur on extrajudicial, summary, or arbitrary executions.
- Order the Inspector General of the AFP, the Deputy Ombudsman, and the Provost Marshal of the AFP to investigate and report publicly within 90 days on the involvement of military personnel in extrajudicial killings, and to identify failures within the AFP investigative agencies to so-far prosecute such criminal behavior, and, where appropriate, the failure to so-far prosecute officers under principles of command responsibility.
- Order the director of the National Bureau of Investigation to investigate and report publicly within 90 days on the failures of the PNP and Task Force Usig to investigate adequately, and to recommend for prosecution, military personnel involved in extrajudicial executions. The report should also explain why Task Force Usig and the Melo Commission came to different conclusions with regards to the complicity of superior military officers.
- Order the Department of Justice to conduct a review within 60 days and publicly report on the failures of the current witness protection program and

propose reforms. The Department of Justice should also circulate an explicit set of operational guidelines for the police stipulating individual police officer's duties to provide protection to witnesses and individuals who report threats on their lives. The guidelines should stipulate clear sanctions for officers who fail to provide necessary protection in conformity with these guidelines.

- Invite the United Nations Special Rapporteurs on Human Rights Defenders, and the Working Group on Arbitrary Detention to visit the Philippines.
- Provide the Human Rights Commission with the necessary powers to carry out credible investigations, including the power to subpoena individuals, compel testimony, and provide protection to witnesses.
- Provide the Melo Commission with the necessary powers to carry out credible investigations, including the power to subpoena individuals, compel testimony, and provide protection to witnesses.
- Expand the membership of the Melo Commission to include representatives from affected civil society organizations.

To the Armed Forces of the Philippines:

- Cease all targeting of civilians.
- Immediately put an end to unlawful killings by military personnel and hand over those alleged to be responsible to the appropriate prosecutorial authorities.
- Comply with all requests for appearances by civilian investigative bodies.
- Immediately cease the practice of approaching civilians in their homes. Any such operation should be conducted in coordination with the PNP after informing local civilian officials who is to be approached and why.

To the Philippines National Police:

- Seek to establish responsibility at all levels of the chain of command in any investigations involving extrajudicial executions.
- Carry out an immediate review of closed cases of unlawful killings or attempted killings with a view to identifying further genuine lines of inquiry leading to arrests.

- Investigate possible collusion between police officers to suppress evidence of military involvement in unlawful killings or attempted killings.
- Sanction officers who fail to provide necessary witness protection in accordance with the law.

To the Judiciary:

- Order the Department of Justice to conduct immediate further investigations when cases are presented that do not identify suspects by name, or where the suspect has not been located.

To the CPP-NPA-NDF:

- Cease all targeting of civilians.
- Cease all killing of current or former members.

To the United States:

- Make Foreign Military Financing contingent on certification from the Secretary of State to the Chair and the Ranking Members of Committees on Appropriations that the government of Philippines is taking effective steps to bring to justice members of the Armed Forces of the Philippines and the Philippine National Police, against whom there is credible evidence of human rights violations, especially political killings.
- If there has been no progress in any prosecutions of members of the military, the United States should suspend the next annual bilateral Balikatan exercises and/or suspend the Armed Forces of the Philippines from participation in the 2008 multinational Cobra Gold joint military exercises.

VII. Acknowledgments

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