



THE PHILIPPINES

“No Justice Just Adds to the Pain”

Killings, Disappearances, and Impunity in the Philippines

HUMAN
RIGHTS
WATCH



**“No Justice Just Adds to the Pain”
Killings, Disappearances, and Impunity in
the Philippines**

Copyright © 2011 Human Rights Watch
All rights reserved.
Printed in the United States of America
ISBN: 1-56432-787-6
Cover design by Rafael Jimenez

Human Rights Watch
350 Fifth Avenue, 34th floor
New York, NY 10118-3299 USA
Tel: +1 212 290 4700, Fax: +1 212 736 1300
hrwnyc@hrw.org

Poststraße 4-5
10178 Berlin, Germany
Tel: +49 30 2593 06-10, Fax: +49 30 2593 0629
berlin@hrw.org

Avenue des Gaulois, 7
1040 Brussels, Belgium
Tel: + 32 (2) 732 2009, Fax: + 32 (2) 732 0471
hrwbe@hrw.org

Avenue Blanc, 51
1202 Geneva, Switzerland
Tel: +41 22 738 0481, Fax: +41 22 738 1791
hrwgva@hrw.org

2-12 Pentonville Road, 2nd Floor
London N1 9HF, UK
Tel: +44 20 7713 1995, Fax: +44 20 7713 1800
hrwuk@hrw.org

27 Rue de Lisbonne
75008 Paris, France
Tel: +33 (1)43 59 55 35, Fax: +33 (1) 43 59 55 22
paris@hrw.org

1630 Connecticut Avenue, N.W., Suite 500
Washington, DC 20009 USA
Tel: +1 202 612 4321, Fax: +1 202 612 4333
hrwdc@hrw.org

Web Site Address: <http://www.hrw.org>



JULY 2011

ISBN: 1-56432-787-6

“No Justice Just Adds to the Pain”

Killings, Disappearances, and Impunity in the Philippines

- Map of the Philippines 1**
- Glossary of Terms and Abbreviations..... 2**
- Summary 3**
 - Key Recommendations7
- Methodology..... 9**
- I. The Philippine Context 11**
 - The Communist Insurgency, Government Response, and Peace Talks 11
 - The Legacy of Extrajudicial Killings..... 15
- II. Extrajudicial Executions and Enforced Disappearances 20**
 - Killing of Fernando “Nanding” Baldomero, July 5, 2010..... 21
 - Killing of Pascual Guevarra, July 9 2010.....23
 - Enforced Disappearance of Agustito Ladera and Renato Deliguer, August/September 201024
 - Killing of Reynaldo “Naldo” L. Labrador, September 3, 2010..... 26
 - Killing of Rene “Toto” Quirante, October 1, 2010..... 28
 - Killing of Ireneo “Rene” Rodriguez, November 7, 2010.....30
 - Enforced Disappearance of Alfredo Bucal, November 10, 2010 31
 - Killing of Rudy and Rudyric Dejos, February 27, 201133
- III. Military Failure to Address Extrajudicial Killings 35**
 - Military Labeling of Civilians as NPA Members36
 - Military’s Denial of Involvement in Extrajudicial Killings38
 - Military Failure to Cooperate with Police and Other Inquiries39
 - Failure of the Military to Investigate 41
- IV. Failure to Investigate and Prosecute 44**
 - Poor Policing44
 - Investigations of Extrajudicial Killings and Enforced Disappearances 48
 - Police Fears of Military Retaliation.....54
 - Fears of Retaliation Against Witnesses and Victim’s Relatives 55

Obstacles to Prosecution	59
Writ of Amparo.....	63
Weakness of Human Rights Institutions	66
V. Legal Framework	71
Duty to Investigate and Prosecute Human Rights Violations	71
Philippine National Law	73
VI. Role of the International Community.....	76
VII. Action Required on Extrajudicial Killings and Enforced Disappearances	78
Killing of Fernando “Nanding” Baldomero, July 5, 2010.....	78
Killing of Pascual Guevarra, July 9, 2010.....	78
Enforced Disappearance of Agustito Ladera and Renato Deliguer, August/September 2010.....	79
Killing of Reynaldo “Naldo” L. Labrador, September 3, 2010.....	79
Killing of Rene “Toto” Quirante, October 1, 2010	80
Killing of Ireneo “Rene” Rodriguez, November 7, 2010.....	80
Enforced Disappearance of Alfredo Bucal, November 10, 2010	81
Killing of Rudy and Rudyric Dejos, February 27, 2011	81
Killing of Bacar and Carmen Japalali, September 8, 2004	82
Enforced Disappearance of Sherlyn Cadapan, Karen Empeño, and Manuel Merino, June 26, 2006.....	82
VIII. Recommendations.....	84
IX. Appendix.....	92
Letter from Human Rights Watch to Justice Secretary Leila de Lima	92
Letter from Human Rights Watch to the Central Committee of the Communist Party of the Philippines	96
Letter to Human Rights Watch from the Office of the Ombudsman	100
X. Acknowledgments.....	104

Map of the Philippines

Killings and Enforced Disappearances Documented by Human Rights Watch



© 2011 John Emerson/Human Rights Watch

Glossary of Terms and Abbreviations

AFP	Armed Forces of the Philippines
<i>Barangay</i>	A village or an urban neighborhood; the smallest administrative unit of local government in the Philippines
<i>Barangay tanod</i>	A village-based law enforcement officer, similar to a policeman but not a member of the Philippine National Police
<i>Bonnet</i>	A balaclava or ski mask, often worn by criminals to protect their identities
CAFGU	Citizen Armed Force Geographical Unit; a paramilitary force formally under AFP command
CIDG	Criminal Investigation and Detection Group; the investigatory arm of the PNP
CPP	Communist Party of the Philippines
DPWH	Department of Public Works and Highways
DSWD	Department of Social Welfare and Development
IB	Infantry Battalion
ID	Infantry Division
NBI	National Bureau of Investigation; a civilian investigatory agency under the Department of Justice
NDFP	National Democratic Front of the Philippines
NPA	New People's Army; military wing of the CPP
PNP	Philippine National Police
<i>Purok</i>	Territorial enclave inside a <i>barangay</i> , especially in rural areas
<i>Sangguniang Bayan</i>	Legislature of municipal governments
<i>Tricycle</i>	A motorcycle with a sidecar on a third wheel for carrying passengers
<i>Waiting shed</i>	An open, sheltered structure built along most roads in the Philippines, where people wait for public transport

Summary

Armed men [in military uniforms] entered the house and immediately began beating Toto with their rifles. They beat him continuously; he was trying to escape ... but they kept pulling him back and beating him.... Then they shot him.
—“Jaime,” a witness to the October 1, 2010 killing of leftist activist Rene Quirante

Cases of extrajudicial killings need to be solved, not just identify the perpetrators but have them captured and sent to jail.¹
—Benigno Aquino III, June 1, 2010, then Philippine president-elect

It is almost four years now. My family is living in agony. It is torture on my part, financial, emotional, psychological. The only normal part of my life now is the abnormality around my daughter Karen’s disappearance.
—Concepcion Empeño, whose daughter was allegedly abducted by soldiers on June 26, 2006, and has not been seen since

On the morning of July 5, 2010, Fernando Baldomero became the first reported victim of an extrajudicial killing under President Benigno Aquino III’s newly minted administration.

Baldomero—the provincial coordinator of the leftist Bayan Muna political party, and a town councilor in Lezo, Aklan province—was leaving home to take his 12-year-old son to school when a gunman approached, aimed a .45 caliber pistol at the 61-year-old, and shot him in the head and neck before fleeing on a motorcycle.

Two decades earlier, Baldomero had been a member of the New People’s Army (NPA), the armed wing of the Communist Party of the Philippines (CPP), but had left the NPA following his release from prison in 1994. Police and the military had continued to tag Baldomero as an NPA member. In the days before he was killed, several witnesses had seen men in military uniforms around Baldomero’s residence.

¹ Nikko Dizon and Alex Pal, “Aquino vows closure to human rights killings,” *Philippine Daily Inquirer*, June 1, 2010, <http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20100601-273180/Aquino-vows-closure-to-human-rights-killings> (accessed May 8, 2011).

Charges have been filed against the alleged gunman, a civilian, but police have not pursued evidence of military involvement. Nor have they executed the court's January 10, 2011 arrest warrant, leaving the alleged gunman at large.

During his campaign for president, Benigno Aquino III pledged to end serious violations of human rights in the Philippines. Yet since taking office on June 30, 2010, the Philippine military continues to be implicated in apparently politically-motivated extrajudicial killings—deliberate unlawful killings by state security forces—and enforced disappearances. These abuses persist in part because of the Philippine police's failure to conduct thorough and impartial investigations, particularly when evidence points to military involvement. The ability to bring the perpetrators to justice has also been hindered by the Justice Department's inadequate protection program for witnesses, who have been subject to harassment and intimidation.

Human Rights Watch has documented seven extrajudicial killings implicating the military and three enforced disappearances of leftist activists since Aquino took office. We were not able to investigate several other suspected extrajudicial killings reported by local media due to time constraints. In addition to recent abuses, this report also examines the government's lackluster efforts to investigate and prosecute serious human rights violations perpetrated during the last decade, and the state's continuing failure to hold perpetrators accountable.

Baldomero's killing has a familiar ring to it. Like many of the victims of killings and "disappearances" detailed in this report, Baldomero was a leftist activist. Some, like Baldomero, were previously members of the CPP-NPA. However, in none of these cases is there evidence they were still NPA members or actively participating in combat at the time of the killing.

Like Baldomero, several victims were killed or abducted in front of witnesses, either when gunmen entered the victims' property and shot them in cold blood, or shot them from atop motorbikes. The perpetrators either wore civilian clothes with bonnets (balaclavas), or wore military uniforms and made no attempt to hide their faces. In several cases there is evidence that soldiers worked with members of paramilitary forces—primarily the Citizen Armed Force Geographical Unit (CAFGU)—or paid military "assets," including "rebel returnees" (former NPA members).

The military appears to have targeted several of these victims as CPP-NPA members because of their involvement with leftist organizations, work on land reform, or opposition to military presence in their communities. The military operating in areas affected by the NPA conflict

often considers all leftist organizations to be fronts for the armed group and any individuals who oppose military presence to be NPA members.

For more than four decades the NPA has engaged in an insurgency against the Philippine government, with their armed strength at its peak in the mid-1980s. In addition to attacks on government military targets, the NPA has claimed responsibility for killing—among others—civilians, government officials, and tribal leaders allegedly associated with the military, in violation of international humanitarian law (the laws of war). They have also unlawfully executed military personnel and others considered to be “enemies of the people” after conviction by so-called People’s Courts or *Hukumang Bayan*. NPA attacks on civilians and mistreatment and execution of all persons in custody are serious violations of the laws of war. Those who carry out or order such abuses are responsible for war crimes.

The Philippine government has a duty and obligation to protect the population from insurgent attacks. However, abuses by insurgents never justify violations of the laws of war or human rights violations by government security forces. This includes extrajudicial killings and enforced disappearances of any person, including alleged members of political groups and civil society organizations that are deemed to be sympathetic to the insurgents’ cause.

A former soldier, “Ricardo” (not his real name), gave a detailed account of military structure and practices. He told Human Rights Watch he had been ordered to kill and “disappear” leftist activists from the late 1990s until about 2007. Ricardo spoke of how senior military commanders ordered him to kill leftist activists and hide or burn the bodies, and how the military had trained him and his fellow soldiers to make targeted killings look like the NPA’s Special Partisan Unit (SPARU) had perpetrated them, by using a .45 caliber pistol and wearing bonnets (balaclavas), thought to be favored by the NPA. While much of Ricardo’s account could not be independently confirmed, his information seemed credible based on its consistency and detail.

Extrajudicial killings have long been a problem in the Philippines. Hundreds of members of left-wing political parties, political activists, critical journalists, and outspoken clergy have been killed or forcibly disappeared in the Philippines during the past decade. The military and police, as well as paramilitary forces, have been implicated in many of these killings. As a result of international and local pressure, the number of extrajudicial killings has dropped since 2007, but they still occur with impunity. To date, there have been only seven successfully prosecuted cases of extrajudicial killings, resulting in the conviction of 12 defendants. There has not been a single conviction of active military personnel at the time of

the killing. No senior military officers have been convicted either for direct involvement in these violations or as a matter of command responsibility.

The public rhetoric of senior military officers has changed somewhat since Aquino took office—one need only drive along Epifanio Delos Santos Avenue (EDSA) in Manila to see the “I am a soldier and a human rights advocate” sign outside the headquarters of the armed forces at Camp Aguinaldo. But this change in language has not yet been reflected in action, such as improved military cooperation with investigating authorities, comprehensive internal investigations of implicated military personnel, or increased openness within the military structure. In the recent cases documented by Human Rights Watch, the military continues to deny all allegations of soldiers’ involvement in extrajudicial killings and other serious abuses, despite evidence to the contrary.

Police investigations into alleged extrajudicial killings and enforced disappearances are woefully inadequate. Several core aspects of investigations are often disregarded by investigators, including effectively examining crime scenes and canvassing for witnesses. Investigators routinely fail to pursue evidence of military involvement and the absence of military cooperation exacerbates this problem. Witness protection is rarely provided, and where it is the protection program is inflexible.

Longstanding problems of the criminal justice system are exacerbated in human rights cases, where victims and witnesses may justifiably fear retribution from soldiers. Despite official orders requiring prosecutors and police to work together in order to ensure that a strong case is presented to court, such cooperation remains extremely unusual. Once a case is filed in court, hearings occur only at monthly intervals. Often they are less frequent, with some breaks lasting several months, so that trials typically last for years. Court delays and a judicial hesitancy to act when the authorities are implicated in crimes have also hampered the Supreme Court writs of amparo and habeas data, which were designed to compel military and other government officials to release information on people in their custody, thereby preventing “disappearances.”

The widespread impunity enjoyed by perpetrators of extrajudicial killings and enforced disappearances in the Philippines is exacerbated by the inadequacies of institutions charged with promoting human rights and accountability, including the Department of Justice, the Commission on Human Rights, the Ombudsman, and the Joint Monitoring Committee. The Joint Monitoring Committee is specifically tasked with implementing an agreement on human rights and international humanitarian law between the government and the National Democratic Front of the Philippines (NDFP), including the CPP and the NPA.

Abusive behavior by security forces persists when perpetrators are not held accountable for their actions. Curtailing human rights violations requires more than new policies and senior officials committed to reform; it requires that would-be perpetrators know that they will go to prison and their careers will end if they order or participate in serious abuses. The Philippine government should adopt effective measures to end extrajudicial killings and enforced disappearances, hold perpetrators accountable, and prevent them from recurring.

Key Recommendations

To the Philippine Government:

- Investigate and prosecute all those responsible in each case of extrajudicial killing and enforced disappearance detailed in this report.
- Issue an executive order directing police and National Bureau of Investigation (NBI) investigators to vigorously pursue crimes allegedly committed by the military, or themselves be subject to disciplinary measures.
- Communicate fully to all military personnel that officers and soldiers who provide evidence or testimony in cases of human rights violations will be eligible for witness protection and other measures to ensure their safety.
- Order the inspector general and the provost marshal of the Armed Forces of the Philippines (AFP) to investigate and report publicly within 90 days on the involvement of military personnel in extrajudicial killings, and to identify failures within AFP investigative agencies to prosecute officers under principles of command responsibility.
- Order the military to cease targeted attacks on civilians, to cease the practice of denying military involvement in all extrajudicial killings, and to cease labeling leftist groups as fronts for the CPP-NPA, which places group members at considerable risk.
- Take all necessary measures, including reforming the witness protection program, to ensure the safety of survivors of serious crimes, witnesses, and families of victims and witnesses before, during, and after trial.
- Submit a bill to Congress that prohibits and protects against enforced disappearances and ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

To Donors and External Partners, including the United States, European Union, Japan, and Australia:

- Publicly press the Philippine government to investigate and prosecute members of the military for extrajudicial killings, including those liable under command

responsibility. Diplomats based in Manila should closely monitor Philippine government investigations of individual extrajudicial killing and enforced disappearance cases.

Full recommendations—of both a general nature and with respect to specific cases—appear at the end of this report.

Methodology

This report is based on Human Rights Watch research in the Philippines from February to April 2011. Researchers travelled to the provinces of Agusan del Sur, Aklan, Bataan, Batangas, Compostela Valley, Davao del Norte, Davao del Sur, Laguna, Negros Occidental, Negros Oriental, Nueva Ecija, and Surigao del Sur, and to Davao City to investigate recent alleged extrajudicial killings and enforced disappearances.

Human Rights Watch conducted a total of 45 interviews with victims of abuses, their family members and friends, and eyewitnesses. Many were reached by referral from local community groups. We spoke with multiple sources to verify the veracity of statements.

Human Rights Watch interviewed 16 police officials, 11 military officers, and three public prosecutors. We also spoke to *barangay* and other local officials.

One of the most detailed accounts of military structure and practices came from a former soldier. “Ricardo,” not his real name, told Human Rights Watch that military officers had ordered him to kill and “disappear” leftist activists from the late 1990s to about 2007. He died of natural causes during the course of this research.

Human Rights Watch spoke with more than two dozen local human rights activists, academics, lawyers, and journalists who have been looking into extrajudicial killings and enforced disappearances for many years and who, in many cases, were able to provide corroborating evidence.

Human Rights Watch has also drawn on its own past research. Since August 2009, we have researched the progress of government investigations and prosecutions into more than 20 targeted killings and enforced disappearances perpetrated between 2004 and 2010 in several provinces throughout the Philippines. In the course of this research, researchers interviewed more than 50 victims of abuses, their family members and friends, and eyewitnesses in Bicol, Central Luzon, and Negros.

Interviews were conducted in English or in Tagalog, Cebuano, Ilonggo or Bikol with the aid of interpreters. The names of many interviewees have been withheld for security reasons, and pseudonyms used for those repeatedly quoted. Where pseudonyms are used the name is given in quotation marks. Wherever possible and in the majority of cases, interviews were conducted on a one-on-one basis. None of those interviewed received payment.

In May 2011, Human Rights Watch sent letters to the Philippine officials listed below to obtain data and solicit views on extrajudicial killings:

- Hon. Leila de Lima, secretary of the Department of Justice
- Gen. Eduardo Oban, Jr., chief of staff of the Armed Forces of the Philippines
- Raul M. Bacalzo, director general of the Philippine National Police
- Officer-in-Charge, deputy ombudsman for Military and Other Law Enforcement Offices

Human Rights Watch also sent a letter to the Central Committee of the Communist Party of the Philippines (CPP). One of the letters to the government and the letter to the CPP is attached as an appendix. The rest of the letters are posted on the Philippines page of the Human Rights Watch website: www.hrw.org.

At this writing, Human Rights Watch has received a response from the Ombudsman's office, which is attached as an appendix. Future responses will be posted on the website.

I. The Philippine Context

The Communist Insurgency, Government Response, and Peace Talks

Killings and enforced disappearances in the Philippines occur in the context of a four-decade-long communist insurgency that affects many of the country's 80 provinces.

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 The National Democratic Front of the Philippines (NDFP) is charged with forging alliances with so-called people's organizations to develop a revolutionary united front.³ Military estimates put the armed strength of the NPA at around 4,100 guerrillas, backed by a broad network of non-combatant supporters.⁴ Membership in the CPP has been legal since 1992.⁵

During the course of this 42-year conflict, the CPP-NPA has splintered with evolving and conflicting ideologies and personality differences, leading to the creation of other communist armed groups such as the Revolutionary Proletarian Army-Alex Boncayao Brigade (RPA-ABB) in 1992 and the Revolutionary People's Army (Rebolusyonaryong Hukbong Bayan, RHB) in 1998.⁶ These groups continue to perpetrate numerous serious human rights

² The island of Mindanao in the southern Philippines has a large Muslim population known as Moros. Various Moro armed opposition groups, unconnected to the Communist insurgency, are engaged in armed hostilities for independence or autonomy against the government. These include the Moro Islamic Liberation Front (MILF), the Moro National Liberation Front (MNLF), and the Abu Sayyaf Group (ASG).

³ The NDFP, established in 1973, says it is the "united front organization of the Filipino people fighting for national independence and for the democratic rights of the people," including the CPP-NPA. National Democratic Front of the Philippines, "About the NDFP," undated, http://ndfp.net/joomla/index.php?option=com_content&task=view&id=21&Itemid=27 (accessed May 7, 2011).

⁴ "AFP Gears Up for 2011 with 'Bayanihan,'" AFP press release, December 31, 2010, <http://www.afp.mil.ph/o/news/31Dec-AFPGEARSUP.pdf> (accessed May 6, 2011).

⁵ Republic Act No. 7636, which took effect on October 11, 1992, repealed the Anti-Subversion Act, R.A. 1700, which had outlawed the CPP in 1957.

⁶ For a discussion of the various armed groups in the Philippines, see Soliman Santos and Paz Verdades Santos, *Primed and Purposeful: Armed Groups and Human Security Efforts in the Philippines* (Geneva: South-South Network for Non-State Armed Group Engagement and the Small Arms Survey, 2010). The splintering of the CPP-NPA also affected nongovernmental organizations. In 1992 the leader of the CPP-NPA, Jose Maria Sison, sought to reassert certain Maoist principles into the movement, including the primacy of the rural armed struggle, and rejecting more moderate positions of political engagement. Those who supported Sison have been labeled "reaffirmists" or "RAs," and those who rejected this realignment of the CPP-NPA have been labeled "rejectionists" or "RJs." This same division remains evident in nongovernmental organizations and political parties today. See Human Rights Watch, *The Philippines – Scared Silent: Impunity for Extrajudicial Killings in the Philippines*, June 2007, <http://www.hrw.org/en/reports/2007/06/27/scared-silent-0>, pp. 11-17. For discussion of this and other developments since the 1992 division, see International Crisis Group, "The Communist Insurgency in the Philippines: Tactics and Talks," Asia Report No. 202, February 14, 2011, <http://www.crisisgroup.org/en/regions/asia/south-east-asia/philippines/202-the-communist-insurgency-in-the-philippines-tactics-and-talks.aspx> (accessed May 7, 2011), pp. 6-10.

abuses—including abductions, torture, and killings—against suspected adversaries and ordinary civilians.

The CPP-NPA has admitted killing numerous former members, government officials, soldiers and police officers, and civilians since its creation in 1969. Since June 30, 2010, it has claimed responsibility for killing or executing several civilians, government officials, tribal leaders allegedly associated with the military, and soldiers, in circumstances that may violate international humanitarian law.

Often, the CPP-NPA seeks to justify the killings by arguing that a “people’s court” has condemned the victim to death because of various crimes against the people, sometimes criminal acts such as rape and murder, and other times spying on the NPA for the military. For instance, on July 23, 2010, NPA members shot and killed sugar farmer Sergio Villadar in Escalante City, Negros Occidental. The NPA, which claimed responsibility for the killing, said it was forced to kill Villadar because he resisted arrest after being charged before the NPA’s “revolutionary people’s court” for a 2007 killing and involvement in several beatings.⁷ Philip Alston, then-UN special rapporteur on extrajudicial executions, has stated this court system “is either deeply flawed or simply a sham.”⁸

The CPP-NPA has targeted indigenous leaders who are viewed as allied with the military. For instance, on August 6, 2010, at around 10 a.m., approximately 30 NPA fighters reportedly ambushed several people including Datu Ruben Labawan, the Supreme Tribal Council for Peace and Development, which is affiliated with the AFP, in Paquibato district, Davao City. Labawan was travelling with two soldiers, his wife, and other indigenous leaders. Two soldiers, Pfc. Elansio Alonsagay and Pfc. Kimpio Labawan, together with one civilian, Datu Enecencio Dangkey, died from gunshot wounds.⁹

⁷ Carla Gomez, “NPA admits killing sugar farmer in Negros,” *Philippine Daily Inquirer*, July 27, 2010, <http://newsinfo.inquirer.net/breakingnews/regions/view/20100727-283506/NPA-admits-killing-sugar-farmer-in-Negros>, (accessed May 6, 2011).

⁸ UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, April 16, 2007, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/Go8/130/01/PDF/Go813001.pdf> (accessed May 7, 2011), p. 14.

⁹ “Another victim in Davao ambush dies,” *Sun Star*, August 8, 2010, <http://www.sunstar.com.ph/network/another-victim-davao-ambush-dies> (accessed May 6, 2011). Labawan believes that the NPA was targeting him. Similarly, on July 31, 2010, two NPA members shot and killed Leonardo “Andot” Behing, a leader of LUPACA (Lumadnong Pakigbisog sa CARAGA), which is reported to have been formerly affiliated with the AFP and now largely a bandit group, in Sibagat town, Agusan del Sur. According to news reports, Maria Malaya, spokesperson of the NPA’s North Eastern Mindanao Regional Committee said, “Behing was a legitimate military target for his anti-revolutionary work and crimes against the people like rape, kidnapping, illegal logging and harassments.” Franklin A. Caliguind, “NPA admits killing Manobo man over ‘crimes against people,’” *Philippine Daily Inquirer*, August 3, 2010, <http://newsinfo.inquirer.net/breakingnews/regions/view/20100803-284695/NPA-admits-killing-Manobo-man-over-crimes-against-people> (accessed May 6, 2011).

The NPA has also targeted members of the Revolutionary Proletarian Army (RPA), which broke away from the CPP in 1992 due to ideological differences and has worked with government forces since 2000 when it signed a peace accord with the government.¹⁰ On November 2, 2010, NPA fighters shot and killed former RPA leader and *barangay tanod* Renante Cañete in Sagay City, Negros Occidental. According to news reports, the NPA alleged Cañete was a hired gunman used by landlords in collaboration with the military, and that it had summoned Cañete to resolve the complaints against him but he had not responded.¹¹

Attacks on civilians and the torture or execution of any prisoner constitute serious violations of the laws of war and may be war crimes. The Philippine government has a duty and obligation to protect the population from insurgent attacks. However, abuses by insurgents never justify violations of the laws of war or human rights violations by government security forces. This includes attacks on members of political groups and civil society organizations viewed as sympathetic to the insurgents' cause.

Members of the military and police often lump members of leftist organizations, labor unions, and party-list groups together with the NPA—frequently with deadly outcomes. Leftist organizations in the Philippines encompass a range of views towards the CPP-NPA, which rejects the Philippine government and constitution. Some militant left-wing organizations support the NPA and its armed struggle, if not openly. Other organizations share the CPP's political ideology, or elements of it, but advocate peaceful reform. Others fully reject the CPP's perspective but are still targeted by the military and police. Since members of these groups are *not* NPA fighters, who are armed and combat-ready, they are less dangerous targets of attack for the military and police. In any case, attacks on members of leftist organizations, whatever the extent of their support for the CPP-NPA, is unlawful under the laws of war, unless they are directly participating in hostilities. Also unlawful is the killing of any person in government custody, including surrendered members of the NPA.

¹⁰ Known as the Revolutionary Proletarian Army-Alex Boncayao Brigade (RPA-ABB). The NPA called on RPA-ABB members to “desist from doing its worst against the mainstream revolutionary organization and surrender so that any appeal they want to present could be processed.” Edgar Cadagat, “Slain RPA-ABB Leader Led Hold-Up Gang, Death Squad in Negros Combined,” *Daily Bulletin*, November 9, 2010, <http://www.ndb-online.com/nov0910/negros-local-news/Slain+RPA-ABB+Leader+Led+Hold-Up+Gang-Death+Squad+in+Negros+Combined> (accessed May 6, 2011).

¹¹ “NPA hitmen kill former comrade,” *Dateline*, November 3, 2010, <http://dateline.ph/2010/11/03/npa-hitmen-kill-former-comrade/> (accessed May 6, 2011); “RPA-ABB, Karapatan hit Negros killings,” *Dateline*, November 10, 2010, <http://dateline.ph/tag/rpa-abb/> (accessed May 6, 2011); Edgar Cadagat, “Slain RPA-ABB Leader Led Hold-Up Gang, Death Squad in Negros Combined,” *Daily Bulletin*, November 9, 2010, <http://www.ndb-online.com/nov0910/negros-local-news/Slain+RPA-ABB+Leader+Led+Hold-Up+Gang-Death+Squad+in+Negros+Combined> (accessed May 6, 2011).

The military has over the years publicly labeled a number of organizations, unions, and party-list groups as “NPA fronts.” The affect is pernicious. Once labeled—and the labels are hard to remove—the members of such organizations may be the targets of government attack.

