

Action Network Human Rights- Philippines

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ASIAN HUMAN RIGHTS COMMISSION, Urgent Appeal Update: AHRC-UAU-002-2012, 26 January 2012

PHILIPPINES: False murder charges on activist must be dropped

The Asian Human Rights Commission (AHRC) writes with deep concern on the continued prosecution of Temogen "Cocoy" Tulawie, a human rights defender, for murder charges based on evidence taken by way of forced confessions. We call on the Department of Justice to (DoJ) to drop the charges on him promptly due to serious questions of due process and deprivation of his right to fair trial.

In our previous appeal (AHRC-FUA-016 -2010), we mentioned that the Mindanao People's Caucus (MPC), a coalition of NGOs in Mindanao handling Tulawie's case, had appealed to President Benigno Aquino III for him or his officials to take custody of Tulawie so he could come forward to appear to trial.

However, their appeal to have Tulawie in the executive department's custody, which was to ensure his safety and security should he face his trial, were ignored until he was arrested on January 13, 2012 in Davao City, after years in hiding. The details of his arrest and the case analysis over the use of forced confessions as evidence on him can be read here: AHRC-STM-011-2012. He is presently detained at Davao City Police Office, Camp Domingo Leonor, Davao City.

Prior to his arrest, on June 13, 2011 the Supreme Court (SC) had already granted Tulawie's petition to transfer the trial of his case from Jolo, Sulu to Davao City, which is geographically far from each other. In granting his petition, the SC acknowledged the severity of insecurity and threats:

"...there is an indication of actual and imminent threat to the life of the petitioner and his family, as well as his witnesses, as found by the Court of Appeals..."

But for seven months the Clerk of Court (CoC) of the Regional Trial Court (RTC), Branch 3, Jolo, Sulu, ignored the urgency of the SC's order. The CoC's failure to turn over the case to the Regional Trial Court (RTC) in Davao City disregarded the SC's order for the case to be heard and decided "with utmost dispatch".

Knowing full well of the SC's pending order, Judge Betlee-Ian Barraquias, of the RTC in Jolo, Sulu, wrote to the RTC in Davao

City, "to deliver/transfer the custody of the accused, on Temogen "Cocoy" Tulawie, to the jurisdiction". In another order dated January 16, 2012 that he issued, he warned those who refused to return Tulawie to their custody could face administrative charges and contempt:

"...is disobedience to this court's lawful orders and interferes with court proceedings and processes tantamount to obstruction of justice and may constitute contempt of court and administrative proceedings..."

For openly defying the SC's order, Raul Bautista Villanueva, the deputy court administrator, wrote a letter dated January 17, 2012 to Judge Pelagio Paguican, the RTC Judge in Davao City, to inform not to implement the Order of Judge Barraquias because it was "contrary to the Resolution dated June 13, 2011 issued by the Third Division of the Supreme Court".

However, despite repeated and persistent follow-up for the CoC in Jolo, Sulu to implement the SC's order dated June 13, 2011, they were ignored. In effect, the trial of Tulawie could also not proceed in Davao City.

While the AHRC supports the appeal of the local groups, the MPC and the Task Force Detainees of the Philippines (TFDP), in implementing the SC's order promptly, however we raise reservations as to whether this trial should be pursued. If the trial is allowed to continue, it would in effect tolerate the prosecution of the innocent persons based on forced confessions.

We are of the opinion that the murder charges on Tulawie and his co-accused must be dropped.

SUGGESTED ACTION

Please write letters to the Department of Justice (DoJ) to conduct a thorough review on Tulawie's case. Unless the allegations of forced confession having been used as prosecution's evidence on him are disproved in substance, the DoJ must correct the wrong doing of its local prosecutors by dropping the charges.

The AHRC has also written letters to the UN Special Rapporteur for Human Rights Defenders.

Amnesty International, URGENT ACTION

Fear of ENFORCED DISAPPEARANCE OF THREE MEN

Three men have been missing since 3 January 2012, when they were last seen being taken, reportedly by military intelligence agents, at Manila airport.

After flying in to the Manila domestic airport terminal from Zamboanga City on 3 January, Najir Ahung, Rasbi Kasaran and Yusoph Mohammad were apprehended by military intelligence agents, according to a credible local source. The three men, residents of Al-Barka municipality in the conflict-affected island of Basilan, have not been seen or heard from since. Amnesty International fears that they are being detained incommunicado by the military, and are at risk of torture and other ill-treatment.