The military’s designations may reflect the whims of individual commanders in a locale. Lt. Col. Oliver Artuz, commander of the 39th Infantry Battalion based in Davao del Sur, told Human Rights Watch that all unions are linked to the NPA, whose aim is to raise wages so high that companies go out of business, thus creating more recruits for the NPA.¹² Several military officers have labeled protesting as a form of violence. According to one officer, “Once the organizations have been infiltrated [by the NPA] you will notice they are being violent.... They will join mass protests.”¹³

A police insider explained how political activism is also misunderstood within the police force. Speaking of a recent victim of extrajudicial killing, he said, “Some police officers have a misconception of what [activists] are doing. They say that [the targeted person] is a traitor to the government. But I have never heard of him being involved in a criminal act; he just leads rallies.”¹⁴

Many government-targeted killings over the years had the involvement of state-supported paramilitary forces, “vigilante groups” such as *Alsa Masa* (“Masses Arise”), and “private armies.”¹⁵ The official status of these forces has changed over time, but they have long been responsible for abuses against suspected NPA members and supporters, and other politically-motivated targets. Most notoriously, members of a private army, along with soldiers and police, were implicated in the November 2009 massacre of 58 relatives and supporters of a political candidate and media workers in Maguindanao on the island of Mindanao.¹⁶ Despite this, successive Philippine governments have taken no serious steps to dismantle or disarm paramilitary forces or militias on a large scale. Only a few militia or paramilitary members have been prosecuted for abuses, and even fewer military and police officers overseeing their crimes have been prosecuted.

¹² Human Rights Watch interview with Lt. Col. Oliver Artuz and 2nd Lt. Dueñas, 39th IB, Davao del Sur, March 9, 2011.

¹³ Human Rights Watch interview with a representative of the 702nd IB, Nueva Ecija, February 26, 2011.

¹⁴ Human Rights Watch interview with a police investigator, place name and date withheld.

¹⁵ For a discussion of the paramilitary and militia forces in the Philippines, see Human Rights Watch, *The Philippines — “They Own the People”: The Ampatuans, State-Backed Militias, and Killings in the Southern Philippines*, November 2010, <http://www.hrw.org/en/reports/2010/11/16/they-own-people-o>, pp. 19-24.

¹⁶ *Ibid.*

According to government sources, in 2010 the NPA killed 176 soldiers and 11 police officers, while the government killed 141 suspected NPA members in military and police operations.¹⁷

In his July 2010 State of the Nation Address, President Aquino announced that the government was prepared to declare a ceasefire with the CPP-NPA and resume peace talks. The CPP-NPA agreed to move toward peace talks, but not a ceasefire. Formal negotiations between the government and the NDFP, which negotiates on behalf of the CPP-NPA, resumed on February 15, 2011. Both sides agreed on a general time frame for completing the draft comprehensive agreements on the remaining items of the agenda, which include social and economic reforms, political and constitutional reforms, and ending hostilities and disposing of forces.¹⁸ They also discussed confidence-building measures, such as the release of captured NPA/ CPP members and government soldiers.¹⁹

Extrajudicial killings have continued since the peace talks commenced.

The Legacy of Extrajudicial Killings

Extrajudicial killings are an enduring problem in the Philippines, but they received international attention in 2006 when the number of alleged extrajudicial killings skyrocketed.²⁰ During the administration of President Gloria Macapagal Arroyo, who was in office from 2001 to 2010, hundreds of leftist politicians and political activists, journalists, and clergy were killed or abducted.²¹ In 2007, the number of killings dropped significantly due to domestic and international pressure, but killings have nonetheless continued.

¹⁷ US State Department, Bureau of Democracy, Human Rights, and Labor, “Country Reports on Human Rights Practices — 2010: The Philippines,” April 8, 2011, <http://www.state.gov/g/drl/rls/hrrpt/2010/eap/154399.htm> (accessed May 7, 2011). This figure does not include members of paramilitary forces.

¹⁸ The draft Comprehensive Agreement on Social and Economic Reforms (CASER) may be completed and signed by the Panels in September 2011; the draft Comprehensive Agreement on Political and Constitutional Reforms (CAPCR) may be completed and signed by the Panels in February 2012; and lastly the draft Comprehensive Agreement on End of Hostilities and Disposition of Forces (CAEHDF) may be completed and signed by the Panels in June 2012. The Joint Statement of GPH-CPP-NPA-NDF at the Conclusion of the Current Round of Peace Talks in Oslo, Norway, February 21, 2011, <http://gphndfpeacetalks.wordpress.com/2011/03/08/joint-statement-of-gph-cpp-npa-ndf-at-the-conclusion-of-the-current-round-of-peace-talks-in-oslo-norway/> (accessed May 6, 2011).

¹⁹ *Ibid.*

²⁰ See UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Addendum: Follow-up country recommendations – Philippines, A/HRC/11/2/Add.8, April 29, 2009, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.2.Add.8.pdf> (accessed May 7, 2011); UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, April 16, 2007; Human Rights Watch, *Scared Silent*; and Amnesty International, “Philippines: Political Killings, Human Rights and the Peace Process,” AI Index: ASA 35/006/2006, August 15, 2006 <http://www.amnesty.org/en/library/info/ASA35/006/2006/en> (accessed May 7, 2011).

²¹ The number of alleged extrajudicial killings recorded during Arroyo’s 2001–2010 presidency varies greatly between organizations, from about 150 victims according to the lowest government figures to about 1200 according to Karapatan, a Philippine NGO. See UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary

Arroyo Administration Initiatives to Address Extrajudicial Killings

In response to domestic and international pressure, the Arroyo administration instituted several initiatives to address extrajudicial killings, including creating special bodies within the Philippine National Police and the Department of Justice to investigate and prosecute political killings. While the number of killings dropped, there was virtually no accountability for those responsible. During Arroyo's nine-year term, only 11 people were convicted for politically-motivated killings, none for the abductions, and no member of the military active at the time of the killing has been brought to justice. These initiatives are briefly discussed below.

Melo Commission

In August 2006 Arroyo created a commission under former Supreme Court Associate Justice Jose Melo to probe the killings of journalists and leftist activists since 2001.²² The commission's report, made public in February 2007 after much public pressure, concluded:

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 procedure"—meaning illegal liquidations. However, there is certainly evidence pointing the finger of suspicion at some elements and personalities in the armed forces, in particular Gen. Palparan, as responsible for an undetermined number of killings, by allowing, tolerating, and even encouraging the killings.²³

In its initial report, the commission made several recommendations relating to command responsibility, witness protection, and the need for thorough investigations.²⁴ These reports were expanded upon in an August 2007 letter from the commission to then-Executive Secretary Eduardo Ermita, which has not been made public. Among its recommendations, the commission called on Arroyo to investigate senior members of the military, in particular Gen. Jovito Palparan, and order the military to do away with its continuing "state of denial"

executions, Philip Alston, Addendum: Follow-up country recommendations – Philippines, A/HRC/11/2/Add.8, April 29, 2009; Atty. Al A. Parreño, "Report on the Philippine Extrajudicial Killings (2001 – August 2010)," <http://www.scribd.com/doc/37530361/FULL-Report-on-the-Philippine-EJKs-2001-2010>, (accessed July 6, 2011); Karapatan, "Karapatan Monitor," January-March 2010, http://www.karapatan.org/files/2010_KarapatanMonitor_Jan-March.pdf (accessed July 6, 2011).

²² For discussion of the work of the Melo Commission, see Human Rights Watch, *Scared Silent*, pp. 18-22.

²³ Independent Commission to Address Media and Activist Killings, "Report," January 22, 2007, p.53.

²⁴ See Human Rights Watch, *Scared Silent*, p. 20.

mindset and to stop labeling left-wing or cause-oriented groups mere “fronts” for the CPP-NPA and “enemies of the state.”²⁵

Arroyo never implemented these or the commission’s other recommendations, nor has Aquino since taking office.²⁶

Task Force Usig

In August 2006 Arroyo created Task Force Usig, a special police body, which she charged with solving 10 cases of killings of political activists or journalists within 10 weeks. Task Force Usig has continued to operate beyond its 10-week mandate. In practice, it does not itself investigate killings, but oversees the work of local investigators and monitors the status of investigations.

Task Force 211

In November 2007, Arroyo created the Task Force against Political Violence, known as Task Force 211. Officially, the task force was:

Created to harness and mobilize government agencies, political groups, the religious, civil society and sectoral organizations and the public for the prevention, investigation, prosecution and punishment of political violence, the care and protection of people and communities victimized and threatened with violence, and the promotion of a culture opposed to violence and for the advancement of reconciliation and peace.²⁷

In practice, however, Task Force 211 interpreted its mandate as limited to killings, excluding enforced disappearances and other forms of political violence, and operated with a small staff simply monitoring the status of certain alleged extrajudicial killings. For instance, it refused to investigate the enforced disappearance of Sherlyn Cadapan and Karen Empeño in

²⁵ The letter went on to say, “That there was a marked increase in the incidence of killings in all the areas where Gen. Palparan was assigned—which he admitted—should be enough to justify his investigation. Indeed, Gen. Palparan’s statements and cavalier attitude about the killings should have warranted early on at the very least administrative or disciplinary actions by his superiors.” Letter from Jose A. R. Melo, chairman of the Melo Commission, to Eduardo R. Ermita, executive secretary, August 21, 2007, pp. 3, 9.

²⁶ Arroyo did implement an earlier recommendation, seeing to the passage in December 2009 of a law providing for command responsibility as a basis for criminal liability; however, this has not yet been applied. Republic Act No. 9851 of the Philippines. See also Republic Act No. 9745 of the Philippines, sec. 13.

²⁷ Administrative Order No. 211, November 26, 2011, sec. 1.

Bulacan, Central Luzon on June 26, 2006, even when an eyewitness had testified that the military had detained, tortured, and most likely killed them.

During Task Force 211's tenure, it has looked into more than 200 cases, 53 of which were classed as having progressed through the justice system and four in which convictions were secured.²⁸

In December 2010, Justice Secretary Leila de Lima created a task force that she says has a broader mandate than Task Force 211.²⁹ De Lima directed the new task force to review all reported and unsolved cases of extrajudicial killings and enforced disappearances, with the intention of speeding up the resolution of cases with sufficient evidence and reinvestigating cases in which the trail of evidence has gone cold.

Human Rights Desks

In 2007, the PNP and AFP each created human rights offices. Since then, they have pledged to create such offices or human rights desks at different levels of command to monitor and maintain records regarding personnel allegedly involved in human rights violations.³⁰ The desks were not to have an investigative function; rather, they were to maintain and analyze records of reported violations and to provide human rights training. At their Manila headquarters, these desks mainly seek information from the commanders in areas where alleged human rights violations have occurred. Outside Manila, the desks don't appear to function. Many provincial police offices that are meant to have such desks, do not.³¹

²⁸ Letter from Ricardo Blancaflor, former chairman, Task Force 211, to Human Rights Watch, May 27, 2011. On June 10, 2008, Joel Flores was convicted of murder for the May 16, 2006 killing of Bayan Muna secretary general Jose Doton. On March 6, 2009, Rafael Cardeño was convicted of murder for the December 31, 2001 killing of reported whistleblower and Young Officer's Union spokesperson Baron Cervantes. On April 29, 2009, Joy Anticamara was convicted of homicide for the July 18, 2006 killing of broadcaster Armando Pace. On January 29, 2010, Robert Woo was convicted of murder, as an accomplice, of the May 4, 2005 killing of radio commentator Klein Cantoneros.

²⁹ Justice Department Order 848.

³⁰ Philippine National Police Commission, Resolution No. 2009-072, "Approving the activation of the human rights desks at the different levels of command in the Philippine National Police," February, 2009. "All AFP units ordered to set up human rights office," *GMA News*, November 15, 2010, <http://www.gmanews.tv/story/206015/all-afp-units-ordered-to-set-up-human-rights-office> (accessed May 13, 2011).

³¹ For instance, a police officer at the PNP provincial headquarters in Nueva Ecija said that they did not have a human rights desk there. He said, "Maybe there is one at the regional headquarters?" Human Rights Watch interview with P/Supt. Eduardo B. Soriano, Nueva Ecija, February 25, 2011.

President Aquino's Commitments

Benigno Aquino III was elected president and inaugurated on June 30, 2010, after campaigning to address extrajudicial killings, enforced disappearances, and other human rights violations by government security forces.

Aquino has acknowledged the problems of impunity. In a meeting with European Union ambassadors a month before his inauguration, he said, "Cases of extrajudicial killings need to be solved, not just identify the perpetrators but have them captured and sent to jail."³² In his inauguration speech he said, "There can be no reconciliation without justice. When we allow crimes to go unpunished, we give consent to their occurring over and over again."³³

While Aquino's language has been strong, he has not implemented the systemic reforms necessary to stop the killings and hold perpetrators accountable.

³² Nikko Dizon and Alex Pal, "Aquino vows closure to human rights killings," *Philippine Daily Inquirer*, June 1, 2010, <http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20100601-273180/Aquino-vows-closure-to-human-rights-killings> (accessed May 8, 2011).

³³ Inaugural Speech of President Benigno S. Aquino III in English, June 30, 2010, <http://www.philstar.com/Article.aspx?articleid=589090> (accessed May 8, 2011).

II. Extrajudicial Executions and Enforced Disappearances

An extrajudicial killing is a deliberate, unlawful killing by state security forces. In the Philippines, there is much debate about the terminology, in particular extrajudicial killing versus extralegal killing; but the meanings are the same. An enforced disappearance is when an individual is deprived of liberty by or with the state's acquiescence, and officials refuse to provide information regarding the victim's detention, whereabouts, or fate.³⁴ Extrajudicial killings and enforced disappearances violate basic human rights, including the right to life, the right to liberty and security of the person, the right to a fair and public trial, as well as the prohibition on torture and cruel, inhuman, and degrading treatment or punishment.³⁵

Human Rights Watch investigated seven apparent extrajudicial killings and three enforced disappearances that occurred since June 30, 2010, in which there was significant evidence of military involvement (see below). News media have reported other possible cases during that period that Human Rights Watch was not able to investigate due to time constraints. In three other cases, Human Rights Watch found no evidence of military involvement; another reported case could not be adequately investigated because of ongoing military hostilities in the area. In all of these cases we examined the response of police and other authorities to the killings.

The investigated cases show no consistent patterns. Several victims were leftist activists who may have been killed because of perceived association with the New People's Army (NPA), while others appear to have been ordinary farmers involved in land disputes with local officials. In one case local politics was at issue.

A former soldier, "Ricardo," told Human Rights Watch that commanding officers of his battalion ordered him to carry out several extrajudicial killings during his time in the Philippine Army from the mid-1980s to the mid-2000s. While much in Ricardo's account could not be independently confirmed, his information seemed credible based on its consistency and detail.

³⁴ International Convention for the Protection of All Persons from Enforced Disappearance (Convention against Enforced Disappearance), adopted September 23, 2005, E/CN.4/2005/WG.22/WP.1/Rev.4 (2005), art. 2. See also United Nations Declaration on the Protection of All Persons from Enforced Disappearances (Declaration against Enforced Disappearances), adopted December 18, 1992, G.A. res. 47/133, 47 U.N. GAOR Supp. (No. 49) at 207, U.N. Doc. A/47/49 (1992), preamble.

³⁵ UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, A/HRC/14/24, May 20, 2010, <http://www2.ohchr.org/english/issues/executions/annual.htm> (accessed December 17, 2010). See especially, "Killings by Law Enforcement Officials or Other Security Forces."

Ricardo said army intelligence had determined that the targets were working for the NPA. He said that in 2005, an officer in the army's 8th Infantry Division ordered him to kill Felidito Dacut, a lawyer and Bayan Muna-Eastern Visayas regional coordinator because, "as a human rights lawyer, he was hampering military activities." Ricardo said a fellow soldier shot and killed Dacut with a .45 caliber pistol on March 14, 2005, near Tacloban City in Leyte.³⁶ He said that military officers trained him to make such assassinations look like they were perpetrated by the NPA's Special Partisan Unit (SPARU) by using a .45 caliber pistol and wearing *bonnets* (balaclavas).

"Ricardo" also said that military officers on several occasions ordered him to help dispose of victims' bodies. He described one instance in 2007 at Fort Bonifacio, the Philippine Army headquarters in Manila, where commanding officers ordered him and several intelligence officers to put a male corpse inside a steel drum, seal it, and place the drum in a vehicle as it was to be taken elsewhere, but he was not aware where. He said he was unable to describe the dead man because his face was covered with blood.

Killing of Fernando "Nanding" Baldomero, July 5, 2010

At about 6.30 a.m. on July 5, 2010, an armed man riding tandem on a motorcycle gunned down Fernando Baldomero with a .45 caliber pistol outside his family home along the national highway in *barangay* Estancia, Kalibo, Aklan. Baldomero, 61, had just mounted his motorcycle with his 12-year-old son, whom he was taking to school, as he did every day. An NPA member until his release from prison in 1994, Baldomero was the provincial coordinator of the leftist political party Bayan Muna and a town councilor in Lezo, Aklan.³⁷

Several witnesses saw men in military uniforms around Baldomero's residence in the days before he was killed. A witness told Human Rights Watch that she saw a military truck parked for three consecutive days at a waiting shed (an open, sheltered structure built along the road) just a few meters from Baldomero's house, about one week before he was killed.

³⁶ Senate Committee Report No. 150, submitted jointly by the Committees on Public Order and Illegal Drugs, Justice and Human Rights, and Public Information and Mass Media on October 12, 2006, <http://www.senate.gov.ph/lisdata/624151731.pdf> (accessed June 14, 2011), p. 9; Julie V. Tolentino, "Even magistrates and lawyers are targets," *Manila Times*, July 17, 2007, <http://fromthenews.net/even-magistrates-and-lawyers-are-targets.htm> (accessed June 14, 2011); Johann Hein B. Arpon, "Wife of Slain Lawyer Cries Out for Justice" *Bulatlat*, March 19-25, 2006, <http://www.bulatlat.com/news/6-7/6-7-wife.htm> (accessed June 14, 2011); US State Department, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices — 2005: The Philippines," March 8, 2006, <http://www.state.gov/g/drl/rls/hrrpt/2005/61624.htm> (accessed June 14, 2011).

³⁷ Human Rights Watch interview with a relative, "Rosita," a pseudonym, Aklan, March 22, 2011.

She said that she saw the identified suspect, Dindo Lovon Ancero, standing with soldiers, and had even teased Baldomero, “Maybe they are looking for you?”³⁸

On January 10, 2011, the Aklan regional trial court issued an arrest warrant for Ancero and several “John Does,” or unidentified suspects.³⁹ However, there is no evidence that police have pursued evidence of military involvement. When a relative asked a police investigator why he had not pursued leads regarding military involvement, he said, “*Tigok tayo dyan*” or “We’re dead”—indicating that he thought his life would be at risk if he investigated military involvement.⁴⁰ The family said that the provincial police director told them that pursuing military personnel “only complicates the investigation.”⁴¹ To date the arrest warrant has not been served on Ancero, despite having sworn a counter-affidavit before a prosecutor in Mandaue City, Cebu, on August 14, 2010. The warrant has since been returned to the court.⁴²

On several occasions both the military and the police had tagged Baldomero as a current member of the CPP-NPA.⁴³ On March 19, 2010, just four months before he was killed, unidentified men threw two hand grenades into Baldomero’s ancestral home in Lezo, Aklan. While charges were never brought against the perpetrators, a police report said the prime suspects were political rivals of Baldomero with links to the Philippine Army.⁴⁴ Relatives said that motorcycles had often tailed Baldomero since he left prison in the mid-1990s.⁴⁵

³⁸ Human Rights Watch interview, name, place and date of interview withheld. A family member told Human Rights Watch that several witnesses had told members of the family that they had seen uniformed men watching Baldomero’s home in the weeks prior to the killing, but that they were scared to testify: Human Rights Watch interview with Ernan Baldomero, Aklan, March 23, 2011.

³⁹ *Republic of the Philippines v. Dindo Ancero Y Lovon and John Does*, Order, Regional Trial Court, 6th Judicial Region, Branch 2, Kalibo, Aklan, January 10, 2011, copy on file with Human Rights Watch.

⁴⁰ Human Rights Watch interviews with a relative, “Rosita,” Aklan, March 22, 2011 and Ernan Baldomero, Aklan, March 23, 2011.

⁴¹ Human Rights Watch interview with a relative, “Rosita,” Aklan, March 22, 2011.

⁴² Human Rights Watch interview with the Clerk of Court, Regional Trial Court, Sixth Judicial Region, Branch 2, Kalibo, Aklan, Lina S. Candoleta, Kalibo, Aklan, March 22, 2011.

⁴³ Police filed charges against Baldomero in 2005 and 2007 alleging involvement in killings and arson allegedly perpetrated by the NPA. Police records indicate that Baldomero was “neutralized” when he was arrested on August 18, 2005, indicating that they believed he was an NPA member: Undated document entitled, “MUG SHOTS” and “BIOGRAPHICAL PROFILE” obtained from the Philippine National Police on March 22, 2011, on file with Human Rights Watch. The charges were dismissed. A relative and colleague also spoke of a “tit for tat” between a military commander from the 47th IB’s civil military operation and Baldomero over the radio station, just weeks before he was killed, in which the military official spoke of Baldomero, as a Bayan Muna leader, being a legal front of the CPP-NPA and a communist terrorist. Human Rights Watch interview with a relative, “Rosita,” and an activist colleague, George Calaor, provincial chair of Bagong Alyansang Makabayan (BAYAN), Aklan, March 22, 2011.

⁴⁴ Memorandum from Chief of Police of Lezo, Aklan, PSI. Joel C. Triñanes to Aklan Provincial Director, July 22, 2010.

⁴⁵ Human Rights Watch interview with a relative, “Rosita,” Aklan, March 22, 2011.

Killing of Pascual Guevarra, July 9 2010

On July 9, 2010, at about 4:30 pm, an unidentified man walked onto the property of Pascual Guevarra, 78, within Fort Magsaysay military reservation in *barangay* San Isidro, Laur, Nueva Ecija province and shot him dead with a 9mm pistol.⁴⁶ The gunman's accomplice waited nearby on a motorcycle without a license plate and they drove off in tandem.⁴⁷ Guevarra was the leader of two local leftist organizations, one of which was pressing the government to compensate farmers for land resumed by the government for widening a road.⁴⁸

According to the family and police investigators, an officer of the Department of Public Works and Highways (DPWH) had contacted Guevarra and asked him to stay home on the day he was killed, telling him that they would deliver the compensation for the land resumption.⁴⁹ While the police formed a task force to investigate this killing, the investigation has stalled primarily, a police investigator alleges, because the DPWH has not cooperated with the investigation. He told Human Rights Watch:

We tried to invite [the DPWH officer]; however he is very hesitant to cooperate because he is the one implicated in the case.... [Regional, provincial, and district DPWH offices] told us that they have created their own investigative body, however they [would not provide] any report [as to the] outcome of the investigation.... It is "heated," ... because they don't want to give us the documents we needed to file a complaint against [the suspect].⁵⁰

Neither the police nor the NBI have investigated possible military involvement in the killing, despite the killing taking place on a military reserve. The military had previously tagged Guevarra's organization as affiliated with the CPP-NPA. A military officer from the 702nd IB told Human Rights Watch, "In our opinion, this group is an organization of the farmers that was being infiltrated by the NPA, the local terrorists. But we do not [have evidence of this]."⁵¹

⁴⁶ Many farmers live on the reservation as it extends over agricultural land.

⁴⁷ Human Rights Watch interview with a relative, place name and date withheld.

⁴⁸ Agrarian Reform Beneficiaries Association (ARBA) and Alyansa ng Magbubukid na Nagkakaisa (ALMANA).

⁴⁹ Human Rights Watch interview with a relative, place name and date withheld; Human Rights Watch interview with PO3 Ricardo Lopez, Nueva Ecija, February 26, 2011.

⁵⁰ Human Rights Watch interview with PO3 Ricardo Lopez, Nueva Ecija, February 26, 2011. The task force comprised several agencies, including police representatives from various stations and the CIDG, together with the NBI.

⁵¹ Human Rights Watch interview with a representative of the 702nd IB, Nueva Ecija, February 26, 2011.

Military officers said the police had initially suspected military involvement, but this ceased when a DPWH official was implicated.⁵² Investigators never pursued a possible military role, such as a soldier being used as the gunman. According to military officials, officers stationed at Fort Magsaysay did investigate the killing but there was no independent investigation by the provost marshal or an independent unit. An officer with the 702nd IB stationed away from Fort Magsaysay said that, “We don’t have a special report on this ... because [the killing was] within the military reservation.” As a result, he explained, it was for officials stationed at Fort Magsaysay to investigate. Military officials at Fort Magsaysay confirmed the provost marshal had not been tapped to investigate because, “It came out in our intelligence operation that no military were involved, [so] we turned it over to the police.”

Guevarra’s relatives told Human Rights Watch that since the killing they have answered telephone calls from unknown numbers in which no one speaks, and received blank text messages from unknown numbers—unusual and intimidating occurrences they interpret as a signal not to push the investigation. Relatives have also noticed strangers passing by Guevarra’s house at night.⁵³ According to a relative, some six months after the killing, an army truck stopped almost in front of Guevarra’s property and someone inside photographed the house and farmland.⁵⁴

Enforced Disappearance of Agustito Ladera and Renato Deliguer, August/September 2010

In late August and early September 2010, farmers Agustito Ladera, 35, and Renato Deliguer, 21, were working at their respective family farms in *barangay* Mahaba, Marihatag, Surigao del Sur when military operations against the NPA began.⁵⁵ Both farms are remote—about a half-day walk from the center of *barangay* Mahaba.

Deliguer had gone to his family farm on September 1, 2010. He would routinely stay there for about a week at a time and the family, who has not seen him since, initially assumed that he was unable to return home because of the military operations.⁵⁶

⁵² Human Rights Watch interview with several representatives from G7, Fort Magsaysay, February 26, 2011.

⁵³ Human Rights Watch interview with a relative, place name and date withheld.

⁵⁴ Ibid.

⁵⁵ It is difficult for the families to identify precisely when their relatives went missing because they would often go to the farm for some days. The Deliguer family only realized Renato was missing after he did not return home after more than a week.

⁵⁶ Human Rights Watch interview with Hipolito P. Deliguer, San Agustin, Surigao del Sur, March 15, 2011.

Ladera, who had been at the family farm with his parents and brother, was waiting for abaca fibers from a banana plant to dry, so he sent his parents to evacuate first. His brother left the farm on August 28, and Ladera said he would follow. His family has not seen him since.⁵⁷

In early September, when the evacuees were able to return to *barangay* Mahaba, Ladera's father and brother and Deliguer's father went to the farms to find their missing relatives. The Ladera family found that all belongings were secure, as if Agustito had packed everything up and left the farm hut.⁵⁸ Deliguer's father, Hipolito, said he saw the distinctive prints of combat shoes around the hut.⁵⁹ Inside the hut, he found used sleeping mats and mosquito nets that were not returned to their proper place, and cooked rice in the pot. His family's *bolo*, or machete knife, was missing.⁶⁰ Hipolito Deliguer said that he concluded that the military had passed the hut and taken his son around dawn.⁶¹

Ladera's father heard that the military had arrested both Ladera and Deliguer, so he went to San Isidro, Marihatag, a place where he knew the soldiers would have passed, to ask people if they had seen anything. He said a local resident told him that soldiers had tied up and gagged two men. Another person told him that soldiers had taken the two men to the military camp.⁶² Someone else told Hipolito Deliguer that a man was in police custody.⁶³

The families have visited the military camp and police station several times asking for their relatives. A police officer said to Hipolito Deliguer, "Maybe your son went to the mountains and joined the NPA."⁶⁴ Soldiers at the military camp in Dayo-an, Tago, said that they had arrested someone from San Isidro and San Pedro, but not from Mahaba, and did not allow the relatives to see the arrested men.⁶⁵

Both families reported to the police that the men were missing, but at no time did the police visit any of their residences or farms to investigate.⁶⁶ A police report dated October 8, 2010,

⁵⁷ Human Rights Watch interview with a relative of Ladera, San Agustin, Surigao del Sur, March 15, 2011.

⁵⁸ Ibid.

⁵⁹ Extract copy from the police blotter, Marihatag Police Station, September 15, 2010, Entry 206, Page 169.

⁶⁰ Human Rights Watch interview with Hipolito P. Deliguer, San Agustin, Surigao del Sur, March 15, 2011.

⁶¹ Ibid.

⁶² Human Rights Watch interview with a relative of Ladera, San Agustin, Surigao del Sur, March 15, 2011.

⁶³ Human Rights Watch interview with Hipolito P. Deliguer, San Agustin, Surigao del Sur, March 15, 2011.

⁶⁴ Ibid.

⁶⁵ Ibid.; Human Rights Watch interview with a relative of Ladera, San Agustin, Surigao del Sur, March 15, 2011.

⁶⁶ Ibid.

recommended that the police “be given ample time to conduct [a] thorough and in depth investigation.” However, when interviewed in March 2011, neither the chief investigator nor the police chief could speak of any steps taken to investigate since this date, indicating that no further steps had been taken since October 2010.⁶⁷

In the police report, the police superintendent wrote:

There were unconfirmed reports also that the two missing persons could be possible members of the CTs [Communist Terrorists] operating in the area and might have been casualties in the recent encounters in the area where the military were conducting intensified and large scale operations.⁶⁸

Chief Investigator Joel Vertudazo, reading from a more detailed police report, said that perhaps the “casualties had already been buried by the NPA without informing the families, in order to [avoid] discouraging other recruits.”⁶⁹

The families sought the help of Governor Johnny Pimentel of Surigao del Sur and the Sangguniang Panlalawigan, the provincial legislature.⁷⁰ On October 4, 2010, the Sangguniang Panlalawigan Committee on Laws and Justice and Human Rights in Surigao del Sur met to discuss the missing men.⁷¹ The commanding officer of the 36th IB did not respond to a request to appear.⁷² The Sangguniang Panlalawigan also sent requests to the police and regional National Bureau of Investigation, among other government bodies, to investigate the case. At this writing, the Sangguniang Panlalawigan has not received a response from any of these agencies.

Killing of Reynaldo “Naldo” L. Labrador, September 3, 2010

In the early evening of September 3, 2010, two men approached Reynaldo “Naldo” Labrador’s home in Paquibato Proper, Paquibato District, Davao City in Mindanao. Labrador

⁶⁷ Memorandum from Provincial Director, Surigao del Sur Police Provincial Office, to Regional Director, Police Regional Office 13, October 8, 2010.

⁶⁸ Ibid.

⁶⁹ Human Rights Watch interview with Chief Investigator Joel Vertudazo, Tandag, March 14, 2011.

⁷⁰ Human Rights Watch interview with Hipolito P. Deliguer, San Agustin, Surigao del Sur, March 15, 2011. Human Rights Watch interview with a relative of Ladera, San Agustin, Surigao del Sur, March 15, 2011.

⁷¹ Excerpt from the minutes of the 14th regular session of the 16th Sangguniang Panlalawigan of Surigao del Sur, Resolution No. 115 and 116, Series of 2010, October 5, 2010.

⁷² Ibid.

was a member of the local Paquibato District Peasant Alliance (PaDiPA). Several witnesses identified one of the assailants as Roberto “Kulot” Repe, a known local CAFGU member. Repe allegedly kept watch while the second man entered the house and shot and killed Labrador with a .45 caliber pistol.⁷³

Labrador’s wife, Leonisa Labrador, told Human Rights Watch:

I was doing the washing when a man called out, “Nalds, come and receive this.” I told the man [who I did not recognize], “He is upstairs.” The man went upstairs. Then I heard three gunshots. My 11-year-old son went and saw his father with blood all over him. My children and I left the house calling to our neighbors for help.... The gunman [then] escaped.⁷⁴

Reylun, Reynaldo’s then 10-year-old son, said that Repe made a sign to him “not to say any word (his finger crossing his mouth) when he was outside the house.”⁷⁵ Leonisa said the gunman had a note, which she thought he wanted to give Labrador. Witnesses found a note at the crime scene that read, “You are evil and you will be dealt with.”⁷⁶

According to the *barangay* captain, a neighbor saw Repe together with a soldier from the 69th IB near Labrador’s residence at around 2 p.m. on the day he was killed.⁷⁷

Repe’s relative told Human Rights Watch that Repe he had been working with the military since 2009.⁷⁸ He personally saw Repe working with the military on two occasions, wearing full army uniform and carrying an M16 assault rifle. The community assumed that he was a CAFGU because he would patrol with the military in full uniform.⁷⁹ From time to time, he would send cell phone text messages warning his relatives to be careful of upcoming military operations. For instance, on one occasion, he sent a message saying something like,

⁷³ Human Rights Watch interview with Leonisa Labrador, Davao City, March 10, 2011; Human Rights Watch interview with Pronillo Soriño, a former *barangay* captain, Davao City, March 10, 2011.

⁷⁴ Human Rights Watch interview with Leonisa Labrador, Davao City, March 10, 2011.

⁷⁵ Affidavit of Reylun Labrador, October 8, 2010.

⁷⁶ Human Rights Watch interview with Leonisa Labrador, Davao City, March 10, 2011; Human Rights Watch interview with Pronillo Soriño, a former *barangay* captain, Davao City, March 10, 2011. The note was given to the police.

⁷⁷ Human Rights Watch interview with Pronillo Soriño, a former *barangay* captain, Davao City, March 10, 2011.

⁷⁸ Human Rights Watch interview with a relative of Kulot, Davao del Norte, March 12, 2011. This relative told how Kulot had been engaging in various criminal activities and had become a problem for the family and the community, so they sent him off to the NPA to learn discipline. After less than a year, in 2009, he defected to the Philippine Army and had been working with them until he was killed in December 2010.

⁷⁹ Human Rights Watch interview with Pronillo Soriño, a former *barangay* captain, Davao City, March 10, 2011.

“People in *barangay* Lumiad [a nearby *barangay* in Paquibato district] had better watch out because we are going to take one out.”⁸⁰

NPA members killed Repe on November 28, 2010, which they say was in line with a standing order from the revolutionary authorities to do so.⁸¹

Fearful of reprisals from seeking justice for Labrador’s death, Leonisa moved from the family home. Neighbors said that in October—one month after Labrador was killed—soldiers visited the family house asking where Leonisa was and whether her children were with her.⁸²

Killing of Rene “Toto” Quirante, October 1, 2010

On the evening of September 30, 2010, after visiting his farm, Rene “Toto” Quirante and his companion Romeo Gador sought shelter from heavy rain in the house of a friend, Tito, in *barangay* Trinidad, Guihulngan, Negros Oriental.⁸³ Early the next morning, uniformed men entered the house and brutally beat Quirante, the provincial vice-chair of the leftist political party, Anakpawis. They then shot him dead in front of several witnesses, including children. A witness described what happened:

Around 2 a.m. [I awoke to hear] someone banging on the door [of the house]. They were shouting, “NPA ni!” and “NPA ito!” [“This is the NPA”]. No one was answering. The armed men used their rifle butts to enter the house. They saw Toto immediately and used their rifles to beat him. They beat him continuously; he was trying to escape to the second floor of the house, but they kept pulling him back and beating him....

Together with others, I was trying to pull Toto onto the second floor. When we finally succeeded in doing so, the soldiers followed and continued to beat him.... They pulled him away from us and pushed him to the ground floor.

⁸⁰ Human Rights Watch interview with a relative of Kulot, Davao del Norte, March 12, 2011.

⁸¹ Ka Parago of the 1st Pulang Bagani Company, Merardo Arce Command, Southern Mindanao Regional Operations Command of the NPA announced in a press release that, “Last November 28, Red partisans carried out the standing order against Roberto Kulot Repe (Serial Number DS-G10-000241) in Barangay Paquibato, Davao City.” “1003rd Brigade-10th ID-AFP death squad operative punished; 1003rd Bde-AFP Tutaan as AFP human rights chief, a mockery to human rights,” NPA press release, December 9, 2010, <http://theprwcblogs.blogspot.com/2010/12/1003rd-brigade-10th-id-afp-death-squad.html> (accessed May 3, 2011). A former *barangay* captain confirmed that Repe had been killed: Human Rights Watch interview with Pronillo Sorioño, a former *barangay* captain, Davao City, March 10, 2011.

⁸² Human Rights Watch interview with Leonisa Labrador, Davao City, March 10, 2011.

⁸³ Human Rights Watch interview with “Jaime,” a pseudonym, place name and date withheld. Human Rights Watch interview with “Elsa,” a pseudonym, a relative of Quirante, Guihulngan, March 19, 2011.

Then the soldiers jumped down. One soldier shouted to another to hold on to him; then they shot him [three times].

The commander then ordered the soldiers to move, so they left. We were very scared. We couldn't do anything, not even shout or utter a word.⁸⁴

Another witness explained how she shouted, "This is ... Toto Quirante, a *barangay tanod* and peace officer." But the uniformed men continued to beat him.⁸⁵

Several witnesses have identified the perpetrators as Dandy Quilanan, a CAFGU member, Junel Librado, a former member of the NPA working as a "guide" for the military, and six unidentified soldiers.⁸⁶ One witness described the men:

They were wearing head lamps. One of them was wearing camouflage fatigues. It had the army patch on the sleeve.... All of them had rifles and ammunition wrapped around their shoulders.... They were all wearing black combat shoes.... I'm very sure [Quilanan] is a CAFGU because they patrol our area.... I know Librado as a "rebel returnee" [a former member of the NPA working as a "guide" for the military] because when he was still active with the NPA, from time to time he would come to my house and ask for food.⁸⁷

Quirante had received warnings the military was targeting him. According to a relative, months before his death a friend who was a CAFGU had told Quirante that four leaders of leftist organizations, including him, were on a list of people to be "shot on sight," and that

⁸⁴ Human Rights Watch interview with "Jaime," place name and date withheld. Several witnesses have corroborated this account. Resolution *Republic of the Philippines v. Junel Librado and others*, Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan, Negros Oriental, signed by associate provincial prosecutor, Amelia Lourdes U. Mendoza and approved by Provincial Prosecutor, Diosdado D. Hermosa, December 20, 2010; Memorandum, Police Investigation Report, from SPO2 Samuel C. Cañete to provincial prosecutor, October 22, 2010.

⁸⁵ Human Rights Watch interview with "Elsa," a relative of Quirante, Guihulngan, March 19, 2011.

⁸⁶ Human Rights Watch interview with "Jaime," place name and date withheld. Human Rights Watch interview with "Elsa," a relative of Quirante, Guihulngan, March 19, 2011. Resolution *Republic of the Philippines v. Junel Librado and others*, Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan, Negros Oriental, signed by Associate Provincial Prosecutor, Amelia Lourdes U. Mendoza and approved by provincial prosecutor, Diosdado D. Hermosa, December 20, 2010; Memorandum, Police Investigation Report, from SPO2 Samuel C. Cañete to provincial prosecutor, October 22, 2010.

⁸⁷ Human Rights Watch interview with "Jaime," place name and date withheld. Several witnesses have corroborated this account. Resolution *Republic of the Philippines v. Junel Librado and others*, Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan, Negros Oriental, signed by associate provincial prosecutor, Amelia Lourdes U. Mendoza and approved by provincial prosecutor, Diosdado D. Hermosa, December 20, 2010; Memorandum, Police Investigation Report, from SPO2 Samuel C. Cañete to provincial prosecutor, October 22, 2010.

the military had set up ambush positions ready to “get him.”⁸⁸ Quirante’s colleague told Human Rights Watch that during a meeting several years earlier, Quirante said that during a military operation an army lieutenant had warned him that the military considered Anakpawis to be an NPA front organization and he should stop being active because his family was known to support the NPA.⁸⁹

On February 1, 2011, the court in Guihulngan City issued a warrant of arrest for Quilanan and Librado.⁹⁰ At this writing, the warrants have not been served.⁹¹

Since the killing, the military has harassed the Quirante family. For instance, on November 22, 2010, about 12 soldiers in full combat gear visited Quirante’s relative’s home. More than a dozen other soldiers were in the wider area. A soldier asked the relative, “Where are the firearms that the NPA left in your house?” The relative replied, “The NPA never left firearms in my house.” The soldier said, “What do you want? Do you want us to kill you and all of your [family]?”⁹²

Killing of Ireneo “Rene” Rodriguez, November 7, 2010

In the early morning of November 7, 2010, two men riding tandem on a motorcycle and wearing *bonnets* shot and killed Ireneo Rodriguez, a former leftist activist, in Balayan town, Batangas province.

Days before he was killed, several armed and uniformed men from the Philippine Air Force visited Rodriguez’s father’s home asking for Rodriguez, who was not there.⁹³ At this writing, police investigators have not questioned the soldiers who made this visit.⁹⁴

Several relatives and friends said the Air Force had shown interest in Rodriguez for some years. Rodriguez’s neighbor said that he, Rodriguez, and 11 other members of a local organization were called up to the Air Force camp in 2004 and told they were on the “order of

⁸⁸ Human Rights Watch interview with “Elsa,” a relative of Quirante, Guihulngan, March 19, 2011.

⁸⁹ Human Rights Watch interview with a leader of an allied progressive organization, Guihulngan, March 19, 2011.

⁹⁰ Warrant of Arrest, *Republic of the Philippines v. Junel Librado and others*, Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan, Negros Oriental, February 1, 2011.

⁹¹ Human Rights Watch interview with Guihulngan City Prosecutor Constantino Trinidad, Guihulngan, March 21, 2011.

⁹² Human Rights Watch interview with “JR,” a pseudonym, a relative of Quirante, Guihulngan, March 20, 2011.

⁹³ Human Rights Watch interviews with a relative, Batangas, February 19, 2011; Isidro T. Rodriguez, Ireneo’s father, Batangas, February 23, 2011; Lt. Col. Vincent B. Incognito, commander, 730th Combat Group, Philippine Air Force, Nasugbu, Batangas, February 23, 2011.

⁹⁴ Human Rights Watch interview with Lt. Col. Vincent B. Incognito, commander, 730th Combat Group, Philippine Air Force, Nasugbu, Batangas, February 23, 2011.

battle”—a list of those considered military targets—because they were NPA sympathizers.⁹⁵ His father said that he heard the military had tagged Rodriguez as an NPA member and were looking for him in about 2005, and that he went to the camp to clear his son’s name.⁹⁶

Another relative said that the military often approached her in around 2002 and 2003 and asked her to encourage Rodriguez to surrender.⁹⁷ Lt. Col. Vincent Incognito, the commander of the 730th Combat Group, Philippine Air Force, confirmed to Human Rights Watch that Rodriguez “is one of the ‘target’ personalities, one [of] the sympathizers of the NPA.”⁹⁸

In recent years, Rodriguez had been less active with leftist organizations. A relative said that about two months before he was killed, Rodriguez would frequently receive text messages from different numbers saying, “Ang galling monce magtago” (Hiding yourself pretty well).⁹⁹

Lieutenant Colonel Incognito told Human Rights Watch that his soldiers had visited Rodriguez to try to convince him that the “time for a change is now.”¹⁰⁰ He said:

And that’s all. We are doing it in front of other people so that others may see that we frequent the area and that’s it.... If we want him killed why would we visit him? ... Of course we could be the one suspected of killing him.¹⁰¹

Rodriguez’s relatives have received threatening text messages since his death. One relative received a message saying, “Good morning. Your time is near, be careful, I’ll wait for you in Balayan. Sorry, but this is both of your payment [you and Rene], hehehe, okay, bye.”

Enforced Disappearance of Alfredo Bucal, November 10, 2010

On November 10, 2010, tricycle driver Alfredo Bucal passed by a joint Philippine Air Force and Philippine National Police checkpoint in *barangay* Lutal, Tuy, Batangas. The authorities allege that he was driving his tricycle (a motorcycle taxi with a sidecar) in convoy with

⁹⁵ Human Rights Watch interview with Gigi Bautista, Calaca, February 19, 2011.

⁹⁶ Human Rights Watch interview with Isidro T Rodriguez, Ireneo’s father, Calaca, Batangas, February 23, 2011.

⁹⁷ Human Rights Watch interviews with a relative, Batangas, February 19, 2011.

⁹⁸ Human Rights Watch interview with Lt. Col. Vincent B. Incognito, commander, 730th Combat Group, Philippine Air Force, Nasugbu, Batangas, February 23, 2011.

⁹⁹ Human Rights Watch interview with a relative, Calaca, February 19, 2011.

¹⁰⁰ Human Rights Watch interview with Lt. Col. Vincent B. Incognito, commander, 730th Combat Group, Philippine Air Force, Nasugbu, Batangas, February 23, 2011.

¹⁰¹ *Ibid.*

another tricycle driver and that both were carrying passengers who were NPA members. According to witnesses, the military took him into custody. His family has not seen him since.

A government official told Human Rights Watch that a witness told him that he had seen uniformed Philippine Air Force personnel capture Bucal, drag him to a vehicle, and force him inside. The official said, “I am afraid that if I get involved, the Philippine Air Force might come and get me.”¹⁰² A witness who had initially agreed to testify in court proceedings against the Air Force told the family that she would no longer do so as she was afraid for her life after soldiers threatened her.¹⁰³

The day after Bucal went missing, relatives searched for him and found the tricycle impounded at a police station. Police officers told the family that there had been an “encounter”—that is, a firefight with the NPA—so to inquire after Bucal at the Air Force camp. At the camp, an Air Force lieutenant initially joked with the family, saying “Don’t worry, if he’s with us, surely he’ll be eating some choice food.” The family asked to speak to the commanding officer but was denied; instead the same lieutenant told family members that while there had been an encounter, they did not have Bucal in their custody.¹⁰⁴ Police and military officials have acknowledged that two alleged NPA members, Roberto Garcia and Tomas Sitag, were killed during an encounter at an Air Force/PNP checkpoint in *barangay* Lutal on November 10, and a third person escaped.¹⁰⁵

At this writing, government agencies have not conducted any independent investigation into this incident. Relatives told Human Rights Watch that when they visited a Commission on Human Rights office in San Pablo City, Batangas, staff said that they could not assist because of an internal issue, directing them instead to the Integrated Bar of the Philippines, the national organization of lawyers.¹⁰⁶

¹⁰² Human Rights Watch interview with a local government official, place name and date withheld.

¹⁰³ Human Rights Watch interview with relatives of Fred Bucal, Batangas, Nasugbu, February 19, 2011.

¹⁰⁴ *Ibid.*

¹⁰⁵ Human Rights Watch interview with Lt. Col. Vincent B. Incognito, commander, 730th Combat Group, Philippine Air Force, Nasugbu, Batangas, February 23, 2011. Human Rights Watch interview with PNP Fetizanan and Castilla, Batangas, February 21, 2011. See also “2 NPA patay sa encounter (2 killed in NPA encounter),” *Pilipino Star Ngayon*, November 11, 2011, <http://www.philstar.com/Article.aspx?articleId=628921&publicationSubCategoryId=49> (accessed May 3, 2011).

¹⁰⁶ Human Rights Watch interview with relatives of Fred Bucal, Batangas, Nasugbu, February 19, 2011.

Killing of Rudy and Rudyric Dejos, February 27, 2011

On the afternoon of February 27, 2011, unidentified assailants killed Rudy Dejos, age 50, and his adult son Rudyric, age 26, at their farmhouse in Santa Cruz, Davao del Sur. Rudy, a tribal chieftain, held several leadership positions in the community, including *barangay* human rights officer.

Rudy's body showed signs of torture. Mercy Dejos, Rudy's wife and Rudyric's mother, described the scene she encountered on returning to the farmhouse at about 5 p.m. on February 27, after selling vegetables in town:

I saw droplets of blood. When I walked around the corner, I saw the bodies of my husband and son. My husband was lying with open wounds on his chest and neck.... His fingernails were removed.... His forearms were scratched like his arms had been tied up.... His chest was bruised as if he had been beaten with the butt of a rifle. My son, Rudyric, was curled up on his side and I could see bullet wounds on his back with exit wounds on his upper chest.... I then fell unconscious.¹⁰⁷

A note was left in a box, a short distance from the house where the men were killed, which read: "The NPA killed you because your wrongdoings against the NPA were already too much."¹⁰⁸ However, the family does not believe that the NPA are behind the killing as they had not threatened or harassed Rudy or Rudyric in the past and aside from this note, there is no evidence of NPA involvement in the killing. According to the family, the NPA has denied killing the two men.¹⁰⁹ The police immediately blamed the NPA for the killing, before gathering any evidence.¹¹⁰ At this writing, the police have not filed charges.

Prior to the killing, according to Rudy's wife, soldiers from the 39th Infantry Battalion of the Philippine Army had on several occasions threatened and harassed Rudy. Mercy said that in June 2010 soldiers visited the farmhouse, accused Rudy of being an NPA, and tried to encourage him to surrender and join the Barangay Defense System, a military-allied community defense force. One of the soldiers threatened Rudy, saying, "You are too proud. If

¹⁰⁷ Human Rights Watch interview with Mercy Dejos, Davao del Sur, March 12, 2011.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ The police spot report states: "The gunmen were unidentified but believe[d] to be members of the New People's Army under the command of Roberto Castillote AKA Kumander Marvin of Front Committee 51:" Note from Maj. Demetrius Emuardo Tappin, Police chief inspector, Sta. Cruz, Davao del Sur, February 27, 2011.

we're able to find you, we will skin you.”¹¹¹ Later that year, on December 4, armed soldiers surrounded the family house in the main area of Santa Cruz while Rudy was watching television. Irene, Rudyric's wife, heard someone yell, “You NPAs come out!” She then heard what sounded like a gunshot. Sgt Morales of the 39th IB said that he had received a text message saying the NPAs were in the area and that the presumed gunshot was merely a firecracker. He apologized to Rudyric for the incident later that day, after the Dejos family filed a complaint at the *barangay* hall.¹¹²

Officers and soldiers from the 39th IB intimidated the Dejos family in the days following the killings. Human Rights Watch witnessed more than 20 soldiers armed with M16s and pistols present at the March 9 funeral march. One soldier filmed the march, while another took still photographs.¹¹³ Lt. Col. Oliver Artuz, the commander of the 39th IB, said that they attended the march fully armed because NPA members were participating, and were filming and taking photographs for documentation purposes.¹¹⁴ Officers also visited the wake.¹¹⁵

¹¹¹ Human Rights Watch interview with Mercy Dejos, Davao del Sur, March 12, 2011.

¹¹² Human Rights Watch interview with Irene Dejos, Davao del Sur, March 12, 2011.

¹¹³ Video footage and photographs on file with Human Rights Watch.

¹¹⁴ Human Rights Watch interview with Lt. Col. Oliver Artuz, 39th IB, Philippine Army, March 9, 2011.

¹¹⁵ Human Rights Watch interview with Mercy Dejos, Davao del Sur, March 12, 2011.

III. Military Failure to Address Extrajudicial Killings

The Philippine military has repeatedly denied allegations of soldiers participating in extrajudicial killings and enforced disappearances, is uncooperative with civilian investigations into military involvement, has not reformed policies and practices that foster an environment in which such abuses are tolerated, and does not adequately investigate via internal military mechanisms abuses in which soldiers are implicated.

Since President Aquino assumed office on June 30, 2010, the rhetoric of some senior military officers has changed. For instance, in July 2010, Brig. Gen. Francisco Cruz, head of the armed forces civil relations service, stated in relation to the families of victims of extrajudicial killings that, “We deeply empathize with their loss and we offer the highest degree of cooperation to help resolve these cases. The AFP [Armed Forces of the Philippines] firmly asserts that these violent incidents run contrary to its stance on human rights as the cornerstone of all its operations.”¹¹⁶

However, this change in language has not been reflected in improved military cooperation with investigating authorities, comprehensive internal investigations of implicated members of the armed forces, or increased openness within the military structure. One soldier told Human Rights Watch, “You’ll never get information [about extrajudicial killings] from within the service as mishandling of confidential information [is treated harshly].”¹¹⁷

A former soldier, “Ricardo,” told Human Rights Watch that when he tried to stop an extrajudicial killing in 2000, a military officer accused him of being a rebel for sympathizing with the victims. The military officer told him, “I will kill you because you are also a rebel.”¹¹⁸ Such behavior sends a clear message to soldiers not to question even clearly illegal conduct of other military personnel. There is little evidence that senior military officers have tried to change this message.

¹¹⁶ Jaime Laude, “AFP welcomes creation of ‘super body’ on killings,” *The Philippine Star*, July 15, 2010, <http://www.philstar.com/Article.aspx?articleId=593394&publicationSubCategoryId=63> (accessed May 20, 2011).

¹¹⁷ Human Rights Watch interview with a soldier, “Gio,” a pseudonym, Aklan, March 23, 2011.

¹¹⁸ Human Rights Watch interview with a military insider, “Ricardo,” a pseudonym, place name and date withheld.

Military Labeling of Civilians as NPA Members

The trouble began when the military entered Maco [a town in Compestela Valley province, Mindanao]. They said they had come to help build schools, improve the water system, and provide medical care. But since they arrived, they have not done any of this. Instead the military has been calling on civilians and tagging them as NPAs.

—“Rosa,” resident of *barangay* Magangit, Maco town, Compostela Valley¹¹⁹

The AFP Internal Peace and Security Plan (IPSP) “Oplan Bayanihan,” which went into effect in January 2011, stresses the importance of “winning the peace.” Community-based peace and development efforts, along with meaningful engagement of the local community, are core elements of this strategy.¹²⁰ While this strategy appears to be an attempt to improve relations between civilians and security forces in conflict-affected areas, Human Rights Watch research has found little change in military operations in the field. The military still fails—both in its words and actions—to differentiate between the armed NPA and NGOs and political parties that may espouse some elements of communist or other leftist ideology. Several officers told Human Rights Watch that in their view military practice had not changed since January 2011 when Oplan Bayanihan was launched.¹²¹

When asked how the military identifies CPP-NPA members when they enter a community, a officer said, “Immediately when the soldiers arrive in the *barangay*, those [people] that have violent reactions [are identified as allied with the CPP-NPA]; if they don’t want the soldiers there immediately [when they arrive].”¹²² There is a widespread belief in the military that the only reason that community members would oppose a military presence is because they actively support the CPP-NPA.¹²³

The officer said the military then typically conducts information-gathering in the locale. This involves conducting community seminars known as *pulong-pulong* and talking to residents

¹¹⁹ Human Rights Watch interview with “Rosa,” a pseudonym, Davao City, February 15, 2011.

¹²⁰ Armed Forces of the Philippines, Internal Peace and Security Plan, 2010, p. vi.

¹²¹ Lt. Col. Incognito said, “Before [Oplan Bayinhan] was published we had been doing that, it’s just that it wasn’t documented.” Human Rights Watch interview with Lt. Col. Vincent B. Incognito, commander, 730th Combat Group, Philippine Air Force, Nasugbu, Batangas, February 23, 2011. Human Rights Watch interview with a member of the 702nd IB, Nueva Ecija, February 26, 2011.

¹²² Human Rights Watch interview with a member of the 702nd IB, Nueva Ecija, February 26, 2011.

¹²³ “Amanda,” a pseudonym, told how a soldier had warned her “to stay away from the twins because they are anti-military.” Human Rights Watch interview with “Amanda,” Davao City, February 15, 2011.

to find out which people belong to what organizations.¹²⁴ Failing to attend the *pulong-pulong* invariably gets noticed by the military.¹²⁵ The officer continued:

Once we identify an organization or person, we talk to them. When we talk to them most will admit that they are supporting the NPA by giving this ... by being the courier ... by being the one that gives information.... Once we learn that, that they are being forced to do that by the NPA, we ask them to take an Oath of Allegiance. [If they don't take the oath,] we just tolerate him.... But if we know that he is being visited by the NPA we conduct operations.... We just monitor them.¹²⁶

Human Rights Watch was told of several incidences in which soldiers threatened and harassed civilians because military informants allegedly identified them as providers of food or shelter for the NPA. But as one civilian said, “We were in the mountain, so if the NPA asked for help, then we would help.”¹²⁷ Whether civilians provide food or shelter to the NPA because they are scared of NPA retribution, because of Filipino hospitality, or because they are NPA supporters, should not make them subject to military threats, harassment, or assault. Should they be implicated in a criminal offence, the authorities should arrest and charge them.

A resident of Paquibato district, a rural area in Davao City, told Human Rights Watch of one such incident:

Early in the morning one day, I was planting coconut trees when I felt an M60 [machine gun] placed on my shoulders, pointing to my neck. A soldier asked, “Who is inside your house? Where is the NPA?” I said, “My family.” The soldier then went inside my house and my wife followed him. I was punched with a closed fist in my stomach. I asked, “Why did you do that to me?” He said, “We have seen NPAs in the area and in your house.” I said, “Maybe you

¹²⁴ Human Rights Watch interview with a representative of the 702nd IB, Nueva Ecija, February 26, 2011.

¹²⁵ Human Rights Watch interview with a representative of the 702nd IB, Nueva Ecija, February 26, 2011. Several community members said that the military takes notice of the people that do not attend the *pulong-pulong*. A soldier explained, “Of course, the soldiers will notice who is not around.... If they are not around, of course they will make an extra effort to talk to that person.”

¹²⁶ Human Rights Watch interview with a representative of the 702nd IB, Nueva Ecija, February 26, 2011.