According to their families, the three men, all farmers, were also teachers at a madrasah (Islamic school). They were in transit in Manila on their way to Qatar, where they were going to pursue further studies.

Rasbi Kasaran and Yusoph Mohammad, both 18, live in Cambug village in Al-Barka municipality, where there is known to be an MILF camp. On 19 October 2011, their village was the site of a clash between the army special forces and the armed opposition group Moro Islamic Liberation Front, which left 19 soldiers dead and 11 wounded.

While the Philippine military routinely denies involvement in

any case of enforced disappearance, in previous years Amnesty International has documented the military's use of enforced disappearance against activists, suspected fighters and supporters of insurgent groups.

According to a reliable source, the arrest of the three men comes weeks after the Armed Forces of the Philippines filed 300 "John Doe" complaint affidavits against 300 unspecified residents of Cambug village. In a "John Doe" complaint affidavit or warrant, the authorities do not specify the name of the subject of the complaint or arrest. Because such documents can be used against anyone, they have resulted in arbitrary arrest and detention.

Please write immediately in English or your own language:

- expressing concern for the safety and wellbeing of Nahir Ahung, Rasbi Kasaran and Yusoph Mohammad, who were apprehended in Manila Airport on 3 January;
- urging the authorities to immediately establish where the three men are being held;
- calling on them to release Nahir Ahung, Rasbi Kasaran and Yusoph Mohammad immediately and unconditionally, or else charge them with a recognizably criminal offence.

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Mindanews, 06.02.2012

Suspect in Father Tentorio's killing denies he was gunman

By Froilan Gallardo

The man accused of killing Father Fausto Tentorio outside his parish convent in Arakan, North Cotabato on October 17 last year denied he was the gunman but admitted he served as lookout.

Corn farmer Jimmy Ato, 35, a resident of Culaman, Arakan, North Cotabato told reporters Wednesday night at the National Bureau of Investigation (NBI) regional office that he did not shoot the priest.

"I was not the gunman. I know who killed the priest. I only served as the lookout," Ato said.

Ato pointed to brothers Joe and Dima Sampolna, also residents of Culaman, as the killers of Father Tentorio.

Last week, NBI agents tagged Ato as the gunman after he was brought to the NBI regional office here after his arrest in Sitio Iwak-iwak in Culaman, Arakan on December 29.

Atty. Virgilio Mendez, NBI deputy director, said Ato was brought to Cagayan de Oro where he signed a four-page statement in the presence of lawyer Robert Raypon, Vice President of the Integrated Bar of the Philippines-Misamis Oriental chapter.

Mendez said Raypon and Ato's 20-year old wife, Ritchie and their two children were present when NBI agents questioned the suspect in Cagayan de Oro on Dec. 29.

Ato said he cannot read and write but was appraised by Raypon on the contents of his signed statement.

"My conscience is clear"

"We cannot do anything if he denies he was the gunman although we have witnesses who pointed to seeing him, his brother Robert, and the Sampolna brothers fleeing the convent. Roberto last week sought the help of North Cotabato Rep. Nancy Catamco as he denied involvement in Tentorio's killing and in the alleged shootout with NBI agents on December 29.

What is important, Mendez said, is that Ato admitted he was in the meeting when the plan to kill Fr. Tentorio was allegedly hatched.

"This is enough to pin the killers and the masterminds. This is important because up to now we only have circumstantial evidence to back our case," Mendez said.

Mendez said they would file a case next week against the Ato and Sampolna brothers; and the two alleged masterminds for the killing of Father Tentorio.

In his signed statement, Ato named the alleged mastermind as

William Buenaflor, a defeated mayoralty candidate in Arakan and Arakan police chief, Senior Insp. Benjamin Rioflorido.

Ato did not cite any motive why Buenaflor and Florido would order the killing of the priest.

Buenaflor could not be reached for comment. But Rioflorido told MindaNews in a telephone interview Thursday night that he had nothing to do with the killing of Fr. Tentorio.

"My conscience is clear, Rioflorido said, adding that he requested to be relieved of his post as chief of police on January 2 so investigators can do their work without him around. Rioflorido turned over his post as police chief at 2 pm Thursday, he said, adding he will now be based in the provincial headquarters.