¹²⁷ Human Rights Watch interview with a relative of Ladera, San Agustin, Surigao del Sur, March 15, 2011. A *barangay* official said, “If the NPA comes and asks me for food, I give it. But if I don't have it, we don't give it.” Human Rights Watch interview with a *barangay* official, place name and date withheld.

just saw my children?” Soldiers were also pointing their guns at my children. He said, “I don’t believe you.”¹²⁸

Soldiers, paramilitary members, and “rebel returnees” working with the military have continued to refer to an “order of battle” and similar lists in threatening ways. According to the government, “an ‘order of battle’ is a compilation of data on various threat groups ... which aims to better understand the strengths and weaknesses of these threat groups and to anticipate their future actions.”¹²⁹ Philip Alston, then-UN special rapporteur on extrajudicial, summary, or arbitrary executions, reported that in a leaked order of battle provided to him—the authenticity of which he had no reason to doubt—hundreds of prominent civil society groups and individuals were listed as members of organizations that the military deemed “illegitimate.”¹³⁰

For example, several residents in the Paquibato district of Davao City said that they saw the army carrying a list when accompanied by a rebel returnee whom they assumed had become a CAFGU. According to a former *barangay* captain, the rebel returnee told several people in the community that he had seen the “list” of the 69th IB. He would threaten members of the community, saying, “You’d better watch out or you’ll be included in the list.”¹³¹ The residents believed the list was of people to be targeted for having links with the NPA.¹³²

Military’s Denial of Involvement in Extrajudicial Killings

The highest ranks of the military have consistently denied responsibility for extrajudicial killings, rather than recognizing the gravity of the problem, investigating how and why the military is involved, and holding perpetrators accountable, regardless of rank. Less than a week after the 2010 killing of Fernando Baldomero, armed forces spokesman Brig. Gen. Jose Mabanta reportedly said: “Certainly we are not involved in that.... We all know that in the leftist organization, purging from within has always been instituted or is a strategy of the

¹²⁸ Human Rights Watch interview with a resident of Paquibato district, Davao City, March 8, 2011.

¹²⁹ Government of the Philippines, Consolidated Reply of the Government of the Philippines to the Alston Report, A/HRC/8/G/6, June 2, 2008, para. 89.

¹³⁰ UN Commission on Human Rights, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Mission to Philippines, A/HRC/8/3/Add.2, April 16, 2008, para. 17.

¹³¹ Human Rights Watch interview with a former *barangay* captain, Davao City, March 10, 2011.

¹³² Human Rights Watch interview with a relative of the rebel returnee, Davao del Norte, March 12, 2011; Human Rights Watch interview with a former *barangay* captain, Davao City, March 10, 2011.

underground armed organization.”¹³³ More broadly, Mabanta has said: “The performance of our duty is hindered when our personnel are faced with human rights violations.... [M]ost human right violations are in the line of duty.”¹³⁴

At the lowest ranks, the military has created an environment in which foot soldiers have readily participated in killings of leftist activists. A military insider told Human Rights Watch that even if the local commander did not give the order to kill, “he knows of everything” and will protect his soldiers.¹³⁵ Soldiers have also been paid as hired killers, acting on behalf of private interests or other government agencies.

The extent of participation by senior commanding officers in the killing of leftist activists—and how far up the chain of command—is less clear. There is much evidence of involvement of certain senior officers, most prominently now-retired Gen. Jovito Palparan. As early as 2004 the House of Representatives’ Committee on Civil, Political and Human Rights recommended that Palparan be relieved of his position and investigated for his involvement in the killings. The Arroyo government’s Melo Commission also recommended that the Justice Department investigate his involvement.¹³⁶

Failure to investigate and prosecute perpetrators in the military sends a message that killing leftist activists is allowed and an acceptable part of counterinsurgency operations.

Military Failure to Cooperate with Police and Other Inquiries

The military has not cooperated with police investigations in the cases that Human Rights Watch investigated.

¹³³ Katherine Evangelista, “Military says ‘Purging’ could be cause of Bayan Muna activist’s death,” *Philippine Daily Inquirer*, July 6, 2010, <http://newsinfo.inquirer.net/breakingnews/nation/view/20100706-279537/Purging-could-be-cause-of-Bayan-Muna-activists-death> (accessed May 20, 2011).

¹³⁴ “Military seeks help from House in human rights case,” *The Daily Tribune*, October 1, 2010, <http://www.tribuneonline.org/nation/20101001nat6.html> (accessed May 20, 2011).

¹³⁵ Human Rights Watch interview with a soldier, “Gio,” Aklan, March 23, 2011.

¹³⁶ The commission said, “There is certainly evidence pointing the finger of suspicion at some elements and personalities in the armed forces, in particular Gen. Palparan, as responsible for an undetermined number of killings, by allowing, tolerating, and even encouraging the killings.” Independent Commission to Address Media and Activist Killings, “Report,” January 22, 2007, p. 53. A subsequent letter from the commission to the government went on to say, “That there was a marked increase in the incidence of killings in all the areas where General Palparan was assigned—which he admitted—should be enough to justify his investigation. Indeed, General Palparan’s statements and cavalier attitude about the killings should have warranted early on at the very least administrative or disciplinary actions by his superiors.” Letter from Jose A. R. Melo, chairman of the Melo Commission, to Eduardo R. Ermita, executive secretary, August 21, 2007, p. 3.

For instance, in relation to the September 2010 killing of leftist activist Rene Quirante, the Guihulngan police chief, Carlos Lacuesta, said the military failed to respond to a formal request for information about the two identified suspects—one of whom is an alleged paramilitary member, the other an alleged military “asset”—or provide any information to assist in identifying the six accused, unidentified members of the Philippine Army.¹³⁷ Lacuesta said that police investigators had not formally interviewed any soldiers. The police have attempted to determine what military operations were being conducted that night, but the military claims that no operations took place.

At the same time, army investigators from the 11th IB interviewed the police investigator about the case.¹³⁸ The outcomes of the army investigation have not been shared with the police.¹³⁹ Even more concerning, Lacuesta described the close, informal military and police relationship, saying “[Lt. Col. Bitong, commander of the 11th IB, and I are] friends and can have a casual talk about [the killing].”¹⁴⁰

In the September 2010 killing of Vicente Felisilda in the Compostela Valley of Mindanao, police are investigating reports that a CAFGU member whose father was allegedly killed by Felisilda some years earlier had killed Felisilda out of revenge.¹⁴¹ The police investigator sought a copy of the log book, which indicated that this CAFGU member was on duty at the time of the killing, but the commander of the 72nd IB would not release it, saying it is necessary for the army’s defense if charges are filed at a later date.¹⁴²

The military has also failed to cooperate with local government inquiries. For instance, on October 4, 2010, the Surigao del Sur Sangguniang Panlalawigan Committee on Laws and Justice and Human Rights met to discuss the late August, early September 2010 forcible

¹³⁷ Human Rights Watch interviews with P/C Insp. Carlos Lacuesta, Guihulngan chief of police, Guihulngan, March 21, 2011 and SPO2 Samuel Cañete, Manila, April 21, 2011. Cañete said that the request sought various details about the two identified suspects, in particular their personal and duty details, duty, appointment and assignment status, and issued armaments.

¹³⁸ Human Rights Watch interview with Carlos Lacuesta, Guihulngan chief of police, Guihulngan, March 21, 2011. Lt. Jim Obias confirmed that the 11th IB undertook its own investigation into Quirante’s killing and that the report has been forwarded to higher headquarters: Human Rights Watch interview with Lt. Jim Obias, 11th IB Philippine Army, Guihulngan, March 21, 2011.

¹³⁹ Human Rights Watch interview with Carlos Lacuesta, Guihulngan chief of police, Guihulngan, March 21, 2011.

¹⁴⁰ Human Rights Watch interview with P/C Insp. Carlos Lacuesta, Guihulngan chief of police, Guihulngan, March 21, 2011.

¹⁴¹ Human Rights Watch interview with police investigator Joel Lumakang, Mawab, March 15, 2011. Memorandum from PO1 Joel D. Lumakang, investigator, to Compostela Valley provincial police director, November 6, 2010. Armed men killed Felisilda in Mawab, Compostela Valley, in Mindanao on September 9, 2010. Human Rights Watch was unable to visit the remote area in Mawab where Felisilda was killed by the time of this writing because of ongoing fighting between the AFP and the NPA.

¹⁴² Human Rights Watch interview with police investigator Joel Lumakang, Mawab, March 15, 2011.

disappearances of Renato Deliguer and Agustito Ladera.¹⁴³ The commanding officer of the 36th IB was invited to shed light on what happened, but he did not appear.¹⁴⁴ Nor did he send a representative or explain his non-appearance.¹⁴⁵

The military's lack of cooperation with civilian authorities extends to the very top. Despite a Supreme Court order that required the AFP chief to provide to the Commission on Human Rights all evidence that may be relevant to the case of Jonas Burgos, the military judge advocate's office refused to provide certain documents. To do so, he said, would "sanction a fishing expedition conducted at the expense of military personnel whose names will be unnecessarily dragged into [question]."¹⁴⁶

The military's failure to cooperate with police investigations is an old excuse for inaction by police investigators. In June 2007, the Philippine government said, with respect to the August 2006 killing of Pastor Isias Santa Rosa, "Police investigators are having difficulty solving the case due to the noncooperation of the Philippine Army in the investigation."¹⁴⁷ In this case there was clear physical evidence of involvement by military personnel.¹⁴⁸

Failure of the Military to Investigate

The military inspector general and the provost marshal are tasked with investigating soldiers and officers for administrative violations. The inspector general has the power to direct a board of inquiry to conduct such investigations.¹⁴⁹ Human Rights Watch researchers have been unable to identify any case where either offices have investigated any member of the

¹⁴³ Excerpt from the minutes of the 14th regular session of the 16th Sangguniang Panlalawigan of Surigao del Sur, Resolution No. 115 and 116, Series of 2010, October 5, 2010.

¹⁴⁴ Ibid.

¹⁴⁵ Human Rights Watch interview with several members of the Sangguniang Panlalawigan of Surigao del Sur Committee on Laws, Justice, and Human Rights, March 14, 2011.

¹⁴⁶ *Edita Burgos v. Gloria Macapagal Arroyo et al.*, G.R. No. 183711, Investigation Report submitted by Commissioner Jose Manuel Mamaug, March 15, 2011, p. 8. In April 2007, armed men abducted Jonas Burgos in broad daylight from a mall in Quezon City. Burgos' mother, Edita, petitioned the court for a writ of amparo—a habeas corpus-like procedure in which state agencies are compelled to reveal to the court the whereabouts of named persons, disclose documentary evidence or allow court-authorized searches of premises. In 2010, the Supreme Court ordered the Commission on Human Rights to investigate Burgos' "disappearance," and report back to it. In June 2010, Edita Burgos filed with the Justice Department charges of arbitrary detention against the military personnel identified in the report, including Maj. Harry Baliaga, Jr., Lt. Col. Melquaides Feliciano, Col. Eduardo Ano and several unidentified soldiers. At this writing, the department is considering the complaint.

¹⁴⁷ UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Addendum: Summary of cases transmitted to Government and replies received, A/HRC/8/3/Add.1, May 30, 2008, p. 319.

¹⁴⁸ See Human Rights Watch, *Scared Silent*, pp. 29-32.

¹⁴⁹ Human Rights Watch interview with several representatives from G7, Fort Magsaysay, February 26, 2011.

armed forces or paramilitary forces for alleged involvement in extrajudicial killings or enforced disappearances.

Neither office has forwarded information suggesting it has conducted such investigations. A letter from Human Rights Watch to the AFP requesting clarification on the issue remained unanswered at this writing.

Several military officers said the inspector general will only direct a board of inquiry to investigate a case when the local commander thinks it is “a serious case.”¹⁵⁰ Similarly, the provost marshal will only investigate when “tapped” by senior military commanders to do so.¹⁵¹ Military officials at Fort Magsaysay told Human Rights Watch the provost marshal had not been asked to investigate the Guevara killing, for instance, because, “It came out in our intelligence operation that no military were involved, [so] we turned it over to the police.”¹⁵²

In practice, local military officers in the area where the killing took place are often tasked with investigating the killing, compromising independence since it is typically the battalion stationed in the area that is implicated in the killing. First, a spot report is completed. Then, often, a more detailed special report is commissioned. The AFP has not provided Human Rights Watch with copies of any such reports to date.¹⁵³

The military’s public statements suggest that a core goal of these reports is to absolve implicated soldiers. In the 2006 killing of Pastor Santa Rosa, the AFP investigation was confined to investigating the death of a military officer whose body was found near Santa Rosa’s body shortly after 10 armed men in fatigue uniforms abducted Santa Rosa from his home. Santa Rosa’s wife identified the dead military officer as one of her husband’s abductees. The report concluded the NPA was responsible, without citing any evidence to support such a conclusion.¹⁵⁴

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Ibid.

¹⁵³ Lt. Col. Vincent B. Incognito, commander, 730th Combat Group, Philippine Air Force, told Human Rights Watch that there are no AFP reports relating to either the killing of Ireneo Rodriguez or the disappearance of Alfredo Bucal. Human Rights Watch interview with Lt. Col. Vincent B. Incognito, commander, 730th Combat Group, Philippine Air Force, Nasugbu, Batangas, February 23, 2011.

¹⁵⁴ 9th Public Affairs Office, AFP, Investigation Report, August 7, 2006; Affidavit of Maj. Ernest Marc Rosal, October 6, 2006. The August 7, 2006 report of the 9th ID concludes that on August 3, 2006, Pfc Lordger Pastrana encountered undetermined number of SPARU elements; “he was able to draw his firearm however he was killed by the SPARU.” SPARU is the term used for the Special Partisan Unit of the NPA.

Human Rights Watch research found only one extrajudicial killing case in which a soldier has testified against members of the armed forces in the last decade.

The military subjected this whistleblower—former Sgt. Esequias Duyogan—to harassment and financial sanctions, and the government did nothing to secure his safety from the time he came forward to testify in 2007 until early 2011, when the Justice Department admitted him into the witness protection program. The accused, on the other hand, has received preferential treatment in jail.

On October 14, 2000, six friends, Romualdo Orcullo, Jovencio Legare, Arnold Dangquiasan, Joseph Belar, Diosdado Oliver, and Artemio Ayala, were at a *barangay* fiesta—a village street party—when Army Cpl. Rodrigo Billones of the 62nd Infantry Battalion arrested them and took them to the nearby military camp. Their families have not seen them since.

Some years later, Duyogan came forward and told how, following the arrests, he witnessed a dozen soldiers from his unit beat the six young men to death with an iron rod and bury them. Three days later, they dug up the bodies, loaded them on a service vehicle, and brought them to a remote area where they burned the corpses. The Regional Trial Court in Agusan del Sur in July 2008 convicted Cpl. Billones of kidnapping and “serious illegal detention” of the six men and sentenced him to 9 to 15 years in prison for each of the six victims. He has appealed his conviction to the Court of Appeals.¹⁵⁵

Military personnel and other unidentified individuals have threatened and harassed Duyogan, his family, and human rights defenders working with him on several instances since he came forward to testify.¹⁵⁶ In August 2007, a military officer visited him at his Agusan del Sur home, purportedly at the behest of the divisional commander, and offered him 200,000 pesos (US\$4,600) to “go back to the folds of the military.”¹⁵⁷ Further, military officers told Duyogan that his salary, which he had not received since he agreed to testify, was being used for Cpl. Billones’ legal defense.¹⁵⁸

Despite his conviction and sentencing for a serious offense, Cpl. Billones lives with his wife and two children in a house outside of the fence surrounding the Agusan del Sur provincial jail, though within the prison compound. An official at the jail told Human Rights Watch that the jail warden, who is a military reservist, had granted Billones this privilege out of “camaraderie.”¹⁵⁹

Granting extraordinary privileges to soldiers convicted of serious crimes reinforces impunity and sends a message that abuses will go unpunished.

¹⁵⁵ *Philippines v. Cpl. Rodrigo L. Billones*, Crim. Case No. 4864, Regional Trial Court, 10th Judicial Region, Branch 6, Prosperidad, Agusan del Sur.

¹⁵⁶ Human Rights Watch interview with Sgt. Esequias Duyogan, place name and date withheld.

¹⁵⁷ *Ibid.*

¹⁵⁸ Human Rights Watch interview with Sgt. Esequias Duyogan, place name and date withheld. Cpl. Billones confirmed that his battalion covered his legal costs. Human Rights Watch interview with Cpl. Rodrigo Billones, Prosperidad, August 24, 2010.

¹⁵⁹ Human Rights Watch interview with official at the Agusan del Sur provincial jail, Prosperidad, August 24, 2010.

IV. Failure to Investigate and Prosecute

I just want a thorough investigation. We don't expect it to be speedy.... We just want it to be thorough.

—Wife of a leftist activist allegedly killed by the military, February 2011

The Philippine government has consistently failed in its obligations under international human rights law to hold accountable perpetrators of politically-motivated killings and enforced disappearances. Victims' families are denied justice as killers literally get away with murder. With inconclusive investigations, implausible suspects, warrants of arrest infrequently executed, and no convictions, impunity prevails.

Prosecutions in human rights cases are stymied by the poor policing that affects all criminal investigations in the Philippines. But even the most common problems will be exacerbated in cases where military personnel, police, and paramilitary members are implicated. Police investigations into alleged extrajudicial killings and enforced disappearances are not only woefully inadequate because of poor investigative skills and lack of capacity, but they face the further obstacles of little will to uncover abuses by the security forces. Many obstacles remain for those investigations that progress to the prosecutor, including lack of cooperation between police and the prosecutor and lengthy trial processes, all of which heighten the risks for victims and witnesses when government officials are the perpetrators.

The government institutions charged with promoting human rights and accountability have done little to end the widespread impunity enjoyed by perpetrators of extrajudicial killings and enforced disappearances. Reforms to curtail "disappearances," such as Supreme Court writs of amparo and habeas data, which were designed to compel the military to release information on people in their custody, have been largely ineffectual.

Poor Policing

Instead of "to serve and protect," [the police logo should be] "to hide and to run." ... Justice is all we want.... No justice just adds to the pain.

—Maridezda and Arnel Guran, parents of Rei Mon Guran, a student activist killed in July 2006

Poor and indifferent policing, and profound public mistrust in the government's investigative efforts, affects all criminal investigations in the Philippines. Several witnesses and victims'

families whom Human Rights Watch interviewed said they expect no real results from government investigations. The wife of a victim told how her family is slowly conducting the investigation themselves, which she feels is her only option.¹⁶⁰ In several cases, the family only had contact with the police once, often at the wake, when they were interviewed.¹⁶¹ Then, as one relative said, “nothing more happened.”¹⁶² Neither police nor prosecutors regularly update victims’ families; rather, families said, police often ask them for updates.

Police still frequently believe that it is the families’ duty to push the investigation, and conduct only the most rudimentary of investigations. Too often, police fail to visit and adequately examine the crime scene. Police continue to pressure victims’ relatives to provide information on witnesses and motives, and at times identify unlikely perpetrators. Investigators routinely cease their investigation after identifying one suspect, rather than pursuing accomplices, particularly those who ordered the killing.

Since investigators do not visit the crime scene, unqualified *barangay* officials or even family members collect obvious evidence from the site of the killing, often contaminating the evidence and interrupting the evidentiary chain-of-custody. For example, the *purok* leader and *barangay tanods* visited the place where Julius Tamondez was killed on August 12, 2010, to recover the body. They collected the bullet casing and turned it over to *barangay* officials who wrapped it in cellophane and kept it at the *barangay* hall. At some later date, the police collected it from the *barangay* hall.¹⁶³ Despite a *barangay* official reporting the crime to a police investigator over the phone on the day of the killing and requesting that police investigate, police did not visit the crime scene or interview any first responders about it.¹⁶⁴

Investigators collect only the most obvious evidence, such as bullet casings. In each case Human Rights Watch examined, investigators have not collected shoe marks, cigarette

¹⁶⁰ Human Rights Watch interview with the wife of an extrajudicial killing victim, place name and date withheld. The family is canvassing for witnesses that they can later present to the police.

¹⁶¹ Human Rights Watch interview with a relative of Guevarra, place name and date withheld; a relative of R. Rodriguez, place name and date withheld; a relative of Baldomero, place name and date withheld; a friend of Labrador, place name and date withheld.

¹⁶² Human Rights Watch interview with the father of an extrajudicial killing victim, place name and date withheld.

¹⁶³ Human Rights Watch interview with Antonio Billera, Davao City, March 16, 2011. Similarly, in the Dejos case, a former *barangay tanod*, Rudy’s brother, Arnold Dejos, collected the four empty bullet casings and provided them to the police. Note from Maj. Demetrius Emuardo Taypin, police chief inspector, Sta. Cruz, Davao del Sur, February 27, 2011.

¹⁶⁴ Human Rights Watch interview with Antonio Billera, Davao City, March 16, 2011.

butts, or phone records, and have not sought more advanced forensic examination for obvious evidence.¹⁶⁵

Some police officers blamed inadequate investigations on lack of appropriate equipment. One investigator explained that his police station does not own a camera and has only one patrol car, which can only be used in the town proper.¹⁶⁶ These are valid concerns and investigators should have viable transport and necessary equipment for evidence collection, particularly cameras.

Even in cases where investigators did visit the crime scene, they often did not invite forensic experts from Scene of the Crime Operatives (SOCO) to assist. Several police officers explained that SOCO only gets involved when the first responder or investigator requests their involvement.¹⁶⁷ A local police chief explained that he only requests SOCO involvement after initial processing of the evidence. However, he chose not to in the Dejos case because the investigator was “handling the situation.”¹⁶⁸ Investigators typically interview only the most obvious witnesses—family members or eyewitnesses who come forward and present themselves at police stations. They do not routinely proactively look for witnesses in the place where the crime was committed. For example, a review of the police investigation into the killing of Baldomero revealed that police did not go door-to-door in the area canvassing for possible witnesses, even though he was killed in a populated area along a national highway. Often, the family or private prosecutors are expected to identify witnesses.¹⁶⁹

Too often police only file cases if a relative is willing to be a complainant. In a November 2010 case in which the victim of an alleged extrajudicial killing was separated from his wife, his colleague explained that police officers had told him that, “According to law, the first dependent needs to push the case.... If the family doesn’t push for the case the case is considered closed.”¹⁷⁰ Since the wife is not doing so, police are not actively pursuing the investigation.

¹⁶⁵ European Union police expert Bo Astrom has confirmed that he also found that investigators had not collected evidence—other than the most obvious—and regularly did not seek advanced forensic examination of evidence collected.

¹⁶⁶ Human Rights Watch interview with a police investigator, place name and date withheld.

¹⁶⁷ *Ibid.*; Human Rights Watch interview with Maj Demetrius E. Taypin, Davao del Sur, March 9, 2011.

¹⁶⁸ Human Rights Watch interview with Maj Demetrius E. Taypin, Davao del Sur, March 9, 2011.

¹⁶⁹ Benjamin Bayles was killed on a national highway during a busy period, in front of many witnesses. However, the police did not canvass for witnesses. All of the witnesses to be presented in the trial were identified by the private prosecutors in the case. Human Rights Watch interview with private prosecutor Atty. Ben Ramos, March 18, 2011.

¹⁷⁰ Human Rights Watch interview with several colleagues of Carlo Rodriguez, Calamba City, February 22, 2011.

In a break with this practice, the police department investigating the July 12, 2010 killing of Josephine Estacio in Bataan filed a case against Alfred Alipio—allegedly a member of a breakaway communist group—saying that a witness had come forward and identified Alipio as the gunman.¹⁷¹ However, this reform has not been institutionalized and this case presents a questionable example as the charges were filed against an unlikely perpetrator. Several things indicate that this witness may not actually have seen the gunman, and the witness identified Alipio from a “photo board” that showed only his photograph.¹⁷² Investigators told Human Rights Watch that the witness was under their protective custody, but he failed to appear at a hearing called by the prosecutor and police said that they were not concerned for his welfare.¹⁷³ Furthermore, the tricycle driver who drove Estacio on the day she was killed had described the gunman as wearing a mask, not that tall, and with a slightly rounded body. Alipio is tall and well built. On this basis, the prosecutor was “not convinced” that the new witness had positively identified Alipio as the gunman.¹⁷⁴

There is a widespread belief that families have to pay for an investigation to be thorough. In particular, colleagues of a victim described investigators telling them that they would have to pay money to involve the National Bureau of Investigation in the case.¹⁷⁵ In one case, the wife of a victim said that she refused to consent to having her husband’s body autopsied because she did not have the money.¹⁷⁶

There is very little oversight of police investigations and police stations are disorganized. In one incident, the city police chief explained that the investigator was not around and “I do not know even where he placed the investigation folder.”¹⁷⁷ In another, the deputy city police

¹⁷¹ Human Rights Watch interview with Romel Morales, CIDG, investigating the killing of Estacio, Bataan, February 24, 2011. This case is not discussed above as Human Rights Watch research indicated that it does not fit the pattern of an extrajudicial killing and did not find evidence of security force involvement in the killing. On July 12, 2010, a masked gunman killed Josephine Estacio, a teacher, outside the school at which she was teaching in Balanga City, Bataan. Estacio was not associated with any leftist organization. Police investigators are yet to identify a motive behind this killing.

¹⁷² Resolution, Balanga City Police v. Alfredo Alipio, NPS Docket No. III-02-INV-10H-00102, November 23, 2010; Case file, shown to Human Rights Watch during an interview with Investigator Canare, Bataan, February 24, 2011. A photograph of this process shows only the enlarged ID picture of Alipio, posted on a wall, with the witness pointing to it, rather than a photo board showing several possible suspects. The investigator maintains the photo board showed photographs of several people.

¹⁷³ Human Rights Watch interviews with Investigator Canare, Bataan, February 24, 2011, and Romel Morales, CIDG, investigating the killing of Estacio, Bataan, February 24, 2011. Resolution, Balanga City Police v. Alfredo Alipio, NPS Docket No. III-02-INV-10H-00102, November 23, 2010.

¹⁷⁴ Resolution, Balanga City Police v. Alfredo Alipio, NPS Docket No. III-02-INV-10H-00102, November 23, 2010.

¹⁷⁵ For instance, in one case colleagues of the victim told Human Rights Watch, “The NBI is asking for at least 100,000 pesos as a primer to start to investigate the case.” Human Rights Watch interview with several colleagues of an extrajudicial killing victim, place name and date withheld.

¹⁷⁶ Human Rights Watch interview with Leonisa Labrador, Davao City, March 10, 2011.

¹⁷⁷ Human Rights Watch interview with Carlos Lacuesta, Guihulngan chief of police, Guihulngan, March 21, 2011.

chief explained that he had only recently been transferred and did not know where investigation folders were kept. He said, “Usually the investigator manages his case folder” rather than there being a central filing cabinet.¹⁷⁸ In cases that Human Rights Watch examined, investigations often stalled due to a personnel change within a police station, which is a regular occurrence.¹⁷⁹

Investigations of Extrajudicial Killings and Enforced Disappearances

Investigations in Conflict Areas

The investigator is just like a desk officer; just making reports from his table.

—Wife of a human rights activist allegedly killed by the military, February 2011

In addition to the serious shortcomings that all criminal investigations experience in the Philippines, police investigations into crimes allegedly committed by military personnel face further hurdles. Police investigations often rely entirely on witnesses; in several killings investigated by Human Rights Watch, investigators did not go to the scene of the crime at all.¹⁸⁰ In others, they only examined the immediate vicinity where the body was found, even if evidence suggested the person was killed elsewhere.

Given that killings of suspected CPP-NPA supporters often take place in the vicinity of conflict areas between the NPA and the military, the police’s security concerns in reaching the crime scene may be genuine. For instance, the police officer in charge of Mawab police station said security concerns meant that investigators could not go to the area where Felisilda was killed. “There are a lot of land mines in the area,” he said.¹⁸¹ In several cases, investigators instead asked the family to bring witnesses to the police station.

The local police chief in Guihulngan said that investigators did not visit the scene of the crime as the area is “three or four hours walking distance and is very hostile.”¹⁸² The investigator said:

¹⁷⁸ Human Rights Watch interview with Balais, deputy chief of police, Kalibo, Aklan, March 22, 2011.

¹⁷⁹ Police Officer Deris said, with respect to the killing of Carlo Rodriguez, that the chief of the investigation who had handled the case had been transferred, so she and other investigators had to wait to consult a new chief before continuing the investigation. Human Rights Watch interview with PO2 Lilly Ann “Leah” Deris, Calamba City, February 22, 2011.

¹⁸⁰ Investigators did not visit the crime scene in the cases of Quirante, Tamondez, Felisilda, Deliguer, or Ladera. The Dejos family also said that investigators did not visit the crime scene, though the local police chief disputes this. Human Rights Watch interviews with Carlos Lacuesta, Guihulngan chief of police, Guihulngan, March 21, 2011; PSI Allan Reginald L. Basiya, Mawab Officer in Charge, Mawab, March 15, 2011; Porciso Tamondez, Davao del Norte, March 12, 2011; Hipolito P. Deliguer, San Agustin, Surigao del Sur, March 15, 2011; and a relative of Ladera, San Agustin, Surigao del Sur, March 15, 2011.

¹⁸¹ Human Rights Watch interview with PSI Allan Reginald L. Basiya, Mawab Officer in Charge, Mawab, March 15, 2011.

¹⁸² Human Rights Watch interview with P/Clnsp. Carlos Lacuesta, Guihulngan chief of police, Guihulngan, March 21, 2011.

I wanted to go to the crime scene to collect evidence, but no other police officer would accompany me because [they were afraid for their] security. Also, because we have only one patrol car that can only go on the highway, we had to rely on the mayor for transport.¹⁸³

In other instances, police failure to investigate reflected lack of willingness on the part of authorities to pursue a case implicating the military. In the forcible disappearances of Deliguer and Ladera, both families reported to the police that the men were missing. However, at no time did police visit their residences or farms to investigate.¹⁸⁴ According to a police report, the chief of police in Marihatag asked the commanding officer of the 36th IB if the two were in military custody. He had “no knowledge of the ‘disappearance,’” but directed his intelligence operatives to assist in locating the missing persons.¹⁸⁵ The October report recommended that the police “be given ample time to conduct thorough and in depth investigation.” However, when interviewed in March 2011, neither the chief investigator nor the police chief could identify any investigative steps taken since this date.¹⁸⁶

Failure to Pursue Evidence of Military Involvement

Police routinely avoid pursuing evidence of military involvement. A foreign police officer who has been working with Philippine police investigators said that he had found investigations went cold as soon as they pointed to the military.¹⁸⁷ The relative of an alleged perpetrator explained that although police visit the remote area where her husband was killed to investigate regular criminal cases, “police distance themselves from abuses by the military.”¹⁸⁸ Investigators have not formally interviewed any soldiers or commanders in any of the cases investigated by Human Rights Watch, despite evidence of military involvement.

This has long been a problem. “Ricardo,” the former soldier, told Human Rights Watch that when he was ordered to kill two alleged NPA runners in the 1990s, the police “pointed to the NPA [as the perpetrators] since they are afraid of us (the Philippine Army).... They were afraid

¹⁸³ Human Rights Watch interview with SPO2 Samuel Cañete, place name and date withheld.

¹⁸⁴ Human Rights Watch interview with Hipolito P. Deliguer, San Agustin, Surigao del Sur, March 15, 2011 and a relative of Ladera, San Agustin, Surigao del Sur, March 15, 2011.

¹⁸⁵ Memorandum from provincial director, Surigao del Sur Police Provincial Office, to regional director, Police Regional Office 13, October 8, 2010.

¹⁸⁶ Ibid. Human Rights Watch interview with Chief Investigator Joel Vertudazo, Tandag, March 14, 2011, and with Provincial Director Surigao del Sur, Tandag, March 14, 2011.

¹⁸⁷ Human Rights Watch interview with a foreign police officer, Manila, March 2, 2011.

¹⁸⁸ Human Rights Watch interview with the relative of an alleged perpetrator, place name and date withheld.

that they might be [the] next [target, if they properly investigated the army].”¹⁸⁹ He said that the police did not question any member of the military about the killings.¹⁹⁰

Police have captured and charged two alleged soldiers for the June 14, 2010 killing of Benjamin Bayles in Negros Occidental. Police arrested the suspects after an alert was placed for a black Honda TMX motorcycle without a plate number, being ridden by two men.¹⁹¹ Police saw the two, arrested them, and found them in possession of unregistered firearms.¹⁹² Initially, the police chief said over radio that the two accused had introduced themselves as members of the 61st IB of the Philippine Army.¹⁹³ The next day he withdrew this statement: the suspects now claim to be fishermen and deny any links to the military.¹⁹⁴ The registered owner of motorcycle they were riding, Pfc. Reygine Laus, is a soldier with the 61st IB.¹⁹⁵ During a budget hearing, Defense Secretary Voltaire Gazmin accepted that the accused men were Philippine Army personnel.¹⁹⁶ In addition, Bayles’ neighbor has testified that armed men in military camouflage who introduced themselves as members of the army visited her place and asked her about Bayles on several occasions.¹⁹⁷

The police investigator has not interviewed anyone in the military about the case. He said that his only action to determine whether the accused are members of the armed forces was to give the case to an intelligence officer and ask him to profile the suspects.¹⁹⁸ Nor has he monitored or attempted to determine whether members of the military are visiting the accused in jail. He told Human Rights Watch that since the jail was “a long way away” he had no way to find out who visits them.¹⁹⁹ Moreover, he said that to further investigate this

¹⁸⁹ Human Rights Watch interview with a military insider, “Ricardo,” place name and date withheld.

¹⁹⁰ Ibid.

¹⁹¹ Kabankalan City Police Station, excerpt from the Police Blotter, Entry No. 0477, Page No. 177, June 14, 2010. Human Rights Watch interview with SPOI Virgilio D. Parcon, Himamaylan City, March 20, 2011.

¹⁹² Firearms and Explosives Office, Certification, July 29, 2010.

¹⁹³ Memorandum from P/Supt. Antonietto Cañete, officer in charge, Himamaylan City Police Station, to provincial director, June 14, 2010.

¹⁹⁴ Human Rights Watch interview with private prosecutor Atty. Ben Ramos, March 18, 2011.

¹⁹⁵ According to *barangay* officials, no one by the names of either of the suspects reside at the *barangays* where they claimed they lived. Human Rights Watch interview with private prosecutor Atty. Ben Ramos, March 18, 2011.

¹⁹⁶ Human Rights Watch interview with private prosecutor Atty. Ben Ramos, March 18, 2011.

¹⁹⁷ Affidavit of Vilma E. Tejada, February 10, 2011.

¹⁹⁸ Human Rights Watch interview with SPOI Virgilio D. Parcon, Himamaylan City, March 20, 2011.

¹⁹⁹ Ibid.

case would violate the *sub judice* rule—a rule that prevents people from commenting on the outcome of a case while it is before the court.²⁰⁰

In several cases implicating military personnel, police investigators sought to show that the motive was personal. This may have been due to camaraderie with the military and the police force’s “with us or against us” attitude, fear of military reprisal, or the additional pressure and reporting obligations that local police officers face in extrajudicial killing cases.

Investigators have claimed personal motives from seemingly arbitrary evidence. For instance, in the case of Carlo “Caloy” Rodriguez, union president of the Calamba Water District who was gunned down along the National Highway in Calamba City on November 12, 2010, investigators determined that, because he suffered multiple gunshot wounds, he was the victim of a crime of passion fuelled by a personal grudge.²⁰¹ This is a dubious conclusion: while police may dismiss any motive relating to a labor dispute because several witnesses spoke of Rodriguez having a good relationship with the general manager, the number of gunshots was no basis to determine that the killing was “not politically motivated.”²⁰²

Rodriguez was affiliated with the Confederation for Unity and Recognition Advancement Government Employee (COURAGE) and the Samahan ng Water District Sa Buong Pilipinas (WATER), broader leftist organizations that the military has said are connected with the CPP-NPA.²⁰³ Police have not investigated this potential motive.

Since President Aquino came to office, several police investigators and local police chiefs have said that provincial and national police headquarters have pressured them to file cases in extrajudicial killing cases. However, families have said this pressure often unintentionally means that investigators fail to investigate the killing thoroughly; instead, they rush the investigation and file charges against only one of several suspects, and pressure families to

²⁰⁰ Memorandum from SPO1 Virgilio D. Parcon, Himamaylan City Police Station, to Police Regional Office 6, February 25, 2011. For further discussion of this case, see above Failure to Pursue Evidence of Military Involvement. The *sub judice* rule does not prevent police from continuing investigations and filing further information with prosecutors.

²⁰¹ Medico-Legal Report No. M-1044-10, Carlo O. Rodriguez, November 15, 2010.

²⁰² Memorandum from P/Supt. Nestor Barba Dela Cueva, officer in charge, Calamba City Police Station, to PD, Laguna PPO, November 23, 2010. PO2 Lilly Ann Deris said, “Our assumption [is that Rodriguez was killed] due to a personal grudge as this is far different to an EJK [extrajudicial killing]. When it is an EJK, the assailant usually only had one or two shots.” Deris went on to say that Rodriguez has been labeled a womanizer because they recovered photographs of him with several women on his cell phone. His colleagues, however, suggest that many of these photographs came from an evening work gathering all taken during one night. Human Rights Watch interview with PO2 Lilly Ann Deris, Calamba City, February 22, 2011.

²⁰³ Rodriguez’s colleagues said, “Caloy was lending his talents to other unions in southern Tagalog, to help them negotiate.... His specialty [was assisting] in developing collective negotiating agreements.” Human Rights Watch interview with several colleagues of Carlo Rodriguez, Calamba City, February 22, 2011.

identify witnesses and—essentially—conduct the investigation themselves and report back to police. A victim’s relative said, “[The police investigator] was pleading because he was being questioned by provincial and national PNP why a case hadn’t been filed. He wanted to fast track the filing of a case as they were under such pressure.”²⁰⁴

Task Forces Established to Investigate Cases

In four of the seven extrajudicial killing cases that Human Rights Watch investigated, the police established some form of a task force to investigate. No such task forces were created in the three cases of enforced disappearances. The task forces have had negligible effect.

In one case, an investigator explained that although “a Special Investigation Task Group had been formed to investigate the case, the group has just relied on me to do the work.”²⁰⁵

In several cases, the formation of the task force appears to be little more than a public relations exercise. For example, the police formed Task Group Baldomero the day after the killing and the day before Baldomero was buried on July 17, 2010. The task group held a press conference to announce that a suspect had been identified and that charges were to be filed.²⁰⁶ But the task group was active for a month at most, a relative told Human Rights Watch, and the family “felt the pressure to file the case” before investigators had sufficiently examined the involvement of other suspects, particularly the military. The family said the press conference made them feel used.²⁰⁷

Hasty Discontinuance of Investigations

In the cases of alleged extrajudicial killings that Human Rights Watch investigated, investigations ceased once a first suspect was identified. Perhaps because it would have meant investigating up the military chain of command, investigators did not continue with the aim of identifying accomplices or people who may have ordered the killing. For instance, once one of the alleged perpetrators in the Baldomero killing was identified and police filed charges with the prosecutor, investigators did not continue to work to identify his accomplice, whoever ordered the killing, or to investigate reports of military involvement.

²⁰⁴ Human Rights Watch interview with a relative of an extrajudicial killing victim, place name and date withheld.

²⁰⁵ Human Rights Watch interview with a police investigator, Manila, date withheld.

²⁰⁶ Human Rights Watch interview with a relative, “Rosita,” Aklan, March 22, 2011.

²⁰⁷ *Ibid.* The police were praised for the “expeditious solution” of the Baldomero case: Memorandum from Aklan Provincial chief of police, PSupt. Georby C. Manuel, to regional chief, July 22, 2010.

Investigators told Human Rights Watch it was now up to the courts.²⁰⁸ In the Guevarra case, the military ceased to be suspected when a DPWH officer was implicated.²⁰⁹ However, investigators did not continue to investigate the possibility that military members were involved, including as the gunmen.

The October 25, 2005 killing of Ricardo “Ric” Ramos, then-president of Central Azucarera de Tarlac Labor Union, is another example of police discontinuing an investigation once a suspect has been identified, and the military failing to help police identify military suspects. In Ramos’ case, a gunman shot him twice in the head as he sat at a table with about 20 men, killing him.²¹⁰ On the morning of his death, Ramos had had a stern conversation with soldiers, who were present when wages were being distributed to union workers following a deal made during a strike. That afternoon and evening, two soldiers had visited him three times and were sent away. Ramos had received a funeral wreath that said “RIP Ricardo Ramos” a month earlier. The night after Ramos was killed, the small army detachment, which had been set up about 50 meters from where the killing occurred, was removed.²¹¹

Pfc. Roderick dela Cruz has been identified as one of the soldiers that visited Ramos on October 25, 2005, and is currently standing trial. However, there is debate over who the second soldier was. At least three witnesses identified Sgt. Romeo Castillo as the second soldier; as such, he was included as a respondent in the complaint.²¹² He denied that he visited Ramos at all that day and presented further evidence at the preliminary investigation before the Office of the City Prosecutor to support this. The assistant provincial prosecutor, Ma. Lourdes D. Soriano, recommended that he be dropped as a party from the complaint.²¹³ Dela Cruz and 2d Lt. Alberto Tolledo informed the Office of the City Prosecutor that Sgt. Melchor Santos was the soldier who accompanied dela Cruz. Police have not filed charges against Santos or investigated the local commander. Still, they have classified this case as solved.

²⁰⁸ Human Rights Interviews with Balais, deputy chief of police, Kalibo, Aklan, March 22, 2011 and with a relative, “Rosita,” Aklan, March 22, 2011.

²⁰⁹ Human Rights Watch interview with several representatives from G7, Fort Magsaysay, February 26, 2011.

²¹⁰ Human Rights Watch, *Scared Silent*, pp. 32-33.

²¹¹ *Ibid.*

²¹² Office of the City Prosecutor, Tarlac City, Lily Ramos versus. Sgt. Roderick dela Cruz, Sgt. Romeo Castillo et. al; Romeo Ramos versus. Glendel Gutierrez de Guzman, Resolution, IS No. 05-1704; 2848, April 26, 2006. Ramos’s brother, Romero, also brought a complaint against a neighbor, Glendel de Guzman, who he alleged conspired with the soldiers to kill Ramos. The assistant provincial prosecutor found no sufficient evidence to indict de Guzman.

²¹³ Office of the City Prosecutor, Tarlac City, Lily Ramos versus. Sgt. Roderick dela Cruz, Sgt. Romeo Castillo et. al; Romeo Ramos versus. Glendel Gutierrez de Guzman, Resolution, IS No. 05-1704; 2848, April 26, 2006.

At present, the PNP does not have a central database or method for collecting information about criminal investigations to allow for cross-checking of evidence. The EU is set to fund the creation of such a system in 2011.

Police Fears of Military Retaliation

Several police officers expressed fears about investigating alleged extrajudicial killings implicating the military. When a relative told one investigator about witnesses seeing soldiers near where her husband was killed, he told her to forget about the military's involvement. "*Tigok tayo dyan*" or "We're dead" he said—indicating that he thought his life would be at risk if he investigated military involvement.²¹⁴ In another case, the police told a victim's son the "suspects are military, but it is dangerous to investigate about the case."²¹⁵ One police investigator told how police officers avoid becoming involved in investigating extrajudicial killing cases implicating the military, either out of a belief that it is disloyal or because they fear reprisal. He said:

On the day of the killing, [the police chief called me and] asked [me] to handle the case. Other investigators did not want to [investigate] the case because the victim was seen as an NPA member and the military were accused [as the perpetrators]. They did not want to [because] the military would be unhappy with them.²¹⁶

Colleagues have ostracized and threatened this police officer for investigating the killing—treatment that he said is not unusual. The officer has received several threatening text messages from unknown numbers.²¹⁷ He said:

[Most of my fellow police officers] have created a threatening environment for me.... One time when I arrived at the police station, one police officer shouted at me that I am an enemy of the state.... There is a group influence.... I just avoid them and ... do my work. One day in the station a fellow officer

²¹⁴ Human Rights Watch interview with a relative of an extrajudicial killing victim, place name and date withheld.

²¹⁵ On July 19, 2006, Danilo Hagosojos was riding home in Sorsogon, Bicol, on his motorbike with his seven-year-old daughter when he was shot multiple times in the chest and head by two unidentified assailants. This killing has not been thoroughly investigated and no charges have been filed. Human Rights Watch, *Scared Silent*, pp. 41.

²¹⁶ Human Rights Watch interview with a police investigator, place name and date withheld.

²¹⁷ Ibid.

said to me, “There will be a time of reckoning because you’re going out of your way [to investigate this case].”²¹⁸

Human Rights Watch is unaware of any police officer who harassed or threatened investigators for working on such cases being investigated or sanctioned.²¹⁹ Mistreatment has at times directly interfered with investigation of the case. In one case that Human Rights Watch investigated, someone—supposedly a fellow police officer—stole the case folder of an extrajudicial killing investigation from the police station. It has never been recovered.²²⁰

Fears of Retaliation Against Witnesses and Victim’s Relatives

There has been harassment. They are monitoring what I am doing... I am cautious. I fear for my life. How can I carry this? I want to get justice. But at the same time I am scared they might go after my family.

—Sonia Santa Rosa, whose husband, Pastor Isias de Leon Santa Rosa, was allegedly killed by soldiers in 2006

Each witness and relative of victims that Human Rights Watch interviewed spoke of fears for their safety. One police officer said, “Here in the Philippines, if you talk, you will be killed.”²²¹ Several police investigators said witnesses were too afraid to tell them what they saw.²²²

A local government official told Human Rights Watch how the military harassed someone who had witnessed military abuse. He said that the witness:

Told me five men came to her house and [one] introduced himself as Ka Ben [a name suggesting an NPA *nom de guerre*]. However, she recognized “Ka Ben’s” face from the [incident she witnessed]. They were from the military. Ka Ben then threatened her that if she [testified], something would happen to her family.... He said, “I am not bluffing and very serious about this

²¹⁸ Ibid.

²¹⁹ Ibid.

²²⁰ Ibid.

²²¹ Human Rights Watch interviews with a police officer, Nueva Ecija, February 25, 2011; and SPOI Virgilio D. Parcon, Himamylan City, March 20, 2011.

²²² Human Rights Watch interviews with Police Supt. Eduardo B. Soriano, Nueva Ecija, February 25, 2011; SPOI Virgilio D. Parcon, Himamylan City, March 20, 2011. Parcon said, “We recognize witnesses’ rights—right to an attorney, right to remain silent—these are the rights of witnesses as well as the accused.”

conversation.” Since then, people have told her that people have been regularly visiting [her place]. She’s not been staying in her house since.²²³

A witness in the case filed against two alleged soldiers regarding the June 2010 killing of Benjamin Bayles reported to police that on November 5, 2010, she was sleeping with her six children when about 20 unidentified armed men wearing army fatigues woke her around midnight. It was the second time that armed men in fatigues had visited and threatened her since she had agreed to testify in an extrajudicial killing case in which the accused were allegedly soldiers.²²⁴ She said one of them said to her, “Do you want me to shoot you in the head?” while pointing a .38 caliber pistol at her.²²⁵

Retribution takes various forms. A witness to the November 2010 killing of Carlo Rodriguez—a security guard—was reassigned to another place after he cooperated with the police investigation.²²⁶ His employer later terminated his employment, he believes, because he cooperated with the investigation.²²⁷ A police investigator explained that some businesses consider it risky to cooperate with investigations, so discourage employees from doing so.²²⁸

Military harassment of witnesses and victims’ families has long been a problem in the Philippines. “Ricardo,” the former soldier, told Human Rights Watch that he was ordered to harass witnesses and relatives of extrajudicial killings from time to time. He said that in a case in which a fellow soldier had been accused of shooting and killing a civilian, a senior commanding officer ordered him and his fellow soldiers to wear civilian clothes and fill the court room.²²⁹ He said: “The purpose was to frighten the complainant and witnesses so as they could not speak.”²³⁰

²²³ Human Rights Watch interview with a local government official, place name and date withheld. Human Rights Watch has changed the names used in this statement; Ka Ben was not the name used. The term Ka is short for comrade, used as part of NPA *noms de guerre*.

²²⁴ On October 27, 2010, at about 5 p.m., the witness was three armed men in fatigues visited the witness and threatened her. Complaint Police Blotter of Himamaylan City Police Station, Entry No. 2010-3016, Page No. 0182, October 29, 2010. Affidavit of Vilma E. Tejada, February 10, 2011.

²²⁵ The armed man said, “Gusto mo ba iputok ko sa ulo mo?” Complaint Police Blotter of Himamaylan City Police Station, Entry No. 2010-3089, Page No. 0200—0201, November 6, 2010. Affidavit of Vilma E. Tejada, February 10, 2011.

²²⁶ Human Rights Watch interviews with several colleagues of Carlo Rodriguez, Calamba City, February 22, 2011, and SPO1 Herbert Mendoza, Calamba City, February 22, 2011.

²²⁷ Human Rights Watch interview with SPO1 Herbert Mendoza, Calamba City, February 22, 2011.

²²⁸ Ibid.

²²⁹ Human Rights Watch interview with a military insider, “Ricardo,” place name and date withheld.

²³⁰ Ibid.

In several cases prior to the Aquino administration that Human Rights Watch has previously reported on, relatives of victims continue to fear for their safety.²³¹ The parents of student leader Rei Mon “Ambo” Guran—who was killed on July 31, 2006, at around 6 a.m. on a crowded bus in Bulan, Sorsogon—said that when they wrote to the National Bureau of Investigation to seek their assistance, they were told, “Our enemy is strong.”²³²

Inadequate, Inflexible Witness Protection

There have been improvements in the implementation of the witness protection program since Aquino took office, but substantial reforms are still needed.

Anyone who has witnessed or has information about a serious crime who will testify before any investigating authority or court may be admitted to the Justice Department’s witness protection program, provided the testimony can be corroborated and there is a real threat to the safety of the witness or his or her family.²³³ The witness must sign an undertaking, among other things, to testify.²³⁴ Under the program, witnesses are to be provided with secure housing (until they have testified, the threat disappears, or is reduced to a manageable level), assistance in obtaining means of livelihood, financial assistance, health care, and job protection.²³⁵ When the circumstances warrant, the witness and immediate family members are entitled to relocation and/or change of identity at the department’s expense.²³⁶ Investigating agencies and the courts are to ensure speedy trials in cases in which witnesses are in protection, with the aim of concluding the case within three months.²³⁷

In practice, witnesses admitted to the witness protection program are confined to safe houses for years on end. Although witnesses receive financial assistance, it is limited and they have little to no ability to earn a livelihood. In reality, trials that involve protected witnesses are not dealt with more swiftly than others, and witnesses do not receive new identities at the end of proceedings.²³⁸ Justice Department officials on occasion continue to

²³¹ Human Rights Watch, *Scared Silent*, p. 45.

²³² Human Rights Watch interview with Marideza and Arnel Guran, Bicol, September 6, 2009.

²³³ RA 6981, s. 3. The legislation explicitly excludes law enforcement personnel from coverage, even when testifying against fellow law enforcement officers.

²³⁴ RA 6981, s. 5.

²³⁵ RA 6981, s. 8.

²³⁶ RA 6981, s. 3.

²³⁷ RA 6981, s. 9.

²³⁸ Telephone conversation with Att. Martin Meñez, acting program director, Witness Protection Program, Department of Justice, July 4, 2011. Meñez said that other government agencies had been reluctant to cooperate with the Justice Department in changing the identity of witnesses, despite provision for this in RA 6981. Therefore, the department has proposed legislative change to enable the

construe the witness protection program in an inflexible, limited way, and do not adequately assist witnesses and families in applying for protection.

Witnesses have told Human Rights Watch that they believe authorities will detain them under the program. A *barangay* official said of a witness, “He wants to be free; he doesn’t want his life rearranged because of witness protection.”²³⁹ This understanding is not far removed from the reality. One couple under protection said, “Sometimes they let us out.... They’ve even allowed us to plant a small garden in the yard.”²⁴⁰ Witness protection needs to address security and also economic concerns of witnesses who do not want to leave their businesses or sources of livelihood. Several witnesses have sought the protection of NGOs or churches. A private prosecutor explained, “They don’t trust authorities.”²⁴¹

Few police officers and prosecutors appear familiar with the program, and provide incorrect or limited information about it. The chief investigator in one case said incorrectly that the program only provides security once the witness testifies.²⁴² In a 2010 case where a child was an eyewitness to a killing, the prosecutor claimed only the child would be protected:

As far as I know, it is the [witness] who would be transferred to a safe-house, but certain protections would be extended to the rest of the family. However, according to the [witness’s] mother, this would add further trauma [for the child witness].²⁴³

In fact, the witness protection program would accommodate the immediate family of a child witness. The child’s mother sought a flexible form of witness protection that includes funding her and her child’s relocation to another town of her choice where she has family and the necessary support for raising a child alone. She did not want to go into a safe house as she did not want her son isolated from society.²⁴⁴ She said that regional justice

secretary of justice to order relevant government agencies to take the necessary steps to effect changes of identity. The bill proposing this legislative change has been passed by the House of Representatives but remains before the Senate.

²³⁹ Human Rights Watch interview with a local government official, place name and date withheld.

²⁴⁰ Human Rights Watch interview with a couple in witness protection, place name and date withheld.

²⁴¹ Human Rights Watch interview with private prosecutor Atty. Ben Ramos, March 18, 2011.

²⁴² Human Rights Watch interview with Chief Investigator Joel Vertudazo, Tandag, March 14, 2011.

²⁴³ Human Rights Watch interview with a prosecutor, date and place withheld.

²⁴⁴ Human Rights Watch interview with a relative of an extrajudicial killing victim, place name and date withheld.

department officers told her that she would have to accept the terms they set out for her: “This is a package.... They told me only the DOJ can choose the place [for relocation].”²⁴⁵

The government has provided some form of protection for witnesses or family members of victims in only two of the recent cases that Human Rights Watch investigated. In a positive move reflecting what was hoped to be increased flexibility in applying protection, police provided security outside the home of witnesses and victims’ relatives immediately after the killings in these two cases.²⁴⁶ In the Estacio case, protection was provided for a short period as the family relocated itself, for its own protection. However, in the Baldomero case police withdrew protection at short notice without providing a justified reason, when the risk to the witnesses remained high. When Human Rights Watch raised concerns about this with the Justice Department in May 2011, the department said it had told the family in writing that witnesses could apply for witness protection but had not received any applications.²⁴⁷

Obstacles to Prosecution

Prosecutions in the Philippines have long been hindered by various obstacles, many of which affect the Philippine justice system generally, but which appear to be exaggerated in cases involving serious human rights violations. These include the failure of police and prosecutors to coordinate their efforts to develop a strong case, failure of police to serve arrest warrants, and delays throughout departmental and court processes.

Out of hundreds of killings and enforced disappearances since 2001, there have been only seven successfully prosecuted cases, resulting in the conviction of 12 defendants.²⁴⁸ There has not been a single conviction of active military personnel at the time of the killing. No

²⁴⁵ Ibid.

²⁴⁶ This protection was provided in relation to the July 5, 2010 killing of Fernando Baldomero and the July 12, 2010 killing of Josephine Estacio.

²⁴⁷ Letter from Atty. Martin Meñez, acting program director, Witness Protection Security and Benefits Program, Department of Justice, to Human Rights Watch, May 10, 2011 (delivered via email on May 19, 2011).

²⁴⁸ On January 29, 2010, Robert Woo was convicted of murder, as an accomplice, for the May 2005 killing of radio commentator Klein Cantoneros. On April 29, 2009, Joy Anticamara was convicted for the July 2006 murder of radio broadcaster Armando Pace. In March 2009, Rafael Cardeño was convicted for the December 31, 2001 murder of reported whistleblower and Young Officer’s Union spokesperson Baron Alexander Cervantes; Jaime Centeno, Joseph Mostrales, and Erlindo Flores had been convicted in August 2004. In June 2008, Joel Flores, former military at the time of murder, was convicted for the May 16, 2006 murder of Bayan Muna Secretary-General Jose Doton. In October 2006, Gerry Cabayag, Randy Grecia, and Estanislao Bisamos were convicted for the March 2005 murder of journalist Marlene Esperat. In January 2006, Edgar Belandres was convicted for the November 2004 murder of Allan Dizon, a photographer for *The Freeman*. In November 2005, Guillermo Wapili, a former police officer was convicted for the May 2002 murder of radio commentator Edgar Damalerio.

senior military officers have been convicted either for direct involvement in these violations or as a matter of command responsibility.

An additional hurdle in “disappearance” cases is the fact the Philippines lacks specific legislation criminalizing enforced disappearances. Rather, these must be prosecuted under the crimes of kidnapping and unlawful detention. The Philippines has yet to sign the International Convention for the Protection of All Persons from Enforced Disappearance, which outlines the international standards on preventing and punishing enforced disappearances.²⁴⁹

Cooperation between prosecutors and police in human rights cases appears to be the exception rather than the norm despite several departmental orders to prosecutors and police to work together. The recent alleged extrajudicial killings investigated by Human Rights Watch demonstrated no evidence of real police collaboration with prosecutors, which contributes to the lack of prosecutions.

Two cases that Human Rights Watch previously investigated illustrate several obstacles to justice that arise after police file a case with the prosecutor. Despite strong evidence of military involvement in the August 3, 2006 killing of Pastor Isias Santa Rosa in Bicol, prosecutors have twice dismissed charges that police filed against a military officer, citing insufficient evidence.²⁵⁰ The prosecutors never worked with the police to identify what evidence should be gathered to sustain a case that could go to court. Nor have the prosecutors requested that police investigate further, indicated to police what evidence is necessary, or taken an active role in acquiring this evidence.