"Money from left"

Ato, who could not cite a motive why the priest was ordered killed, later told reporters that it may be because "he received money from the left." Ato said he was given P1,500 after the Sampolna brothers allegedly killed Tentorio. The money was also intended for him to shut up, he said. "They told me I will be the next to die if I will talk. I was scared of the threat," he said.

Ato said he is asking the NBI not to return him to Cotabato and allow him and his family to stay at the NBI regional office here.

Meeting

Ato said he was selling his corn produce in Arakan when he was called by the Sampolna brothers to a meeting in the house of Buenaflor.

In his statement, Ato said Buenaflor and Rioflorido were in the meeting where details of the plan to kill the priest was bared. He said the meeting took place days before the murder was committed.

Ato said he acted alone and cleared his brother, Robert, of any wrongdoing.

"I saw the Sampolna brothers arrive on a motorcycle. They immediately went inside. They were wearing motorcycle helmets" Ato narrated to reporters.

He said he heard several gunshots and saw the suspects ran back toward their motorcycle and left. Ato said he stayed awhile for awhile but later also walked away.

NBI agents said several witnesses attested seeing two motorcycles, a black Yamaha DT motorcycle and a Honda XRM motorcycle, leaving the area after gunshots were heard. (Froilan Gallardo with a report from Carolyn O. Arguillas/MindaNews)

AHRC-STM-015-2012, 19.01.2012

PHILIPPINES: Journalist threatened for condemning colleague's murder must be protected

The Asian Human Rights Commission (AHRC) is deeply concerned that Ronald Allan Mascardo, editor and publisher of a local newspaper Dadiangas Balita, has received death threats via his mobile phone for condemning the murder of his colleague, Chris Guarin. Mascardo openly criticized those who masterminded the killing of Guarin at his burial ceremony on January 15.

A day after, he received threatening messages from sender +63946 4823367 on his phone: "You are daring the killers of Chris Guarin. You will be next". While Mascardo's speech criticizing Guarin's killers was made in broad terms, it was still enough for him to get death threats. This clearly indicates the degenerating conditions in General Santos City, particularly regarding attacks on journalists. Furthermore, such threats not only deny individuals' exercise of free speech, but also openly challenge local police; will they be successful in identifying

those making threats?

The AHRC appreciates the deployment by the General Santos City Police Office (GSCPO) of escorts to Mascardo, with some reservations however. In the past, the AHRC is aware that victims of threats had to cover the daily food and transportation allowances of the police escorts deployed for them, placing a heavy burden on the poor victims. The function and operation of these security escorts is the responsibility of the local police. Such experiences have decreased victim confidence that the provision of escorts could work effectively. In fact, unless the escorts operate with the utmost professionalism and responsibility, their presence would have little meaning to local journalists, who have been carrying firearms to protect themselves. This common practice illustrates the stark reality that journalists have lost trust and confidence that their local police could protect them. The police force who failed to protect

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Guarin, the murdered journalist whose killing is the subject of Mascardo's criticism, has yet to prove it is capable to investigate the killing and protect others from a similar fate.

The threat against Mascardo clearly illustrates the extent of lawlessness and insecurity the city has descended into, with the police taking few effective measures. Furthermore, when local journalists and ordinary people take action to resolve the murders of journalists, like raising reward money to identify those who masterminded Guarin's killing, they are not acknowledged. In fact, the city's local mayor, Darlene Custodio, claimed that such efforts were not helpful, and hampered the police investigation into Guarin's murder. Rather than being critical, the local police and city government should recognize journalists' efforts to address these killings and threats. Where the state fails or neglects its duty to protect and punish, intervention by citizens to hasten investigation must be welcomed.

The AHRC also reiterates that the local police must reconsider

Mindanews, 08.01.12

Guarin murder: 'It's not the motives but the growing number of unsolved EJKs'

By Mindanews

GENERAL SANTOS CITY - Media organizations here took exception to a statement by a police official that personal motive was possibly behind the murder of a publisher of a local paper on Thursday, saying the issue is not the motive but the growing number of unsolved extrajudicial killings.

Chief Supt. Benjardi Mantele, Region-12 police director, earlier said that personal motive could be behind the killing of Christopher Guarin, publisher-editor of Tatak News.

In a dialogue with Mayor Darlene Antonino-Custodio and Mantele, journalists here demanded the immediate arrest and prosecution of Guarin's killers.