²⁴⁹ International Convention for the Protection of All Persons from Enforced Disappearance (Convention against Enforced Disappearances), adopted September 23, 2005, E/CN.4/2005/WG.22/WP.1/Rev.4 (2005).

²⁵⁰ Office of the Provincial Prosecutor, Legazpi City Atty. Ruben M. Azanes v. Ernest Marc P. Rosal and Arnaldo L. Majares, Resolution, June 8, 2007; Office of the Regional State Prosecutor, Region V., Sonia Sta. Rosa v. Ernest Marc P. Rosal et al., Resolution, November 9, 2007; Human Rights Watch interview with Sonia Santa Rosa, Bicol, September 7, 2009. About an hour after 10 armed men entered Santa Rosa’s home and abducted him, and about 30 minutes after his wife had heard nine gunshots, local police found two bodies by the a nearby stream—Santa Rosa and a man wearing a balaclava over his face, carrying an AFP identification card in the name of Corporal Lordger Pastrana. Sonia Santa Rosa later identified Pastrana by the clothes he was wearing as the leader when the men entered her house. In Pastrana’s possession, police found a mission order marked “SECRET” from the 9th Military Intelligence Battalion, signed by Major Ernest Marc P. Rosal, for Pfc. Lordget Pastrana, authorizing him to carry a .45 caliber Llama pistol from July 1, 2006, until September 30, 2006. They also found a .45 caliber Llama pistol with silencer and with one magazine loaded was found near Pastrana’s body. The evidence suggests 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. PNP, Daraga Municipal Police Station, Shooting Incident at Brgy. Malobago, Daraga, Albay, resulting [in the] Death of Isais Sta. Rosa, August 21, 2009.

The September 8, 2004 killing of Bacar and Carmen Japalali shows many of the challenges present in even those cases that are properly investigated.

More than 30 soldiers allegedly shot to death Bacar Japalali—a suspected member of the Moro National Liberation Front, an ethnic Moro armed group—and his wife, Carmen while they were asleep. Bacar’s brother, Talib Japalali, described what he saw when he arrived at his brother’s house: “There were bullet holes everywhere; pieces of bone were splattered around the house.” Meanwhile, his brother’s body still lay on his sleeping mat under his mosquito net. A soldier told Talib that they had had to kill Bacar because he fought back. Police investigators, including forensic experts, and the governor arrived promptly at the Japalali residence and conducted a full investigation.

Despite forensic evidence revealing no traces of gunpowder on the hands of the couple and two eyewitness accounts countering the military’s response that the deaths were the result of an armed encounter, the prosecutor dismissed the complaint for lack of probable cause without attempting to gather additional evidence, or informing the family.²⁵¹ After some time, the deputy ombudsman overturned this decision, resolving to file murder charges against 32 soldiers and referred the case back to the local prosecutor, for prosecution.

The Regional Trial Court judge—without a motion from the defense—downgraded the charges to the lesser charge of homicide and dismissed the charges against all but 8 of the 32 soldiers whom the ombudsman had said should be charged. He delayed issuing even these eight arrest warrants. One day when Talib went to the court to follow up on the case, he received a message that the judge would see him. Talib said the judge told him in a private meeting, “They’re willing to pay.” Talib answered, “I did not come here for money; I want justice.”²⁵²

The Japalali family filed a complaint against the judge with the Supreme Court. The judge recused himself from hearing the case but has not been disciplined or criminally charged.²⁵³ The new judge issued the eight warrants of arrest, however even then, arrest warrants were not served until the family placed considerable pressure on the police and an NGO assisted with serving the warrants. The eight have now been arrested and are confined to the military camp. Five years later, the court is still hearing evidence, and no new charges have been brought against the 24 soldiers whose charges were dismissed.

Failure to Serve Arrest Warrants

The process for serving arrest warrants does not encourage police to take the initiative, which becomes especially problematic where the suspect to be served is a member of the armed forces. Once a court issues an arrest warrant, the standard procedure is that the court

²⁵¹ Email communication from Raissa Jajurie, private prosecutor, to Human Rights Watch, June 29, 2011.

²⁵² Human Rights Watch interview with Talib Japalali, Manila, October 15, 2009.

²⁵³ *Ibid.*

sends it to the police chief, who gives it to the warrant server, a police officer solely responsible for serving warrants and subpoenas.²⁵⁴ Within 10 days, the warrant server is required to serve the warrant and then notify the court. A clerk of court told Human Rights Watch that if a warrant is not served, the court will wait six months, then archive the case.²⁵⁵

In one case, after the court had issued a warrant of arrest, the police investigator told the victim's family to make an official request to a certain police official to serve the warrants, because other police stations cover the scope of the addresses of the two suspects.²⁵⁶ In another case, the clerk of the court said:

Hopefully the family of the victim is working for the arrest of the accused. If the family has friends in the military, they can ask them to coordinate with the police or hire a private agent. If there is no motion from the family, [the court] has no choice but to archive [the case].²⁵⁷

The military appears to be less than willing in serious human rights cases to assist police in serving warrants of arrest on soldiers. The Guihulngan police chief, Carlos Lacuesta, told Human Rights Watch that his office had provided the commander of the 11th IB, Lt. Col. Ramil Bitong, with a copy of the warrant of arrest in the Quirante case shortly after it was issued.²⁵⁸ However, a military officer said the "warrant hasn't reached us" and that it is not the military's role to assist in the service of warrants.²⁵⁹

In the case of the October 25, 2005 killing of labor leader Ricardo Ramos, the police did not serve the warrant for the arrest of an army private, Pfc. Roderick dela Cruz, for nearly two

²⁵⁴ Human Rights Watch interview with a police investigator, place name and date withheld.

²⁵⁵ Human Rights Watch interview with the clerk of court, Regional Trial Court, Sixth Judicial Region, Branch 2, Kalibo, Aklan, Lina S. Candoleta, Kalibo, Aklan, March 22, 2011.

²⁵⁶ Human Rights Watch interview with "Elsa," a relative of Quirante, Guihulngan, March 19, 2011.

²⁵⁷ Human Rights Watch interview with the clerk of court, Regional Trial Court, Sixth Judicial Region, Branch 2, Kalibo, Aklan, Lina S. Candoleta, Kalibo, Aklan, March 22, 2011.

²⁵⁸ Human Rights Watch interview with Carlos Lacuesta, Guihulngan chief of police, Guihulngan, March 21, 2011. Lt. Col. Bitong has publicly blamed the NPA for Quirante's killing, without citing any evidence for this conclusion. Philippine Army Public Affairs Office, "NPA's Killings Up by 150% as Army Appeals to Rebels: Spare the Civilians," October 13, 2010, http://www.facebook.com/note.php?note_id=164828943542528 (accessed April 19, 2011). See also, Pro-Democracy Movement, "Man killed in Guihulngan," <http://www.facebook.com/topic.php?uid=113621142013721&topic=228> and "NPA killings up 150% in Negros, Army says," <http://www.facebook.com/topic.php?uid=113621142013721&topic=234> (accessed April 19, 2011).

²⁵⁹ Human Rights Watch interview with Lt. Jim Obias, 11th IB Philippine Army, Guihulngan, March 21, 2011.

years.²⁶⁰ Dela Cruz continued to serve the army during this period and was eventually arrested on May 21, 2008, after Task Force 211 intervened, at the armed forces headquarters in Taguig City.²⁶¹ Human Rights Watch is unaware of any police officers being disciplined or prosecuted for failing to make proper efforts to serve arrest warrants in cases of human rights violations. Nor have any military officers been disciplined for failing to cooperate with the police. The court archived the Ramos case when the warrant against dela Cruz was not served within six months of issuance. Courts have similarly archived numerous cases despite strong evidence against the accused.

Failure of the Special Courts

In March 2007, Chief Justice Reynato Puno designated 99 regional trial courts “special courts,” with orders to resolve extrajudicial killing cases within 90 days.²⁶² These courts were mandated to hold a continuous trial in such cases, as trials in the Philippines involve scheduling several half-day sessions over several months, with many postponements. The trial was to be completed within 60 days of when the case was filed in court, and judgment was to be rendered within a further 30 days. If an extrajudicial killing case was sent (“raffled”) to a court that was not designated a “special court,” the court was still to comply with these guidelines. Special courts were to submit a status report to the chief justice on the tenth day of each month. These guidelines were never implemented.

Writ of Amparo

We did everything for their release but nothing happened.... The last case we filed was a motion for review in the Supreme Court [in March 2009]. Until now it has not been resolved...

—Mother of Karen Empeño, who disappeared in 2006, October 2009. The Supreme Court handed down its decision more than two years after the motion was filed, on May 31, 2011.

Optimism over Supreme Court writs to compel military and other government agents to release information about people in their custody has been dampened by the difficulty in enforcing them

²⁶⁰ Regional Trial Court of Tarlac City, Branch 65, in Criminal Case No. 14419 People of the Philippines v PFC Roderick dela Cruz a.k.a. Joshua dela Cruz. On June 6, 2006, Judge Viliran, Regional Trial Court, Tarlac City, issued a warrant for his arrest, specifying that he was not eligible for bail. Police did not serve the warrant, so on December 14, 2006, the court ordered that the case be archived “without prejudice to reactivation upon the apprehension of the accused as the accused are still at large notwithstanding the lapse of six months since the order of arrest was issued.” At this time an alias arrest warrant was issued.

²⁶¹ RTC, Tarlac City, Branch 65, Crim. Case No. 14419, Return of Warrant of Arrest, May 21, 2008; Task Force 211, Press Statement No. 08-05-29: Task Force 211 Lauds AFP for Full Cooperation, May 29, 2008.

²⁶² Supreme Court Administrative Order 25-2007, March 1, 2007.

and long court delays. The writs of amparo and habeas data empower courts to issue orders to protect a person; produce information needed to establish a missing person's whereabouts; inspect likely detention facilities; update, rectify, suppress, or destroy information about a threatened person; and provide other relief to people whose right to life, liberty, and security is unlawfully violated or threatened with violation.²⁶³ These remedies go beyond the better known writ of habeas corpus, which—in a bid to overcome the state's blanket denial of custody—empowers a court to free a detainee if the public body detaining the person does not prove he or she is lawfully detained. Rather than merely ordering the release, authorities may have to exercise great diligence to determine the missing person's whereabouts.

In September 2008, the Court of Appeals granted writs for the release of Karen Empeño, 22, Sherlyn Cadapan, 29, and Manuel Merino, 57, whom the military arrested in mid-2006 in Haganoy, Bulacan.²⁶⁴ The court ordered the military to “immediately release” the three detainees²⁶⁵ Several witnesses have testified to seeing the three in military custody.²⁶⁶ Raymond Manalo, who together with his brother Reynaldo escaped military custody in 2008, has told how he witnessed soldiers kill Merino and burn his body. He has also told of the horrific torture and sexual violence that he witnessed soldiers force Cadapan and Empeño to endure.²⁶⁷ Cadapan's mother, Erlinda, told Human Rights Watch how she thinks of Manalo's testimony of what her daughter was forced to endure:

When I can recall [what] the military [had] been doing to her—as a lady being hung upside down when naked and being played like an animal, it's really painful for me.

Despite this evidence indicating that the women are at grave risk, as of March 2009, the court had not enforced the writs.²⁶⁸

²⁶³ Supreme Court Rule on the Writ of Amparo Resolution, A.M. No. 07-9-12-SC, September 25, 2007; Supreme Court Rule on the Writ of Habeas Data, A.M. 08-1-16, January 22, 2008.

²⁶⁴ Human Rights Watch, *Scared Silent*, pp. 39-40.

²⁶⁵ Human Rights Watch interview with Concepcion Empeño, Manila, October 13, 2009. Empeño told Human Rights Watch what happened when she found out that the writ of amparo had been granted: “I brought the newspaper [to the police station], it was on the front page of the newspaper. I was so very happy at that time. I said to the police, ‘The military are going to release her and there is already an order from the court of appeals.’... I was so happy—but nothing has happened.”

²⁶⁶ Petition for the Writ of Amparo, Erlinda Cadapan et al. versus Gloria Macapagal Arroyo et al., October 27, 2007, para 13.

²⁶⁷ Human Rights Watch interview with Raymond Manalo, place name and date withheld.

²⁶⁸ Human Rights Watch interview with Atty. Rex Fernandez, Manila, August 18, 2009.

On March 5, 2009, the Court of Appeals issued a resolution denying the Cadapan and Empeño families' motion to cite respondents in contempt for failing to comply with the court's order to release the two women detainees. Justice Mendoza said in the resolution:

While the Court, in the dispositive portion, ordered the respondents "to immediately RELEASE, or cause the release from detention the persons of Sherlyn Cadapan, Karen Empeño and Manuel Merino," the decision is not ipso facto [or, by the fact itself] executory. The use of the term "immediately" does not mean that it is automatically executory. There is nothing in the Rule on the Writ of Amparo which states that a decision rendered is immediately executory.²⁶⁹

Further, the judge ruled that the parties' petitions for review stopped the decision from being final and executory.²⁷⁰

On March 30, 2009, Cadapan and Empeño's families filed a petition for review of this decision by the Supreme Court. The court, which took more than two years to decide this urgent matter, ruled on May 31, 2011, that the appellate court erred in ruling that its directive to immediately release Sherlyn, Karen, and Merino was not automatically executed and that there was no need to file a motion for execution in amparo or habeas data cases—effectively removing a procedural delay in enforcing the writs.²⁷¹ The court found that the appellate court also erred when it did not specifically name the respondents that it found to be responsible for the abduction and continued detention of the three and named Lt. Col. Anotado, Lt. Mirabelle, Gen. Palparan, Lt. Col. Boac, Arnel Enriquez, and Donald Caigas as apparently responsible. "They should thus be made to comply with the September 17, 2008 Decision of the appellate court to immediately release Sherlyn, Karen and Merino," the court said.²⁷²

In recognizing the urgency of such cases, the court said:

Since the right to life, liberty and security of a person is at stake, the proceedings should not be delayed and execution of any decision thereon must

²⁶⁹ CA G.R. SP-WR-A No. 00002 & CA G.R. SP 95303, Resolution per Mendoza J, p. 3.

²⁷⁰ Ibid.

²⁷¹ *Lt. Col. Rogelio Boac, et al. v. Erlinda T. Cadapan and Concepcion E. Empeño*, Supreme Court of the Philippines, G.R. Nos. 184461-62/G.R. No. 184495/G.R. No. 187109, May 31, 2011.

²⁷² Ibid.

be expedited as soon as possible since any form of delay, even for a day, may jeopardize the very rights that these writs seek to immediately protect.²⁷³

The court did not explain its two-year delay in deciding this matter, which further jeopardized the lives as well as the rights of Cadapan, Empeño, and Merino.²⁷⁴

Weakness of Human Rights Institutions

The widespread impunity enjoyed by perpetrators of extrajudicial killings and enforced disappearances is exacerbated by the inadequacies of institutions charged with promoting human rights and accountability, including the Commission on Human Rights, the Ombudsman, and the Joint Monitoring Committee.

During the past several years, agencies at all levels of government have created their own human rights mechanisms. For instance, the PNP and the AFP have created human rights desks within their agencies.²⁷⁵ In addition, many *barangay*, municipal, provincial, and regional councils have committees responsible for human rights. However, there are real limitations, particularly at local levels. One member of a *barangay* human rights committee told Human Rights Watch, “We don’t know how to do the job. When we approach a local office, they tell us to go to other offices. We don’t know the processes.”²⁷⁶

National Commission on Human Rights

The Commission on Human Rights (CHR) is an autonomous government body charged with, among other things, investigating “on its own or on complaint by any party, all forms of human rights violations involving civil and political rights,” and recommending prosecution when its investigation establishes a prima facie case of a violation.²⁷⁷

²⁷³ Ibid.

²⁷⁴ Cadapan’s mother told Human Rights Watch, “I do not know how to continue my search now. I am just waiting for the decision of the court. That’s my life, waiting for the decision.” Human Rights Watch interview with Erlinda T. Cadapan, Manila, October 13, 2009. On May 4, 2011, the families of Cadapan and Empeño filed with the Justice Department charges against Ret. Maj. Gen. Jovito Palparan Jr., for rape, arbitrary detention, serious physical injuries, maltreatment of prisoners, grave threats, and grave coercion. At this writing, the department is considering these charges.

²⁷⁵ See above, Section I.

I. The Philippine Context, Human Rights Desks.

²⁷⁶ Human Rights Watch interview with Domidor Ariola, *Barangay Kagawad, Barangay New Casay*, Davao del Norte, March 12, 2011.

²⁷⁷ Philippines Constitution 1987, art. XIII, sec. 18(1); Exec. Order No 163, May 5, 1987.

In several recent cases that Human Rights Watch has investigated, the CHR did not actively investigate the killing or “disappearance,” did not provide updates to relatives on the status of their investigations, and placed significant burdens on family members who were applying for compensation from the commission. The CHR did not provide psychological support to the victims’ relatives or witnesses in any of the investigated cases.

The commission has a central office in Metro Manila, and regional and sub-regional offices throughout the rest of the country.²⁷⁸

The commission’s effectiveness largely depends on the personnel at the regional or sub-regional office, or whether the central office has taken a particular interest in the case.²⁷⁹ Certain directors are proactive in investigating extrajudicial killings and enforced disappearances, carrying on their own investigation while actively following up with other investigating agencies; others are not. In the course of Human Rights Watch’s research, only in one case did a family speak of the CHR actually visiting the crime scene.²⁸⁰

In each of the cases from 2010 that Human Rights Watch investigated, commission staff did not—on even one occasion—provide victims’ families with an update of their investigation. Leonisa Labrador, whose husband was killed on September 3, 2010, allegedly by a soldier with the assistance of a paramilitary member, said, “I filed the case with the CHR but until now I have not received an update.”²⁸¹

Several relatives of victims said that the commission did not actively investigate the killing or disappearance of their family member.²⁸² Atty. Alberto Sipaco, Jr. of the Region XI office told Human Rights Watch, “There is a problem of witnesses not coming into the office.

²⁷⁸ The commission does not have a regional office in Autonomous Region of Muslim Mindanao (ARMM). Instead, the offices of Regions IX, X, and XII in Mindanao cover certain provinces in ARMM.

²⁷⁹ For example, the central office actively investigated the 2007 enforced disappearance of Jonas Burgos, including by identifying and interviewing an AFP witness. The CHR has recommended that the Supreme Court direct the Philippine Army to produce Burgos and that the Justice Department file criminal charges against several soldiers. However, this investigation was only completed after the Supreme Court referred the case to the CHR, following a petition for writ of amparo, nearly four years after Burgos disappeared. And the CHR, which the Supreme Court had asked to report within 90 days, sought three extensions of time, totaling almost six months. *Edita Burgos v. Gloria Macapagal Arroyo et al.*, G.R. No. 183711, Investigation Report submitted by Commissioner Jose Manuel Mamaug, March 15, 2011.

²⁸⁰ Human Rights Watch interview with relatives of an extrajudicial killing victim, place name and date withheld. The CHR office that investigated was Region III.

²⁸¹ Human Rights Watch interview with Leonisa Labrador, Davao City, March 10, 2011.

²⁸² Human Rights Watch interview with Porciso Tamondez, Davao del Norte, March 12, 2011.

People are getting more silent.”²⁸³ In each “disappearance” case discussed here, the CHR has not been at all involved in assisting the families or investigating the alleged abuse, as is required under its mandate.²⁸⁴ Sonia Santa Rosa recounted one conversation with the Region V CHR office following her husband’s death:

I told them that it’s their job to investigate. But they said that they had no fare, or transport, or allowance.... Their investigation involved recording the events; as for what action should be taken, they did not do anything.... I asked for their help [when I felt I was under military surveillance], but said they couldn’t do anything.²⁸⁵

In each incident of a killing, the commission is supposed to determine whether it was an extrajudicial killing and if so, provide the family with 10,000 pesos [US\$230] in compensation. This process often becomes an additional burden for the victim’s family. Porcino Tamondez, whose son was killed in Davao City in August 2010, told Human Rights Watch: “We filed a complaint with them, but there were lots of requirements, each which cost money [in transport] and time—they require a police report, a report from the embalmer.”²⁸⁶ Similarly, the family of an activist killed in Negros said:

The CHR promised to give us financial help, but it’s hard for us to process all the necessary requirements to claim the money. We are just farmers, we live a very humble life here in the province and for us to get the claim the money would be very tedious and very hard for us.²⁸⁷

The CHR does not provide any form of psychological support to families of victims or witnesses. In a case in which a child witnessed the killing, the mother said she requested counseling for her son and was told she would have to pursue it at her own expense.²⁸⁸

²⁸³ Human Rights Watch interview with Atty. Alberto B. Sipaco, Jr., Commission on Human Rights, Region XI, Davao City, February 11, 2011.

²⁸⁴ Human Rights Watch interview with Hipolito P. Deliguer, San Agustin, Surigao del Sur, March 15, 2011. Deliguer said, “The CHR has not contacted us or communicated with us in any way.”

²⁸⁵ Human Rights Watch interview with Sonia Santa Rosa, September 7, 2009.

²⁸⁶ Human Rights Watch interview with Porcino Tamondez, Davao del Norte, March 12, 2011.

²⁸⁷ Human Rights Watch interview with a relative, place name and date withheld. Often, NGOs assist victims’ families in this respect.

²⁸⁸ Human Rights Watch interview with a relative of a victim, place name and date withheld.

On occasion, CHR employees are subject to threats and harassment, particularly in cases in which the military or police are implicated. One regional director told Human Rights Watch that someone called him and advised him to “go slow,” because the suspect is a high-ranking officer.²⁸⁹

Office of the Ombudsman

The Office of the Ombudsman is a government body tasked with investigating complaints filed against government officers or employees and enforcing administrative, civil, and criminal liability.²⁹⁰ Formally independent of the executive branch and the armed forces, it is in a position to effectively investigate allegations of abuse by local government officials and security force personnel. However, it has a poor record when it comes to resolving complaints brought to its attention.

Human Rights Watch had found that the Office of the Ombudsman has done almost nothing to investigate the involvement of members of the security forces in extrajudicial killings and enforced disappearances during the administration of President Gloria Macapagal Arroyo. It is hoped that under the new ombudsman, not yet appointed at this writing, the office will actively investigate cases for prosecution.²⁹¹

Joint Monitoring Committee

The Joint Monitoring Committee, created under the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law, which the government and NDFP signed in 1998, is charged with monitoring implementation of the agreement by receiving complaints and making recommendations to the parties. The committee is to comprise six members and four observers, who are to be representatives of human rights organizations, half of whom the government is to appoint, half of whom the NDFP is to appoint.²⁹² It is to operate by consensus, receiving complaints of violations, requesting investigation of complaints by the party concerned, and making recommendations.

²⁸⁹ Human Rights Watch interview with head of regional office, Commission on Human Rights, place name and date withheld.

²⁹⁰ Republic Act. No. 6770 of the Philippines, sec. 13, Philippines Constitution 1987, art. XI, sec. 12.

²⁹¹ The overall deputy ombudsman, Orlando C. Casimiro, is currently acting ombudsman. He is also covering the vacant offices of deputy ombudsman for Luzon and deputy ombudsman for military and other law enforcement offices. The president is to appoint the ombudsman from a list of at least six nominees prepared by the Judicial and Bar Council. At this writing, the Judicial and Bar Council has not submitted this list to the president. The ombudsman shall serve for a term of seven years without reappointment. Constitution of the Republic of the Philippines, 1986, secs. 8-11.

²⁹² Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL), between the Government of the Republic of the Philippines and the National Democratic Front of the Philippines, including the Communist Party of the Philippines and the New People’s Army, August 7, 1998, part 5.

Although the committee was formed in 2004, peace negotiations collapsed later that year and the government was not willing to convene the committee outside of peace talks. The government and NDFP-nominated sections of the committee continued to operate, however, receiving complaints and making some queries to act on them. The committee reconvened during the February 2011 formal peace talks and discussed the supplemental guidelines for the committee's operation, the process for consolidating complaints received thus far, and parameters for the conduct of joint investigations.²⁹³

²⁹³ The Joint Statement of GPH-CPP-NPA-NDF at the Conclusion of the Current Round of Peace Talks in Oslo, Norway, February 21, 2011, <http://gphndfpeacetalks.wordpress.com/2011/03/08/joint-statement-of-gph-cpp-npa-ndf-at-the-conclusion-of-the-current-round-of-peace-talks-in-oslo-norway/> (accessed May 6, 2011).

V. Legal Framework

Duty to Investigate and Prosecute Human Rights Violations

Under international law, the Philippines has a duty to investigate serious violations of international human rights law and punish the perpetrators.²⁹⁴ As a state party to the International Covenant on Civil and Political Rights (ICCPR), the Philippines has an obligation to ensure that any person whose rights are violated “shall have an effective remedy” when government officials or agents have committed the violation. Those seeking a remedy shall have this right determined by competent judicial, administrative, or legislative authorities. When granted, these remedies shall be enforced by competent authorities.²⁹⁵

In accordance with the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, all suspected cases of unlawful killings, including in response to complaints by relatives and reliable reports, should have a “thorough, prompt and impartial investigation.” This investigation should “determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death.” The investigation should result in a publicly available written report.²⁹⁶

The United Nations has developed guidance for the investigation of extrajudicial executions, the Model Protocol for a Legal Investigation of Extra-legal, Arbitrary and Summary Executions (“Minnesota Protocol”). The Minnesota Protocol, drawing on lessons learned from major inquiries into serious human rights violations, details procedures for conducting investigations consistent with international law. They include:

Where the political views, religious or ethnic affiliation, or social status of the victim give rise to suspicion of government involvement or complicity in the death because of any one or combination of the following factors:

- (i) Where the victim was last seen alive in police custody or detention;

²⁹⁴ The duty to try and punish those responsible for grave violations of human rights has its legal basis in such treaties as the International Covenant on Civil and Political Rights (art.2); and the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (arts. 4, 5, and 7).

²⁹⁵ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), entered into force March 23, 1976, art. 2. The Philippines ratified the ICCPR in October 1986.

²⁹⁶ Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, E.S.C. res. 1989/65, annex, 1989 U.N. ESCOR Supp. (No. 1) at 52, U.N. Doc. E/1989/89 (1989), <http://www1.umn.edu/humanrts/instree/i7pepi.htm> (accessed May 13, 2011).

- (ii) Where the modus operandi is recognizably attributable to government-sponsored death squads;
- (iii) Where persons in the government or associated with the government have attempted to obstruct or delay the investigation of the execution;
- (iv) Where the physical or testimonial evidence essential to the investigation becomes unavailable.

... [A]n independent commission of inquiry or similar procedure should also be established where a routine investigation is inadequate for the following reasons:

- (i) The lack of expertise; or
- (ii) The lack of impartiality; or
- (iii) The importance of the matter; or
- (iv) The apparent existence of a pattern of abuse; or
- (v) Complaints from the family of the victim about the above inadequacies or other substantial reasons.²⁹⁷

The Philippines has not signed or ratified the 2006 International Convention for the Protection of All Persons from Enforced Disappearance, which sets out specific standards on preventing and punishing enforced disappearances.²⁹⁸ The convention is based on the 1992 UN Declaration on the Protection of All Persons from Enforced Disappearances.²⁹⁹ Enforced disappearances are a grave threat to the right to life and violate many fundamental rights, including the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment.³⁰⁰ States should “take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance” in their territory.³⁰¹ Acts of enforced disappearance should be criminal offenses punishable by penalties that take into account their extreme seriousness.³⁰²

²⁹⁷ United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, U.N. Doc. E/ST/CSDHA/.12 (1991), <http://www1.umn.edu/humanrts/instreet/executioninvestigation-91.html> (accessed May 13, 2011).

²⁹⁸ International Convention for the Protection of All Persons from Enforced Disappearance (Convention against Enforced Disappearance), adopted September 23, 2005, E/CN.4/2005/WG.22/WP.1/Rev.4 (2005).

²⁹⁹ Declaration on the Protection of All Persons from Enforced Disappearances (Declaration on Enforced Disappearances), G.A. res. 47/133, 47 U.N. GAOR Supp. (No. 49) at 207, U.N. Doc. A/47/49 (1992), adopted by General Assembly resolution 47/133 of 18 December 1992.

³⁰⁰ Declaration on Enforced Disappearances, art. 1.

³⁰¹ *Ibid.*, art. 3.

³⁰² *Ibid.*, art. 4. The Declaration on Enforced Disappearances also includes provisions intended to reduce the likelihood of enforced disappearances and resolve ongoing cases.