Among those who attended the dialogue were members of the National Union of Journalists in the Philippines chapter in the city, the Kapisanan ng mga Brodkaster sa Pilipinas, Tri-Media Association of General Santos, Publishers Association of General Santos City and the Socskarsargen Press Corps.

In their statement read by NUJP chapter president Edwin Espejo, the media organizations said they were "saddened by the growing reputation of General Santos City as the most dangerous place for journalist(s) in the country today with over 20 members of the press already killed since 1986, including 14 who perished in the Ampatuan massacre."

"We do not want to believe there is an ongoing campaign to eliminate us from our profession but until these heinous crimes are solved, we cannot help but be outraged," the group further said.

Custodio urged the city's police forces to immediately arrest and prosecute Guarin's killers.

Mantele earlier said personal motive may be behind Guarin's killing even as he assured there was no organized campaign to eliminate members of the local press.

In the dialogue, however, the NUJP said it is not all about motives but the fact that journalists are being gunned down and becoming part of the growing statistics of extra judicial killings should alarm and appall the people.

"We do not want to leave an impression that we journalists are a special lot. But if we are becoming part of the statistics of unsolved extrajudicial killings then who can the people turn to?" Espejo wondered aloud during the two-hour dialogue with local authorities at the city mayor's conference room Friday afternoon.

their emphasis that Guarin's murder and the threats on other journalists are not related to their profession. It is the police's legal responsibility to investigate crimes regardless of who the victims are. The murders of Guarin on January 5, 2012 and Alfredo "Dodong" Velarde, Jr. on November 12, 2011 and the threats on their colleagues are serious crimes, which must be investigated effectively without regard to the victims' profession or the possible motives of the criminals. Whether or not the motive for the murders was related to the victims' work or to 'personal business interest' is irrelevant. The duty of the police is to ensure those experiencing threats to their lives are protected and to investigate crimes to ensure those who committed them are punished. We are deeply concerned that the police, obviously to dispel the reality that the exercise of press freedom and freedom of expression are being attacked, are consciously trivializing, if not abdicating from, their legal obligation to investigate crimes and to ensure perpetrators are identified.

Custodio said the city government will set up reward money for information that will lead to the arrest of the gunman and the mastermind behind the killing of the 41-year old Guarin, who was also former reporter of Bombo Radyo Gensan and later station manager of the defunct RGMA Super Radyo here.

Custodio declined to reveal the amount of reward money but said it will depend on the recommendation of the police authorities.

On Thursday evening (Jan 5), Guarin was gunned down by a still unidentified gunman while on his way home with his wife and daughter after his blocktime program in RMN's dxMD station here.

Business competition

Guarin's killing came barely two months after the circulation manager of rival local tabloid was also gunned down by a motorcycle riding gunman. Alfredo Velarde was about to collect the day's edition of Brigada News for distribution when the gunman sneaked from behind his car and shot him several times. He died on the spot. After Velarde was gunned down, Guarin was reportedly invited by police for questioning. His wife however said the victim was cleared of any involvement in the Velarde killing.

Freddie Solinap, managing editor of Tatak News, said business competition could be a motive behind his employer's killing.

"I suspect this has something to do with his business as newspaper publisher and editor," Solinap said.

Guarin had just fetched his wife and daughter at the Tatak News office and was on his way home when the crime happened.

He used to be a hard-hitting commentator when he was still manager and anchorman of RGMA Super Radyo.

At the time of his death, Guarin was promoting health supplements in his block time program.

Meanwhile, barely 24 hours after Guarin's shooting, killers struck again.

This time gunmen riding in tandem mowed down a city traffic enforcer in a busy intersection along J. Catolico Street.

Killed was Oliver Dayap who succumbed to multiple gunshot wounds while directing traffic along the busy street minutes before 7 p.m. Friday. (MindaNews)

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<http://www.indcatholicnews.com/news.php?viewStory=19641>, 13.01.2012

Philippines: Fr Shay writes on assassination of journalists & priests

The power of the truth to set free the public from ignorance, indifference and apathy is what arouses public outcry and brings about civil and political action for human rights. Journalists, priests and pastors are frequently giving voice to the long oppressed aspirations of the indigenous people and it provokes violent retaliation.

Another outspoken journalist, Christopher Guarin, 41, publisher and editor-in-chief of the daily tabloid 'Tatak' was killed in General Santos city in the Southern Philippines last week. He had foretold his own assassination on the radio the morning he was set upon by gunmen and shot dead as he fled wounded from his car saving his wife and child.

The Philippines is one of the most dangerous places in the world for journalists and broadcasters. As many as 150 have been killed since the fall of Marcos and the restoration of democracy in 1986. Chris Guarin is the tenth media person murdered since president Aquino won the election in May 2010. It's dangerous, deadly, and difficult to expose the injustice and exploitation of the poor and denounce the environmental destruction that causes much death and destruction as seen in the smashing of villages by floods and rampaging logs.

The recent slogan of the Department of Tourism - "It's more fun in the Philippines" has got it wrong. Everyone is asking and guessing what is more fun, life or death? Sex tourism is no fun at all for the hundreds of thousands of hapless trafficked and exploited women and children and it's no fun to be receiving death threats for speaking and writing the truth. As a writer and journalist myself, I have received a few death threats in my time and it's no fun what-so-ever. Nor is the culture of impunity that allows the killers to go free since local and corrupt politicians and big corporate interests are suspected to be the masterminds behind the killings.

Pastors and priests, the prophets and practitioners of justice and the social teachings of the Church are not spared. Father Fausto "Pops" Tentorio was brutally murdered last 17 October 2011 in his Church compound. With his brave and courageous fellow missionaries of the PIME Italian missionary society, he defended

human rights and stood with the indigenous people of North Cotabato in Mindanao against giant international and local mining companies. The indigenous people see the corporations ready to rip and tear the forests and river valleys apart to get at the mineral deposits on their ancestral lands. Most of these mineral riches, which belong to the people, will go to the corporations, a tiny 5% portion to the national government but a big share to the wealthy families and business people. The local government officials who sign the permits will get their payoff too.

There are few, if any benefits, for the people who have true ancestral claims to the mineral rich lands that are loaded with gold, silver, nickel, copper and many more worth an estimated US\$840 billion. Former President Gloria Arroyo's government gave generous incentives and tax holidays to foreign mining corporations and their local mining partners, an open invitation to gouge and exploit.

She gave mining corporations an income tax holiday for 4 to 8 years and a special low 5% tax rate when the eight years are up. They also get tax-free importation of equipments and exemption from paying the 12% value-added taxes. There are exemptions from wharfage dues, and lots more privileges that Filipinos cannot enjoy. The minerals can be exported even without refinement and processing. It's a virtual give away of the national wealth. In stark contrast, the Australian government has just passed a law that imposes a whopping 30% mining tax on all corporations extracting minerals in Australia.

Great are the riches at the end of the mining rainbow for the international corporations in the Philippines with their local cronies if they can defeat the fierce opposition of the indigenous people supported by the church and the non-government people's rights organizations.

Last week the NBI (National Bureau of Investigation) identified a big businessman and a senior police inspector as the masterminds in the killing of Father Tentorio, according to an arrested hit-man. The slain priest and many others have given their lives in the struggle for the rights of the people and the environment.

<http://www.businessmirror.com.ph/home/regions/22364-justice-remains-elusive-for-slain-environmentalist>, 24 January 2012

Justice remains elusive for slain environmentalist

Jonathan Mayuga / Correspondent

ONE year after he was murdered, justice continues to evade Palawan environmental advocate and journalist Dr. Gerry Ortega, environmental activists said, who blame President Aquino for his alleged silence on the spate of killings perpetrated against environmental defenders like Ortega.

The Kalikasan People's Network for the Environment joined the victim's family in commemorating the gruesome crime and condemned the delay in the prosecution of Ortega's killers and alleged mastermind.

Ortega's wife, Patty, and their four children led families and friends in remembering Ortega's killing in Palawan on Tuesday. In a statement, Micaella Ortega, the victim's eldest daughter, expressed dismay over the alleged snail-paced progress of the case.

"Justice is too slow in the Philippines. It's been a year and amid overwhelming evidence, a case has yet to be filed against the mastermind in Daddy's killing," she was quoted as saying.

Criticizing the continued delay of the release of a resolution from the Department of Justice, Hustisya, an organization of victims of human rights violations, said they are disappointed that a strong case such as that of Ortega remains unsolved after

12 months.