Individuals who order extrajudicial killings or enforced disappearances can be held criminally liable. In addition, under international principles of command (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 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.³⁰³

Philippine National Law

In line with international standards, the Philippine Constitution guarantees fundamental human rights, including the right to life, liberty, and security of person, the right to a fair trial, and a prohibition against torture.³⁰⁴

Most abuses detailed in this report would be covered by criminal offenses found in the Philippines criminal code, including murder, kidnapping and serious illegal detention, and arbitrary detention.³⁰⁵

The Anti-Torture Act of 2009 criminalizes “torture and other cruel, inhuman and degrading treatment or punishment,” and provides remedies and redress for victims of torture.³⁰⁶ It prohibits secret detention places, solitary confinement, incommunicado, or other forms of detention where torture may be carried out with impunity.³⁰⁷ As a preventative measure, it requires the PNP and the AFP to make an updated list of all detention facilities under their jurisdiction together with information on persons detained.³⁰⁸ Although partly addressed by other offenses, there is no specific crime of enforced disappearance in the Philippine criminal code.

³⁰³ Command responsibility and its elements are well-established under customary international law. See International Criminal Court for the former Yugoslavia, *Delalic and Others*, Judgment, IT-96-21-T, Nov. 16, 1998, sec. 333. See e.g., Rome Statute of the International Criminal Court, art. 28; First Additional Protocol of 1977 to the Geneva Conventions, art. 86(2). The Convention against Torture in articles 4 and 16 provide that superior officials may be found guilty of complicity or acquiescence if they knew or should have known of torture or ill-treatment practiced by persons under their command. See Manfred Nowak and Elizabeth McArthur, *The United Nations Convention Against Torture: A Commentary* (Oxford: Oxford Univ. Press, 2008), p. 248.

³⁰⁴ 1987 Constitution of the Republic of the Philippines, art. III, sec. 12.

³⁰⁵ Republic Act No. 3815 of the Philippines, The Revised Penal Code of the Philippines, arts. 248 (murder), 249 (homicide), 335 (rape), 342 (forcible abduction), 267 (kidnapping and serious illegal detention), 268 (slight illegal detention), 269 (unlawful arrest) 270 (kidnapping and failure to return a minor), 124 (arbitrary detention), 125 (delay in the delivery of detained persons to the proper judicial authorities), 125 (delaying release), 235 (maltreatment of prisoners), and 262, 263, 264, and 266 (physical injury offenses).

³⁰⁶ Republic Act No. 9745 of the Philippines, signed into law on November 10, 2009.

³⁰⁷ *Ibid.*, sec. 7.

³⁰⁸ *Ibid.*

Duties of Law Enforcement Officials and Prosecutors

Under Philippine law, police have a duty to protect lives and property, investigate and prevent crimes, arrest criminal offenders, bring offenders to justice and assist in their prosecution, and exercise powers of arrest, search, and seizure in accordance with the law, among others.³⁰⁹ PNP guidelines further detail the duties of police officers in crime scene investigations, including interviewing witnesses, gathering physical evidence, and arresting suspects, among other tasks.³¹⁰

The Philippine Code of Conduct and Ethical Standards for Public Officials and Employees mandates that all government employees, including police officers, attend to the problems of the public promptly.³¹¹ The code further specifies that public officials have a duty to respond to letters and requests by the public within 15 working days of receipt.³¹²

Under Administrative Order 181 of 2007, the National Prosecution Service is directed to work closely with police and NBI investigators from the start of a criminal investigation into an extrajudicial killing until the termination of the case in court, and the PNP and NBI are directed to consult with prosecutors at all stages of such investigations.³¹³ This order provides that a separate prosecutor should undertake the preliminary investigation of the case, to protect the independence of this process. In determining whether a killing is a political offense, agencies are to consider the political affiliation of the victim, the method of attack, and reports state agents are involved in the commission of the crime or have acquiesced in them.³¹⁴ This order was never implemented in the absence of implementing rules and regulations.

Further, Administrative Order 249 of 2008 provides that the Department of Justice is “to exhaust all legal means for the swift and just resolution of cases of alleged human rights violations against political and media personalities, and leaders in the labor, urban poor, and agricultural sectors, and to ensure that the perpetrators are held accountable before the law.”³¹⁵

³⁰⁹ Republic Act No. 6975 of the Philippines, Chapter III, sec. 24.

³¹⁰ PNP Operational Procedures, 2010, Rule 18. PNP Crime Scene Response Procedures.

³¹¹ Republic Act No. 6713 of the Philippines.

³¹² Republic Act No. 6713 of the Philippines, sec 5: Duties of Public Officials and Employees. “In the performance of their duties, all public officials and employees are under obligation to (a) Act promptly on letters and requests. All public officials and employees shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public. The reply must contain the action taken on the request.”

³¹³ Administrative Order 181, July 3, 2007.

³¹⁴ These factors are outlined in the Supreme Court’s administrative order 25-2007.

³¹⁵ Administrative Order No. 249, sec. (1)(a), December 10, 2008.

Command Responsibility

Command responsibility for criminal offenses was integrated into Philippine criminal law in December 2009 by Republic Act No. 9851.³¹⁶ Some academics have argued that prior to the passage of this act, command responsibility was already incorporated into Philippine law.³¹⁷ However, to date, no superior officer has been tried as a matter of command responsibility in the Philippines.³¹⁸

Supervising officers can also be held administratively accountable for neglect of duty under the doctrine of command responsibility under Executive Order No. 226 (1995).³¹⁹

³¹⁶ The president signed Republic Act No. 9851 of the Philippines into law December 11, 2009. Section 10 provides, Responsibility of Superiors. "In addition to other grounds of criminal responsibility for crimes defined and penalized under this Act, a superior shall be criminally responsible as a principal for such crimes committed by subordinates under his/her effective command and control, or effective authority and control as the case may be, as a result of his/her failure to properly exercise control over such subordinates, where:

(a) That superior either knew or, owing to the circumstances at the time, should have known that the subordinates were committing or about to commit such crimes;

(b) That superior failed to take all necessary and reasonable measures within his/her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution."

See also Republic Act No. 9745, sec. 13.

³¹⁷ Prof. Diane Desierto, "The Contours of Command Responsibility: Philippine Incorporation and Customary Evolution," *Asia-Pacific Yearbook of International Humanitarian Law*, vol. 2, no. 2, 2006, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1485557 (accessed June 1, 2010).

³¹⁸ At a meeting with then Justice Secretary Agnes Devanadera in October 2009, at which time Republic Act No. 9851 remained before the Congress, Justice Department officials told Human Rights Watch that command responsibility is relevant only to disciplinary proceedings. Human Rights Watch meeting with Agnes Devanadera, Secretary for Justice, Rolando B. Fallar, Chief of Staff, Department of Justice, Atty. Nestor Mantaring, NBI Director, Undersecretary Ricardo Blancaflor, Task Force 211, Leo Dacera, Director, Witness Protection, Manila, October 20, 2009. Then Chief Prosecutor Jovencito Zuño said that command responsibility is not really a theory in criminal law in the Philippines. When asked whether he would consider bringing a test case, utilizing ordinary principles of criminal responsibility in conjunction with international humanitarian law principles of command responsibility, he said he might, but he was concerned that then even the president may be a commander. Human Rights Watch meeting with Chief Prosecutor Jovencito Zuño, Manila, October 21, 2009.

³¹⁹ Executive Order 226, Institutionalization of the doctrine of "Command Responsibility" in all Government Offices, Particularly At All Levels Of Command In The Philippine National Police and other law enforcement agencies, sec. 1 provides: "Neglect of Duty Under the Doctrine of 'Command Responsibility.'" Any government official or supervisor, or officer of the Philippine National Police or that of any other law enforcement agency shall be held accountable for "Neglect of Duty" under the doctrine of "command responsibility" if he has knowledge that a crime or offense shall be committed, is being committed, or has been committed by his subordinates, or by others within his area of responsibility and, despite such knowledge, he did not take preventive or corrective action either before, during, or immediately after its commission."

VI. Role of the International Community

Bilateral trade partners and donors to the Philippines should encourage the Philippine government to vigorously investigate extrajudicial killings and enforced disappearances, prosecute perpetrators regardless of position or rank—including under principles of command responsibility—and implement systemic reforms to prevent such abuses in the future.

Pressure from the international community was effective in reducing extrajudicial killings in the Philippines in the past. In 2006, at the height of the killings under the administration of President Arroyo, the United States, Japan, and the European Union, among others, condemned the widespread killings in the Philippines and pressed the government to take action. This followed a high-profile visit from the then-UN special rapporteur on extrajudicial executions, Philip Alston, and his subsequent report. Although killings continued, in 2008 the numbers fell drastically to about 30 percent of previous levels.³²⁰

A month after the April 2009 follow-up report by Alston, President Arroyo abolished the Inter-Agency Legal Action Group, implementing one of Alston's recommendations. Alston had reported that the inter-agency group had used prosecutions to dismantle civil society organizations and political groups that the government deemed to be front organizations for the Communist Party of the Philippines.³²¹

Despite the positive results that its pressure had generated in the past, the international community has been near silent on extrajudicial killings and enforced disappearances since President Aquino came to office in June 2010.

The US is the Philippines' most influential ally and, together with Australia and Japan, one of its three largest bilateral donors, yet the Obama administration has been largely silent on extrajudicial killings. Up until the release of the US State Department's annual human rights report in April 2011, the US government had failed to publicly raise military abuses including extrajudicial killings and enforced disappearances since Aquino took office.

³²⁰ The highest documented numbers of alleged extrajudicial killings of leftist activists were 220 in 2006, 94 in 2007, and 64 in 2008. UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Addendum: Follow-up country recommendations – Philippines, A/HRC/11/2/Add.8, April 29, 2009, para 7.

³²¹ *Ibid.*, para 29.

This silence extended to US Ambassador Harry Thomas, Jr.'s address on April 5, 2011, at the opening of the 27th Balikatan exercises—annual joint US-Philippines military exercises designed to promote professionalism—which was just days before the launch of the human rights report. As these exercises indicate, the United States maintains considerable military ties with the Philippines. The US armed forces have access to specified land and sea areas under a Visiting Forces Agreement. In fiscal year for 2009-2010 the US government authorized US\$32 million to be provided to the Philippines under Foreign Military Financing for procurement of US military equipment, services, and training. Under US appropriations law, US\$2 million is contingent on the Philippine government showing progress in addressing human rights violations, including extrajudicial killings.³²²

Australia signed a Status of Visiting Forces Agreement with the Philippines in May 2007; this agreement remains before the Philippine Senate. On June 17, 2010, the Australian embassy in Manila hosted a policy forum on human rights at which experts discussed the problem of extrajudicial killings.

In October 2009, the EU announced a €3.9 million (US\$5.5 million) program to address extrajudicial killings and strengthen the criminal justice system by providing training and technical assistance in 2009-2011. A considerable component of this program was directed at improving police investigation skills. The EU's police expert worked with Philippine police to develop a criminal investigation manual, a field manual for crime scene investigations, and a case management manual, to develop a training of trainers course—pursuant to which at least two investigators at each police station are to be trained by the end of 2011, and conducted workshops on case management, which involved reviewing investigations of numerous extrajudicial killings.

Ongoing plans exist to work with the Philippine National Police to develop a new criminal intelligence system for extrajudicial killings and enforced disappearance cases, including a national database of missing persons corroborated with medical and dental records.

However, since Aquino took office, EU ambassadors have not matched this investment in training with persistent advocacy for improvements. Capacity building alone is not enough. None of the investigators have implemented recommendations of the EU's police expert or Task Force Usig, which came out of the case management workshops.

³²² H.R. 3081: Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010, sec. 7070(f).

VII. Action Required on Extrajudicial Killings and Enforced Disappearances

The Philippine government should promptly act to investigate and prosecute each of the extrajudicial killings and enforced disappearances outlined in this report. Outlined below are several initial steps that the government should take in relation to each of these abuses.

Killing of Fernando “Nanding” Baldomero, July 5, 2010

- National Bureau of Investigation (NBI) investigators should investigate military involvement in the killing of Fernando Baldomero. In particular, they should search for witnesses who saw soldiers around Baldomero’s residence in the days and weeks before he was killed, and investigate threats the military made against him.
- Police and NBI investigators should actively work to serve the arrest warrant against Dindo Lovon Ancero.
- The Department of Justice should act to protect witnesses to the killing. In particular, officials in charge of witness protection should meet with witnesses and discuss what measures can be taken, within the confines of the witness protection program, which would be acceptable for the witnesses and particularly the child witness.
- Internal police investigators should investigate police officers in Aklan who refused to pursue evidence of military involvement and consider disciplinary measures for insubordination or a criminal investigation for obstruction of justice or graft and corruption.
- In conjunction with other relevant government agencies, including the Department of Social Welfare and Development (DSWD), the Commission on Human Rights (CHR) should offer the witnesses, particularly the child witness, counseling and psycho-social support.

Killing of Pascual Guevarra, July 9, 2010

- Police and NBI investigators should investigate the involvement of Department of Public Works and Highways (DPWH) staff and military involvement in the killing, including subpoenaing any relevant public documents, interviewing soldiers, and compelling departmental staff to cooperate with the investigation.
- DPWH should investigate its staff for failing to cooperate with a police investigation and, if appropriate, commence disciplinary proceedings.

- The Justice Department should discuss with the victim’s family and witnesses any concerns about their safety and take steps to protect them if necessary.

Enforced Disappearance of Agustito Ladera and Renato Deliguer, August/September 2010

- Police and NBI investigators should vigorously investigate the disappearance of Agustito Ladera and Renato Deliguer, including by interviewing all people with information about the disappearances, canvassing for witnesses in areas surrounding the farms, questioning soldiers who were involved in operations in the area, and having crime scene experts examine the Ladera and Deliguer farms.
- The AFP inspector general and provost marshal should independently investigate the disappearances, publicly report findings, and commence disciplinary proceedings against any military personnel as appropriate.
- The CHR should actively investigate the disappearances, provide appropriate assistance to the families, and recommend to the Justice Department any charges that should be brought.
- Internal police investigators should investigate police officers in Surigao del Sur who failed to properly investigate these disappearances and consider disciplinary measures for insubordination or a criminal investigation for obstruction of justice or graft and corruption.
- The AFP should investigate the commander of the 36th IB for failing to comply with a request to appear before the Sangguniang Panlalawigan Committee on Laws and Justice and Human Rights in Surigao del Sur on October 4, 2010, and, if appropriate, bring disciplinary proceedings.
- The NBI and police directors should investigate regional directors for failing to respond to correspondence from the Sangguniang Panlalawigan Committee on Laws and Justice and Human Rights and issue directives to require personnel to comply with such inquiries in future.

Killing of Reynaldo “Naldo” L. Labrador, September 3, 2010

- Police and NBI investigators should investigate military involvement in the killing of Reynaldo Labrador, including by canvassing for witnesses who saw the alleged soldier who was with Roberto “Kulot” Repe and questioning military personnel.
- The Justice Department should discuss with the victim’s family and witnesses any concerns about their safety and take steps to protect them if necessary.

- The CHR should actively investigate the killing and threats against the family and other residents in Paquibato district, provide appropriate assistance to the families, and recommend to the justice department any charges that should be brought.

Killing of Rene “Toto” Quirante, AUFATM#, 2010

- The PNP should send an independent team to serve arrest warrants against Dandy Quilanan, a CAFGU member, and Junel Librado, a former member of the NPA allegedly working as a “guide” for the military.
- NBI investigators should investigate the killing of Rene Quirante with the aim of identifying the six unidentified soldiers whom witnesses have testified were involved in the killing.
- The Justice Department should discuss with the victim’s family and witnesses any concerns about their safety and take steps to protect them if necessary.
- The CHR should actively investigate the killing and threats against the family, provide appropriate assistance to the families, and recommend to the Justice Department any charges that should be brought.
- PNP headquarters should investigate why police investigators did not visit and examine the scene of the crime, and take steps to ensure that investigators examine such crime scenes in future.

Killing of Ireneo “Rene” Rodriguez, November 7, 2010

- NBI investigators should investigate Air Force involvement in the killing of Ireneo Rodriguez. In particular, they should investigate the Air Force personnel that attempted to visit Rodriguez days before he was killed and canvass for witnesses close to where he was killed.
- The AFP inspector general and provost marshal should independently investigate the killing, publicly report findings, and commence disciplinary proceedings against any Air Force personnel as appropriate.
- The Justice Department should discuss with the victim’s family and witnesses any concerns about their safety and take steps to protect them if necessary.
- The CHR should actively investigate the killing and threats against the family, provide appropriate assistance to the family, and recommend to the Justice Department any charges that should be brought.

Enforced Disappearance of Alfredo Bucal, November 10, 2010

- NBI investigators should investigate Air Force and police involvement in the killing of Alfredo Bucal. In particular, they should individually interview each member of the police and Air Force that was present at the checkpoint in *barangay* Lutal, Tuy, Batangas and investigate how Bucal's tricycle ended up in police possession.
- NBI investigators should investigate all reports of Air Force and police personnel threatening witnesses with view to filing charges.
- The AFP and PNP inspector general and provost marshal should independently investigate the disappearance and the shooting at the check point, publicly report findings, and commence disciplinary proceedings against any military and police personnel as appropriate.
- Internal police investigators should investigate police officers in Batangas who did not actively investigate this disappearance and consider disciplinary measures for insubordination or a criminal investigation for obstruction of justice or graft and corruption.
- The Justice Department should discuss with the victim's family and witnesses any concerns about their safety and take steps to protect them if necessary.
- The CHR should actively investigate the killing and threats against the family, provide appropriate assistance to the family, and recommend to the justice department any charges that should be brought.

Killing of Rudy and Rudyric Dejos, February 27, 2011

- NBI investigators should investigate military involvement in the killing of Rudy and Rudyric Dejos. In particular, they should investigate threats made by the military against Rudy Dejos.
- The AFP inspector general and provost marshal should independently investigate the killings, publicly report findings, and commence disciplinary proceedings against any military personnel as appropriate. They should also investigate the 39th IB's presence at the Dejos' wake and funeral march, commence discipline commanders as appropriate, and issue directives not to attend such events other than in exceptional circumstances.
- Internal police investigators should investigate police officers in Sta. Cruz, Davao del Sur, who did not actively investigate these killings and consider disciplinary measures for insubordination or a criminal investigation for obstruction of justice or graft and corruption.
- PNP headquarters should investigate reports that police investigators did not visit and examine the scene of the crime, and that the local police director chose not to

seek Scene of Crime Operatives (SOCO) assistance and take steps to ensure that investigators thoroughly examine such crime scenes in future.

- The Justice Department should discuss with the victim's family and witnesses any concerns about their safety and take steps to protect them if necessary.
- The CHR should actively investigate the killing and threats against the family, provide appropriate assistance to the family, and recommend to the Justice Department any charges that should be brought.

Killing of Bacar and Carmen Japalali, September 8, 2004

- The Department of Justice should review the dismissal of charges against 24 of the 32 soldiers accused of killing Bacar and Carmen Japalali and consider bringing new charges.
- Police investigators should investigate the Regional Trial Court judge who dismissed charges against 24 of the 32 accused soldiers, without a motion from the defense, for obstruction of justice or graft and corruption.

Enforced Disappearance of Sherlyn Cadapan, Karen Empeño, and Manuel Merino, June 26, 2006

- The Department of Justice should work with the police, NBI, and CHR to gather evidence and file charges against those that the Supreme Court has named as apparently responsible for the abduction and continued detention of Sherlyn Cadapan, Karen Empeño, and Manuel Merino—being Lt. Col. Anotado, Lt. Mirabelle, Gen. Palparan, Lt. Col. Boac, Arnel Enriquez, and Donald Caigas.
- Police and NBI investigators should urgently exert all necessary measures to locate the missing three.
- NBI investigators should investigate military commanders for involvement in the abduction and continued detention of the three and the cover up of these crimes.
- The Department of Justice should act to protect witnesses to the abduction and continued detention.
- Internal police investigators should investigate police officers who refused to investigate this “disappearance” and consider disciplinary measures for insubordination or a criminal investigation for obstruction of justice or graft and corruption.
- In conjunction with other relevant government agencies, including the Department of Social Welfare and Development (DSWD), the Commission on Human Rights (CHR)

- should offer the witnesses and the victims' families counseling and psycho-social support.
- The Supreme Court should investigate why it took more than two years to decide on this case and take steps to avoid such delays on writ of amparo and habeas data cases in the future.

VIII. Recommendations

The Philippine government could implement several recommendations immediately. Others should be instituted without delay but can be expected to take longer to fully implement.

To demonstrate resolve about ending extrajudicial killings and enforced disappearances and holding perpetrators accountable, President Aquino should immediately:

1. Order the Philippine National Police (PNP) and the National Bureau of Investigation (NBI) to take all necessary steps to investigate and serve outstanding arrest warrants in the cases discussed in this report.
2. Issue an executive order directing police and NBI investigators to vigorously pursue crimes allegedly committed by the military or themselves be subject to disciplinary measures.
3. Order the inspector general and 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 thus far prosecute officers under principles of command responsibility.
4. Order the military to cease targeting all civilians, to cease the practice of denying military involvement in all extrajudicial killings and to cease labeling leftist groups as fronts for the CPP-NPA, which places group members at considerable risk.
5. Communicate fully to all military personnel that officers and soldiers who provide evidence or testimony in cases of human rights violations that they will be eligible for witness protection and other measures to ensure their safety.

To the President of the Philippines

- Issue an executive order directing police and National Bureau of Investigation (NBI) investigators to vigorously pursue crimes allegedly committed by the military, or themselves be subject to disciplinary measures for insubordination or a criminal investigation for obstruction of justice or graft and corruption.
- Direct the Armed Forces of the Philippines (AFP) to take all necessary measures to end military involvement in extrajudicial killings.
- Ensure AFP compliance at all levels with investigations of other agencies, including the police, NBI, Commission on Human Rights (CHR), the ombudsman, and inquiries by legislative bodies and other public officials.

- Produce a plan for the implementation of the recommendations contained in the reports of the United Nations special rapporteur on extrajudicial, summary, or arbitrary executions, the Melo Commission, and human rights NGOs reporting on extrajudicial killings.
- Ask congress to create a nationwide emergency assistance number for family members and witnesses to killings and “disappearances.”
- Sign the International Convention for the Protection of All Persons from Enforced Disappearance, and transmit to the Senate for prompt ratification.
- Invite the UN Working Group on Enforced or Involuntary Disappearances and the special rapporteur on human rights defenders to visit the Philippines.

To the Department of Justice

- Direct the NBI to give priority to investigating alleged extrajudicial killings and other serious abuses that may involve government officials, security forces, or militia forces.
- Direct the NBI to investigate the role of senior military officials in extrajudicial killings and enforced disappearances, including retired Gen. Jovito Palparan—in line with a 2004 recommendation of the Committee on Civil, Political and Human Rights of the House of Representatives that the Department of Justice investigate then-Col. Jovito Palparan and similar recommendations from several other bodies.
- Direct the NBI to investigate and report publicly within 90 days on the failure of police to adequately investigate military involvement in extrajudicial killings and enforced disappearances, including threats and harassment of investigators who try to conduct proper investigations. Conduct such an investigation in a manner that ensures the safety of those providing information.
- Broaden the witness protection program to ensure that it is accessible, flexible, and properly funded. Implement mechanisms for witnesses to change identity, transfer locations other than their places of residence, including to other provinces, for as long as necessary. This program should provide protection for witnesses from the onset of a police investigation until after trial, when necessary.
- Institute measures for witnesses to offer testimonies safely, while protecting the rights of defendants, for example by using video-conferenced testimonies, closed courtrooms, or depositions.
- In cooperation with the Department of Interior and Local Government, circulate an explicit set of operational guidelines for the police regarding:
 - Individual police officer’s duties to provide protection to witnesses and individuals who report threats on their lives;

- Information to provide to witnesses about the witness protection program and at what stages to provide this information;
- Clear sanctions for officers who fail to provide necessary protection in conformity with these guidelines.
- Order Task Force 211 or an alternative body in the Department of Justice tasked with monitoring extrajudicial killings and enforced disappearances to publish a list of all cases under its mandate and the status of the case. Publish regular and frequent status reports on all cases.
- Produce and disseminate information for victims of crime that explains their legal rights, such as the state's requirement to pay for autopsies in alleged murder cases and to be informed of the status of relevant investigations. Adopt mechanisms to facilitate the filing of complaints by people whose rights have been infringed by law enforcement officers.
- Improve access to social services such as medical care, including counseling, and legal aid for victims of and witnesses to serious human rights violations.

To the Department of Interior and Local Government

- Direct police to consult with prosecutors regarding the collection of evidence in alleged extrajudicial killings and enforced disappearances to bring all the perpetrators to justice.
- In cooperation with the Department of Justice, circulate an explicit set of operational guidelines for the police regarding:
 - Individual police officer duties to provide protection to witnesses and individuals who report threats on their lives;
 - Information to provide to witnesses about the witness protection program and at what stages to provide this information;
 - Clear sanctions for officers who fail to provide necessary protection in conformity with these guidelines.

To the Supreme Court

- Order all trial courts to comply with the procedures under Supreme Court Administrative Order 25-2007 in extrajudicial killing cases, which means they must:
 - Complete trials in extrajudicial killing cases within 60 days of when the case is filed in court, and render judgment within a further 30 days.

- Submit to the chief justice of the Supreme Court a list of such cases and a report on their status monthly. The chief justice should publish a quarterly report on the status and progress of such cases.
- To overcome difficulties identifying extrajudicial cases in which Administrative Order 25-2007 applies, order all trial courts to expedite the disposition of murder, homicide, and kidnapping cases in which a police officer, member of the Armed Forces of the Philippines or paramilitary force, or government official is implicated, and to hear such cases on a continuous basis.
- Order all courts to expedite writ of amparo cases—including the Supreme Court—to hear and decide them within five days, be they in the first instance or on appeal.

To the Philippine National Police

- Promptly and fully investigate all alleged cases of extrajudicial killings and enforced disappearances, including those discussed in this report.
- Seek to establish command responsibility during investigations of alleged extrajudicial killings, enforced disappearances, and other serious human rights violations.
- Through Task Force Usig, work with all police agencies to coordinate investigations of extrajudicial killings and enforced disappearance cases, and to routinely follow up ongoing cases. In particularly complex or politically sensitive cases of human rights violations, bring in specially qualified investigators from outside the area to assist in the investigation.
- Order Task Force Usig to publish a list of all cases under its mandate and the status of the cases. Publish regular and frequent status reports.
- Review “closed” cases of alleged extrajudicial killings that have not resulted in convictions with a view to identifying and obtaining new evidence and bringing prosecutions.
- Open hotlines or comparable lines of communication to receive anonymous information on abuses perpetrated by local government officials and security force members.
- Sanction officers who do not thoroughly and promptly investigate alleged human rights violations.
- Develop a national database on missing persons, corroborated with medical and dental records.
- Draft specific protocol for police officers to ensure full cooperation with prosecutors and other government officials, particularly in human rights cases. The protocol should be incorporated in the relevant police manual.

- Make operational procedures, the investigators' manual, and other guidelines setting out duties of police officers easily accessible to the public. Ensure that the guidelines place a duty on law enforcement officers to investigate alleged crimes irrespective of whether a formal complaint has been filed.
- Create standards for file management of criminal cases including the chronological documentation of all police and judicial intervention measures that have been met.
- Sanction officers who fail to provide necessary witness protection in accordance with the law.

To the Armed Forces of the Philippines

- Cease all targeting of civilians, and extrajudicial killings and enforced disappearances of all persons in custody.
- Issue a public order to all forces stating clearly that political activists, unionists, and members of civil society groups are to be distinguished from combatants involved in the armed conflict.
- Fully assist all prosecutorial authorities in apprehending members of the armed forces, regardless of rank, implicated in extrajudicial killings and other serious human rights violations.
- End abusive uses of intelligence lists of suspected NPA/ CPP members, known as "orders of battle" and "watch lists." Hold commanding officers responsible for abuses committed against individuals placed on such lists. Issue public guidelines that would permit a person who suspects they are named on such a list to challenge their inclusion before a civilian authority.
- Fully comply with all inquiries by investigative bodies including legislative committees and public officials.
- Cease the routine denial of involvement in reported cases of extrajudicial killings and enforced disappearances. Instead, condemn such abuses and order the Inspector General and the Provost Marshal to promptly and impartially investigate.
- Suspend military personnel implicated in extrajudicial killings or enforced disappearances while an investigation is ongoing.

To the National Bureau of Investigation

- Give priority to investigating alleged extrajudicial killings and other serious human rights violations that may involve government officials, security forces, or militia forces.

- Investigate the involvement of senior military officials in ordering and failing to investigate extrajudicial killings and enforced disappearances, including the role of retired Gen. Jovito Palparan.