"Not all cases have the same strong evidence against the mastermind and Ortega's killers. We have hoped that the evidence presented in Ortega's killing may speed up the resolution of the case. However, the snail-paced progress of the prosecution further perpetuates impunity because the perpetrators remain on the loose," Hustisya secretary general Cristina Guevarra said. At the DOJ preliminary investigation, the gunman and the other suspects involved have implicated former Palawan Gov. Joel Reyes in Ortega's killing. In the first preliminary investigation, however, Reyes was not included in the respondents of the case. The family then appealed for a reinvestigation of the case, seeking to include Reyes. "We need to prosecute criminals such as those implicated in the case of Dr. Ortega. They do not only kill environmental defenders. With their greed to further profit themselves at the expense of the environment, they destroy and kill more people," she said.

Apart from being involved in corruption issues in the province such as the misuse of Malampaya funds and his connection with former president Gloria Macapagal-Arroyo, Reyes is also known to promote mining in the province, which Ortega and the people

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of Palawan have strongly opposed.

"If the Aquino government can hasten the impeachment of a crony of former president Gloria Macapagal-Arroyo in the Supreme Court, it should by all means do the same in prosecuting all her other minions," Guevarra concluded.

"The Aquino government should exert an effort equal to their prosecution of Corona in bringing to justice the perpetrators of killings and other human rights violations on environmental advocates such as Dr. Gerry Ortega. One year after Ortega's assassination, the DOJ's hearings have persisted on a dawdling pace despite damning evidence on the accused mastermind, former Palawan Gov. Joel Reyes," Clemente Bautista, national coordinator of Kalikasan PNE, said

"It is the height of hypocrisy when President Aquino is pushing for the conviction of Corona when Aquino's court, particularly the DOJ, has presently failed to stop the spate of killings of

Phil. Star, 12.01.2012

Pestaño case revived

By Michael Punongbayan

MANILA, Philippines - After 16 years, the killing of Ensign Philip Andrew Pestaño came to light after the Office of the Ombudsman yesterday filed murder charges against 10 officials and officers of the Philippine Navy.

Ombudsman Conchita Carpio-Morales reversed the May 2010 decision of the Sandiganbayan dismissing the case. She said there is probable cause to file charges against the respondents before the anti-graft court.

Among those charged were Captain Ricardo Ordoñez, Cdr. Reynaldo Lopez, HM2 Welmenio Aquino, LCdr. Luidegar Casis, LCdr. Alfredrick Alba, MR2 Sandy Miranda, LCdr. Joselito Colico, LCdr. Ruben Roque, Petty Officer 1st Class Carlito Amoros, and Petty Officer 2nd Class Mil Leonor Igcasan.

The victim's father, reached by The STAR for comment, said they are glad to finally find justice though they are not very happy with how the case dragged on for 16 years.

"Justice will eventually be served to those who murdered him," Felipe Pestaño said while expressing dismay over how "justice rolls very slowly."

Morales said the respondents are also liable for grave misconduct and ordered those who are still in active service to be dismissed.

Morales said she has found "a prima facie case of conspiracy to commit murder" against the Navy officials and officers "after taking a hard look at the case including the additional evidence unearthed in the AFP (Armed Forces of the Philippines) investigation which were made available to the complainants ten years after the death of Ensign Pestaño."

Graft investigation and prosecution officer Yvette Marie Evaristo recommended no bail for the respondents for the whole duration of the trial.

"The totality of circumstances before, during and after the 'discovery' of the death of Philip (Pestaño) prima facie points that respondents conspired to kill him. And the attempt to cover it up solidifies the prima facie conclusion that respondents committed a premeditated act to and did kill him, hence, probable cause for murder lies against them," the Ombudsman said.

The Ombudsman said the victim could not have committed suicide as evidenced by the absence of tattooing, smudging or burn mark around the gunshot wound, indicative that the firearm was not in contact with the bullet entry point; the absence of blood spatter, bone fragments or other tissue on the wall of the victim's cabin; and blood pooling on the pillow and other spots of Pestaño's bed.

environmentalists under his term. Not one among the perpetrators of these killings has been put to justice," Bautista said.

Kalikasan Partylist chided Pres. Aquino's bad track record when it comes to crimes committed against environmental advocates. So far, at least 51 recorded human-rights violations on environmental advocates since 2001, including Ortega and nine others under the present government, have remained unaddressed, according to its convener, Leon Dulce.

"Even legislative support through House Resolution 863 that aimed to investigate the killing of Ortega filed by Bayan Muna representatives Teddy Casino and Neri Colmenares has hit a wall long ago. We have exhausted various legal means and procedures to pursue justice for Ortega but have gone nowhere in the face of the ever growing culture of impunity perpetrated by the Aquino administration," Dulce said.