To the Philippine Congress

- Conduct hearings on the involvement of the AFP in ordering and perpetrating extrajudicial killings and enforced disappearances. Provide necessary protections to all those who provide information.
- Enact legislation to prohibit and protect against enforced disappearances.
- Conduct committee hearings on best practices for preserving the testimonies of witnesses to extrajudicial killings and enforced disappearances and enact appropriate legislation to establish the necessary mechanisms for this purpose.
- In line with House bills 265 and 1123 of the 14th Congress, enact legislation mandating autopsy examinations in all cases of suspected extrajudicial killings.
- Pass a resolution urging the president to promptly sign the International Convention for the Protection of All Persons from Enforced Disappearance and file it with the Senate for ratification.

To the Commission on Human Rights

- Investigate and report publicly and promptly on cases of alleged extrajudicial killings and enforced disappearances.
- Publish regular and frequent lists of all cases of killings and abductions in which police, military, or other government officials are suspected, including when the case was referred to the office and the status of the case.
- Investigate and report publicly within 90 days on obstacles to investigations of extrajudicial killings and the enforced disappearances, particularly collusion between the police and military. Provide all necessary safeguards to those willing to provide information.

To the Office of the Ombudsman

- Investigate police, military, and other government officials, regardless of rank, suspected of perpetrating extrajudicial killings and enforced disappearances.
- Publish regular and frequent lists of all cases of killings and abductions in which police, military, or other government officials are suspected, including when the case was referred to the office and the status of the case.

To the New People’s Army/Communist Party of the Philippines

- Cease all targeting of civilians, and the killing of all persons in custody.
- Consistent with the above, provide safe passage to police and NBI investigators who are investigating extrajudicial killings, enforced disappearances, or other serious abuses.

To the Joint Monitoring Committee

- Expedite the drafting of supplemental guidelines for the committee’s operation, the process for consolidating complaints received thus far, and parameters for the conduct of joint investigations between the NDFP and the government monitoring committees. Ensure that all processes and investigations are transparent.
- Promptly commence conducting joint investigations into serious abuses by all sides.

To Donors and External Partners, including the United States, European Union, Japan, Australia, the World Bank, and the Asian Development Bank

- To promote human rights, the rule of law, and good governance in the Philippines, press the Philippine government to initiate investigations into the involvement of senior military officials in extrajudicial killings and enforced disappearances perpetrated by military personnel, and prosecute the perpetrators.
- All programs to assist the PNP or AFP should vet all participating police officers and military personnel to ensure that they have not been implicated or complicit in extrajudicial executions, enforced disappearances, or other serious human rights abuses. The vetting process should be transparent.
- Offer to support external law enforcement assistance with investigations into serious human rights violations, particularly in forensic analysis, witness protection, case preparation, and tracing of fugitives.
- Support NGOs that work with victims’ families to closely follow individual cases and push for thorough investigations, filing of cases, execution of arrest warrants, and protection of the families and witnesses.

To the United States, European Union Member States, Japan, Australia, and other Concerned Governments

- Publicly press the Philippine government to improve efforts to investigate and prosecute members of the military for extrajudicial killings and enforced disappearances, including those liable under command responsibility. Be clear that

failing to conduct full investigations and prosecutions will increasingly call into question aspects of the relationship with the Philippines.

- Through embassies in Manila, monitor Philippine government investigations of alleged extrajudicial killings and enforced disappearances.
- Offer to work with the Philippine government to provide witness protection abroad for witnesses who are under grave threat, in particular whistleblowers within the AFP.

To the United States Government

- Encourage the US Millennium Challenge Corporation to specifically include the Philippines' record in failing to prosecute extrajudicial killings and enforced disappearances as an indicator of the country's progress in the areas of civil liberties, political rights, accountability, and the rule of law. The Millennium Challenge Corporation should condition future funding to the Ombudsman's Office on the latter's prosecution of government officials for abuses within the office's mandate.
- The US Pacific Command, US Agency for International Development (USAID), Federal Bureau of Investigation (FBI), Department of Defense, Drug Enforcement Agency, International Criminal Investigative Training Assistance Program (ICITAP) , and all other US agencies that work with the PNP or AFP should vet all police officers and military personnel enrolling in US-funded programs in accordance with the Leahy Law to ensure that participants have not been implicated or complicit in extrajudicial executions, enforced disappearances, or other serious human rights abuses. The US government should consult NGOs and the Philippine Commission on Human Rights during this vetting process.
- Closely monitor the progress and effectiveness of police investigations into military abuses, particularly alleged extrajudicial killings and enforced disappearances, and the cooperation of the AFP with these investigations. If there is no progress in prosecuting military personnel for involvement in extrajudicial killings and enforced disappearances, the US should suspend the next annual bilateral Balikatan exercises.

IX. Appendix

Letter from Human Rights Watch to Justice Secretary Leila de Lima

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

ASIA DIVISION

Brad Adams, Executive Director
Elaine Pearson, Deputy Director
Sophie Richardson, Advocacy Director
Phil Robertson, Deputy Director
Kanao Doi, Japan Director
Meenakshi Ganguly, South Asia Director
Nicholas Bequelin, Senior Researcher
Sara Colm, Senior Researcher
Ali Dayan Hasan, Senior Researcher
David Mathison, Senior Researcher
Sumai Phasuk, Senior Researcher
Mickey Spiegel, Senior Researcher
Jessica Evans, Researcher
Phelim Kine, Researcher
Tejshree Thapa, Researcher
Pema Abrahams, Coordinator
Diana Parker, Associate
Jake Scooby-Thal, Associate
Ryo Yoshioka, Associate

ADVISORY COMMITTEE

David Lakhdhir, Chair
Orville Schell, Vice Chair

Maureen Aung-Thwin
Edward J. Baker
Harry Barnes
Robbie Barnett
Robert L. Bernstein
Jagdish Bhagwati
Jerome Cohen
John Despres
Mallika Dutt
Merle Goldman
Jonathan Hecht
Paul Hoffman
Sharon Hom
Rouaq Jahen
Joanna Leadom-Ackerman
Paury Link
Kimberly Marteau-Emerson
Krishen Mehta
Andrew J. Nathan
Yuri Orlov
Bruce Rabb
Belakrishnan Rajagopal
Victoria Riskin
Barnett Rubin
James Scott
Frances Seymour
Eric Stover
Ko-Yung Tung

HUMAN RIGHTS WATCH

Kenneth Roth, Executive Director
Michèle Alexander, Deputy Executive Director, Development and
Global Initiatives
Carroll Bogert, Deputy Executive Director, External Relations
Ian Levine, Deputy Executive Director, Program
Chuck Lutzig, Deputy Executive Director, Operations

Walid Ayoub, Information Technology Director
Emma Daly, Communications Director
Barbara Guglielmo, Finance and Administration Director
Peggy Hicks, Global Advocacy Director
Babatunde Oluogbalai, Deputy Program Director
Dinah Pokempner, General Counsel
Tom Porteous, Deputy Program Director
James Ross, Legal & Policy Director
Joe Saunders, Deputy Program Director
Frances Sinha, Human Resources Director
James F. Hoge, Jr., Chair

May 30, 2011

Hon. Leila de Lima
Secretary
Department of Justice
Padre Faura, Ermita
Manila 1000
The Philippines

Via facsimile: +63 2 524 5936

Re: Alleged extrajudicial killings and enforced disappearances

Dear Secretary de Lima,

I am writing to solicit your views for our research on extrajudicial killings and enforced disappearances in the Philippines, particularly those occurring since June 30, 2010.

As you are aware, Human Rights Watch is a nongovernmental organization based in New York that monitors violations of human rights by states and non-state actors in more than 80 countries around the world.

Human Rights Watch is committed to producing material that is well-informed and objective. We hope you and your staff would be able to answer the attached questions so that your views are accurately reflected in our reporting. In order for us to take your answers into account in our forthcoming report, we would appreciate a written response by June 20, 2011.

In addition, I will be visiting Manila in the coming months and would greatly appreciate meeting with you. My colleague will follow up with a formal request for a meeting once my travel dates are confirmed.

Please send your reply by email or fax to:

Diana Parker, Asia Associate
Human Rights Watch
1630 Connecticut Avenue, NW, Suite 500
Washington, DC 20009 USA
parkerd@hrw.org
+1-202-612-4333 (fax)

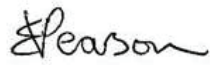
HUMAN
RIGHTS
WATCH

www.hrw.org

BERLIN • BRUSSELS • CHICAGO • GENEVA • LONDON • LOS ANGELES • MOSCOW • NEW YORK • SAN FRANCISCO • TORONTO • WASHINGTON

Thank you very much.

Sincerely,

A handwritten signature in black ink that reads "Pearson". The signature is written in a cursive style with a large, stylized 'P'.

Elaine Pearson
Deputy Director, Asia Division

Questions for Secretary de Lima

1. What challenges does the National Bureau of Investigation (NBI) face in investigating killings and abductions in which the military is implicated? How are these challenges being overcome?
2. What challenges does the Justice Department face in prosecuting alleged extrajudicial killings and enforced disappearances? How are these challenges being overcome?
3. According to Task Force 211, how many extrajudicial killings or enforced disappearances have been perpetrated since June 30, 2010? Please provide a list including the status of the investigations and prosecutions.
4. What reforms have you implemented to enhance investigations and prosecutions of alleged extrajudicial killings and enforced disappearances since you came to office?
5. What reforms have you implemented to hold accountable NBI investigators who do not comprehensively investigate military involvement in killings and abductions? Please provide specific details of any cases where NBI investigators have been held accountable.
6. What steps are taken to provide witnesses with accurate, complete information about the witness protection program at the earliest possible stage? Are there any department standards regarding what police officers should tell witnesses about witness protection and at what stage of the investigation they should provide this information? Are there any department standards regarding what prosecutors should tell witnesses about witness protection and at what stage they should provide this information?
7. In relation to the June 14, 2010, killing of Benjamin Bayles in Himamaylan City, Negros Occidental, can you explain why the accused have not been charged with illegal possession of firearms, considering that the firearms found in their possession were unregistered? Human Rights Watch understands that if the accused are found guilty of murder, that such a charge would be absorbed and become a sentencing consideration; however, why is such a charge not included at this stage?
8. What has been done to provide protection to the family of Fernando Baldomero, who was killed on July 5, 2010 in *barangay* Estancia, Kalibo, Aklan, since police withdrew protection in April 2011?

9. Please provide information regarding the status of NBI investigations and prosecutions into the following cases of alleged extrajudicial killings and enforced disappearances. For each case in which the NBI has been involved, please advise what the investigation has involved, the status of the investigation, and any challenges faced during the investigation. Please provide any investigation reports or other relevant documents. For investigations that have been suspended or discontinued, kindly provide the reasons for the suspension or discontinuation. For each case that has been filed with a prosecutor, please advise the status of the case and any challenges faced in the prosecution.

List of cases

- 1) The killing of Benjamin Bayles on June 14, 2010, in Himamaylan City, Negros Occidental
- 2) The killing of Fernando “Nanding” Baldomero on July 5, 2010 in *barangay* Estancia, Kalibo, Aklan
- 3) The killing of Pascual Guevarra on July 9, 2010, in *barangay* San Isidro, Laur, Nueva Ecija
- 4) The killing of Julius Tamondez on August 12, 2010, in Paquibato district, Davao City
- 5) The abduction and “disappearance” of Agustito Ladera and Renato Deliguer in late August or early September 2010, in *barangay* Mahaba, Marihatag, Surigao del Sur
- 6) The killing of Reynaldo “Naldo” L. Labrador on September 3, 2010, in Paquibato Proper, Paquibato district, Davao City
- 7) The killing of Vicente Felisilda on September 9, 2010, in Mawab, Compestela Valley
- 8) The killing of Rene “Toto” Quirante on September 30, 2010, in *barangay* Trinidad, Guihulngan, Negros Oriental
- 9) The killing of Ireneo “Rene” Rodriguez on November 7, 2010, in Balayan town, Batangas
- 10) The killing of Carlo “Caloy” Rodriguez on November 12, 2010, in Calamba City, Laguna
- 11) The abduction and “disappearance” of Alfredo Bukal on November 10, 2010, in *barangay* Lutal, Tuy, Batangas
- 12) The killing of Rudy and Rudyric Dejos on February 27, 2011, in Santa Cruz, Davao del Sur

Letter from Human Rights Watch to the Central Committee of the Communist Party of the Philippines

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

June 2, 2011



www.hrw.org

ASIA DIVISION

Bred Adams, Executive Director
Elaine Pearson, Deputy Director
Sophie Richardson, Advocacy Director
Phil Robertson, Deputy Director
Kanao Doi, Japan Director
Meenakshi Ganguly, South Asia Director
Nicholas Bequelin, Senior Researcher
Sara Colm, Senior Researcher
Ali Dayan Hasan, Senior Researcher
David Mathison, Senior Researcher
Samal Phasuk, Senior Researcher
Mickey Spiegel, Senior Researcher
Jessica Evans, Researcher
Phelim Kine, Researcher
Tejshree Thapa, Researcher
Pema Abrahams, Coordinator
Diana Parker, Associate
Jake Scobey-Thal, Associate
Riyo Yoshioka, Associate

ADVISORY COMMITTEE

David Lakhdhir, Chair
Orville Schell, Vice Chair

Maureen Aung-Thwin
Edward J. Baker
Harry Barnes
Robbie Barnett
Robert L. Bernstein
Jagdish Bhagwati
Jerome Cohen
John Deeres
Malika Dutt
Merle Goldman
Jonathan Hecht
Paul Hoffman
Sharon Hom
Rounaq Jahan
Joanna Leedom-Ackerman
Perry Link
Kimberly Marteau-Emerson
Krishan Mehta
Andrew J. Nathan
Yuri Orlov
Bruce Rabb
Balakrishnan Rajagopal
Victoria Riskin
Barnett Rubin
James Scott
Frances Seymour
Eric Stover
Ko-Yung Tung

HUMAN RIGHTS WATCH

Kenneth Roth, Executive Director
Michèle Alexander, Deputy Executive Director, Development and Global Initiatives
Carroll Bogen, Deputy Executive Director, External Relations
Ian Lustig, Deputy Executive Director, Program
Chuck Lutz, Deputy Executive Director, Operations
Walid Ayoub, Information Technology Director
Emma Daly, Communications Director
Barbara Gugelmo, Finance and Administration Director
Peggy Hicks, Global Advocacy Director
Babatundé Olugbani, Deputy Program Director
Deah Park-emphee, General Counsel
Tom Porteous, Deputy Program Director
James Ross, Legal & Policy Director
Jae Saunders, Deputy Program Director
Francesca Sinha, Human Resources Director
James F. Hoge, Jr., Chair

Central Committee
Communist Party of the Philippines
c/o National Democratic Front of the Philippines
NDFP International Information Office
Postbus 19195
3501 DD Utrecht
The Netherlands

Via facsimile: +31 84 7589930

Re: Alleged extrajudicial killings and enforced disappearances

Dear Central Committee,

I am writing to solicit your views for our research on extrajudicial killings and enforced disappearances in the Philippines, particularly those occurring since June 30, 2010.

Human Rights Watch is a nongovernmental organization based in New York that monitors violations of human rights by states and non-state actors in more than 80 countries around the world.

Human Rights Watch is committed to producing material that is well-informed and objective. We hope you and your staff would be able to answer the attached questions so that your views are accurately reflected in our reporting. In order for us to take your answers into account in our forthcoming report, we would appreciate a written response by June 24, 2011.

Please send your reply by email or fax to:

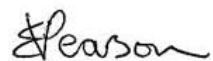
Diana Parker, Asia Associate
Human Rights Watch
1630 Connecticut Avenue, NW, Suite 500
Washington, DC 20009 USA
parkerd@hrw.org
+1-202-612-4333 (fax)

AMSTERDAM · BEIRUT · BERLIN · BRUSSELS · CHICAGO · GENEVA · JOHANNESBURG · LONDON · LOS ANGELES · MOSCOW · NEW YORK · PARIS · SAN FRANCISCO · TOKYO · TORONTO · WASHINGTON

In addition, I would greatly appreciate meeting with members of the central committee in the coming months. Please can you advise the best way to organize such a meeting?

Thank you very much.

Sincerely,

A handwritten signature in black ink that reads "Pearson". The signature is written in a cursive style with a large, stylized 'P'.

Elaine Pearson
Deputy Director
Asia Division

Questions for the Central Committee

1. What is the disciplinary structure within the New People's Army (NPA)? Please describe specific examples of its use.
2. Please describe the revolutionary people's courts, including where and how they operate in the Philippines. How do you respond to the comments of the UN special rapporteur on extrajudicial executions, Philip Alston, that this court system "is either deeply flawed or simply a sham"?
3. Can the CPP provide a list of killings in which the NPA is implicated since June 30, 2010? Please provide the details of each killing, including the rationale and the circumstances.
4. Is the CPP-NPA responsible for any of the following killings? Please provide any information you have on these killings. Has disciplinary action been taken against NPA members for any of these killings?

List of cases

1. The killing of Benjamin Bayles on June 14, 2010, in Himamaylan City, Negros Occidental
2. The killing of Fernando "Nanding" Baldomero on July 5, 2010 in *barangay* Estancia, Kalibo, Aklan
3. The killing of Pascual Guevarra on July 9, 2010, in *barangay* San Isidro, Laur, Nueva Ecija
4. The killing of Sergio Villadar on July 23, 2010, in Escalante City, Negros Occidental.
5. The killing of PFC Elansio Alonsagay, PFC Kimpio Labawan, and Datu Enecencio Dangkey on August 6, 2010, in Paquibato District, Davao City; attempted killing of Ruben Labawan
6. The killing of Julius Tamondez on August 12, 2010, in Paquibato District, Davao City
7. The abduction and "disappearance" of Agustito Ladera and Renato Deliguier in late August or early September, 2010, in *barangay* Mahaba, Marihatag, Surigao del Sur
8. The killing of Reynaldo "Naldo" L. Labrador on September 3, 2010, in Paquibato Proper, Paquibato District, Davao City
9. The killing of Vicente Felisilda on September 9, 2010, in Mawab, Compestela Valley
10. The killing of Rene "Toto" Quirante on September 30, 2010, in *barangay* Trinidad, Guihulngan, Negros Oriental
11. The killing of Renante Cañete on November 2, 2010, in Sagay City, Negros Occidental

12. The killing of Ireneo “Rene” Rodriguez on November 7, 2010, in Balayan town, Batangas
13. The killing of Carlo “Caloy” Rodriguez on November 12, 2010, in Calamba City, Laguna
14. The abduction and “disappearance” of Alfredo Bukal on November 10, 2010, in *barangay* Lutal, Tuy, Batangas
15. The killing of Rudy and Rudyric Dejos on February 27, 2011, in Santa Cruz, Davao del Sur

Letter to Human Rights Watch from the Office of the Ombudsman

FROM : OMB-MOLEO

FAX NO. : 9268747

Jun. 27 2011 02:08PM P1



Republic of the Philippines
OFFICE OF THE OMBUDSMAN
OFFICE OF THE DEPUTY OMBUDSMAN FOR THE MILITARY
AND OTHER LAW ENFORCEMENT OFFICES
3rd Floor, Ombudsman Bldg., Agham Road, Diliman, Quezon City (1104), Philippines

June 23, 2011

DIANA PARKER
Asia Associate
Human Rights Watch
1630 Connecticut Avenue, NW, Suite 500
Washington, DC 20009 USA

Dear Madam,

This is in response to your query and request for information about the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices (OMB-MOLEO), particularly, in connection with your research on extrajudicial killings and enforced disappearances in the Philippines since June 30, 2010.

We welcome your initiative, and we are willing to cooperate with you in this endeavor, but with certain reservations especially on matters which might violate the rules on confidentiality of active pending cases under preliminary investigation and/or administrative adjudication.

In this connection, please find the attached profile and jurisdiction of OMB-MOLEO, in relation to other offices and investigative agencies of the government.

Director Mary Rawnsle V. Lopez-Despojo of the Office of the Acting Ombudsman (contact no. 9268778), Director Dennis L. Garcia of CIPAAB, Office of the Deputy Ombudsman for the MOLEO (contact no. 9268746) and Atty. Conrado A. Estreller, Jr., likewise of OMB-MOLEO, will assist you in the conduct of your research on Extra-Judicial Killings and Enforced Disappearances (EJKs and EDs) cases in the Philippines.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Eulogio S. Cecilio", is written over the typed name.

EULOGIO S. CECILIO
Assistant Ombudsman/Officer-In-Charge

Encls.: a/s

Copy furnished:

HON. ALBERT F. DEL ROSARIO
Secretary
Department of Foreign Affairs
11th Floor, DFA Building
2330 Roxas Boulevard,
Pasay City



Republic of the Philippines
OFFICE OF THE OMBUDSMAN
OFFICE OF THE DEPUTY OMBUDSMAN FOR THE MILITARY
AND OTHER LAW ENFORCEMENT OFFICES
 3rd Floor, Ombudsman Bldg., Agham Road, Diliman, Quezon City (1104), Philippines

PROFILE AND JURISDICTION
OF THE OFFICE OF THE DEPUTY OMBUDSMAN FOR THE MILITARY AND
OTHER LAW ENFORCEMENT OFFICES (OMB-MOLEO)

The Office of the Ombudsman, Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices (OMB-MOLEO), upon complaint or at its own initiative undertakes preliminary investigations for criminal complaints, administrative adjudication for administrative complaints and fact-finding investigation against members of the Armed Forces of the Philippines (AFP), Philippine National Police (PNP) and officers or employees of Other Law Enforcement Offices of the government.

The Office of the Ombudsman (OMB) is a constitutionally mandated and statutory created office¹. It is an independent Office from the Department of Justice (DOJ) and the Philippine National Police. The National Prosecution Office and the National Bureau of Investigation (NBI) are under the control and supervision of the Department of Justice. On the other hand, the Philippine National Police is under the Department of the Interior and Local Government (DILG).

Preliminary investigation is a proceeding to determine whether there is sufficient ground to believe that a crime has been committed and the respondent is probably guilty thereof and should be prosecuted before a court of law. Upon finding of probable cause, a criminal case will be filed by the OMB-MOLEO before the *Sandiganbayan* (Philippine's anti-graft court) or regular courts nationwide, as the case maybe. Graft and corruption cases involving high ranking officials (i.e., those who occupy salary grade 27 and above like governors, congressmen, mayors, cabinet secretaries, undersecretaries, bureau directors, as well as those specifically stated in the law) are within the exclusive jurisdiction of the Sandiganbayan. All other crimes (e.g., murder, homicide, kidnapping, illegal detention, etc.) committed by such high ranking officials in relation to their duties should also be filed before the Sandiganbayan. All other cases not falling within the said instances will be filed before the regular courts.

The Office of the Special Prosecutor (OSP), also under the Office of the Ombudsman, prosecutes cases before the *Sandiganbayan*. On the other hand, OMB Prosecution Bureaus nationwide (OMB-Central, OMB-Luzon, OMB-Visayas, OMB-Mindanao and OMB-MOLEO) prosecute cases before the regular

¹ The 1987 Philippine Constitution and Republic Act No. 6770;

Profile and Jurisdiction of the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices

courts, albeit, prosecutors of the Department of Justice are still deputized to handle other cases in regular courts nationwide.

The OMB holds disciplinary authority over all elective and appointive officials, *except members of Congress and the Judiciary, and those officials removable only by impeachment.* The OMB-MOLEO handles the administrative cases filed against members of the AFP, PNP, and other Law Enforcement Offices of the government. During administrative adjudication, parties are afforded the opportunity to present evidence to support their allegations and defenses. If there is *substantial evidence* against the respondent(s), then penalties such as reprimand, fine, transfer, demotion, suspension or dismissal from service are imposed on the erring public official(s) and/or employee(s).

Fact-finding investigation is akin to what the National Bureau of Investigation does. Since the OMB accepts complaints in any form, including those which were sent anonymously that are full of allegations but without any attached pieces of evidence, the OMB-MOLEO may subject these complaints to what is known as fact-finding investigation. The OMB in administrative cases may preventively suspend any officer or employee pending an investigation. The preventive suspension shall continue until the case is terminated by the OMB but not more than six months, without pay.

OMB-MOLEO is under the Office of the Ombudsman (also known as the *Tanodbayan*). Headed by the Deputy Ombudsman and his Assistant Ombudsman, the OMB-MOLEO houses the Criminal Investigation, Prosecution, Administrative Adjudication Bureau (CIPAAB) which conducts preliminary investigation and administrative adjudication. The Fact-Finding and Investigation Bureau (FFIB) is the division which conducts and gathers intelligence information. On the other hand, the Public Assistance and Community Coordination Bureau (PACCB) is the section which assists complainants in their quest for justice. Each Bureau is headed by a Director. The OMB-MOLEO has twenty three (23) lawyers designated as Graft Investigation and Prosecution Officers and Ten (10) Associate Graft Investigation Officers.

The OMB-MOLEO incessantly performs its constitutional mandate as "*protector of the people*" and is continuously monitoring cases of extra-judicial killings and enforced disappearances. Several measures were adopted, including the creation of task forces in high-profile cases for expeditious resolution. To update its investigation and prosecution officers, the OMB-MOLEO has been coordinating with the DOJ and the Commission on Human Rights (CHR) through the conduct of extra-judicial killings and enforced disappearances seminars nationwide.

Profile and Jurisdiction of the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices

x-----x

However, due to the absence of specific law defining and delineating cases of extra-judicial killings and enforced disappearances as a special crime, the OMB-MOLEO investigates and prosecutes such cases as murder, homicide, kidnapping, illegal detention and etc., in accordance with the Revised Penal Code and existing laws. In fact, House Bill 04142 defining the crime of Extra-Judicial Killings or Extra-Legal Killings and Enforced Disappearances is still pending in the lower house of Congress.

Recently, on June 10, 2011, the OMB-MOLEO participated in an Inter-Agency Dialogue to resolve expeditiously the Extra-Judicial Killings and Enforced Disappearances (EJKs and EDs) cases in the Philippines, presented by the Department of Justice together with Asia Foundation and Ateneo Human Rights Center. In this connection, a Special Task Force to address EJKs and EDs shall be created.

With regard to your inquiry, the OMB-MOLEO records section needs the names of the complainant and the respondent or the docket number of each case. It is unfortunate that we failed to find in our computer records the listed cases primarily due to the absence of such information.

X. Acknowledgments

This report was researched and written by Jessica Evans, researcher in the Asia Division of Human Rights Watch.

Diana Parker, associate for the Asia Division, provided research, administrative and technical assistance. Veejay Villafranca, a photojournalist, provided research assistance together with his professional photography.

Elaine Pearson, deputy Asia director, edited the report. James Ross, legal and policy director, provided legal review. Danielle Haas, senior editor, provided program review. Mai Nguyen, an intern with the Asia Division, provided research assistance. Kathy Mills and Fitzroy Hepkins provided production assistance for the report.

Human Rights Watch would like to thank the victims, families, and eyewitnesses who agreed to talk to us for this report. We are indebted to the many NGOs, lawyers, and activists who generously assisted us during our research. We would also like to thank several independent expert reviewers who provided comments and feedback on our work.

HUMAN RIGHTS WATCH
350 Fifth Avenue, 34th Floor
New York, NY 10118-3299

www.hrw.org

Journalist Ernan Baldomero seeks justice for his father, Fernando “Nanding” Baldomero. On July 5, 2010, a gunman shot and killed Baldomero outside his home in Kalibo, Aklan province, as he was about to drive his 12-year-old son to school.

© 2011 Veejay Villafranca for Human Rights Watch

Below: More than 20 armed soldiers attended the March 9 funeral march of tribal chieftain Rudy Dejos and his son, Rudyric, who were killed by unidentified men in Davao del Sur province on February 27, 2011.

© 2011 Jessica Evans, Human Rights Watch

HUMAN
RIGHTS
WATCH



“No Justice Just Adds to the Pain”

Killings, Disappearances, and Impunity in the Philippines

When President Benigno Aquino III took office on June 30, 2010, he pledged to end serious human rights violations in the Philippines. One year later, extrajudicial killings and enforced disappearances by state security forces persist. The new government has done little to hold perpetrators to account for these and past serious abuses.

This report details strong evidence of military involvement in the killings and enforced disappearances of several leftist activists since Aquino took office. Based on interviews with victims of abuses, family members and friends, eyewitnesses, police and military officials, and others, it reveals how police investigations have stalled—especially when evidence leads to the military—how arrest warrants against alleged perpetrators have not been executed, and how internal military investigations are near non-existent. The Justice Department’s inadequate protection program for witnesses has also hindered the ability to bring perpetrators to justice.

“*No Justice Just Adds to the Pain*” calls on the Philippine government to step up efforts to investigate and prosecute members of the security forces and government-backed militias implicated in extrajudicial killings and enforced disappearances. The government should also sanction investigators who fail to credibly investigate cases, order the military to cease targeted attacks on civilians, and stop blanket denials of military involvement in all cases.