The autopsy report also showed the trajectory of the bullet passing through the victim's head and the location of the bullet mark on the cabin wall do not tally against each other, as the wound was downward while the slug was fired upward.

The Ombudsman said findings of Western Police District - Central Crime Laboratory that the handwriting on the purported suicide note and the signature on it were written by different persons were also considered.

Overall Deputy Ombudsman Orlando Casimiro on May 17, 2010, approved the recommendations of ombudsman investigators that the criminal charges be dismissed for insufficiency of evidence.

The dismissal was based on findings that "the evidence failed to constitute an unbroken chain which leads to a fair and reasonable conclusion that a crime has been committed and that respondents are probably guilty thereof."

But Ombudsman Morales, in a 21-page Joint Order, ruled in favor of the complainants and granted their motion for reconsideration of the first resolution.

"This is a very big blow to what (former Ombudsman) Mercedes Gutierrez did," Pestaño's father said, referring to how the Office of the Ombudsman, then under the leadership of Gutierrez, junked their complaint.

The elder Pestaño noted that no less than the United Nations Human Rights Committee (UNHRC) has ruled that his son did not commit suicide.

The Philippine Navy, on the other hand, declined to issue a statement over the case.

"We need to get a copy first of the order before we can make any official statement," Navy spokesman Lt. Col. Omar Tonsay said. Pestaño was found dead inside a Navy ship where he was assigned as cargo master. A pistol and a letter saying that he committed suicide were found beside the body, but it was not enough to convince probers that the young Navy officer indeed took his own life.

Pestaño reportedly discovered that the cargo loaded in the ship were illegally cut logs and some 50 sacks of shabu passed off as flour. Pestaño reportedly refused to sign on to approve the cargo despite the pleadings of superior officers. His parents reportedly received calls warning that their son might get killed. The elder Pestaño reportedly pleaded with his son not to go back to the ship and give up his military career. Pestaño, however, reported back to the ship that sailed from Cavite to Roxas Blvd.

On Sept. 27, 1995, on a trip that usually took only 45 minutes,

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the ship arrived an hour and a half later, with Pestaño already dead. The circumstances surrounding Pestaño's death triggered the Senate to conduct an investigation. The Senate concluded Pestaño was murdered.

The Ombudsman handled the Pestaño case in 1998 but dismissed it, citing the difficulty of determining the perpetrators and the tampering of evidence.

InterAksyon.com, 05.01.12

P1 million for Palparan's capture

The reward for information leading to the arrest of retired Army general Jovito Palparan has been increased to P1 million from the original P500,000, Interior and Local Government Secretary Jesse Robredo said Thursday.

Palparan, who is wanted for the 2006 abduction and disappearance of two University of the Philippines students, has been in hiding since late last month, when he was barred by immigration agents from leaving the country.

A Bulacan trial court, where Palparan and three other soldiers have been charged, subsequently issued a warrant for his arrest for the kidnapping and illegal detention of Karen Empeno and Sherlyn Cadapan.

The former general, who former President Gloria Macapagal-Arroyo declared among her favorites, was dubbed "The Butcher" by human rights organizations who accuse him of ordering hundreds of extrajudicial murders, enforced disappearances and other human rights violations in the areas he was assigned to as military commander.



<http://www.hrw.org/news/2012/01/23/philippines-efforts-improve-rights-fall-far-short>, 24.01.12

Philippines: Efforts to Improve Rights Fall Far Short

(New York) - The Philippine government should disable abusive paramilitary forces and take concrete steps to hold those responsible for killings and other rights violations to account, Human Rights Watch said today in its World Report 2012. (<http://www.hrw.org/world-report-2012>).

The administration of President Benigno Aquino III has not fulfilled its promises of reform and made little progress in ending impunity for abuses by state security forces, Human Rights Watch said. Extrajudicial killings and torture of leftist activists, alleged communist rebels, and accused criminals continue, but the government has failed to acknowledge and address involvement in these crimes by the security forces and local officials.

"After a year and a half in office, President Aquino should be delivering on his promise to end impunity for rights abuses," said Elaine Pearson, deputy Asia director at Human Rights Watch. "His administration will ultimately be measured by what it achieves, not by his stated intentions."

In its 676-page report, Human Rights Watch assessed progress on human rights during the past year in more than 90 countries, including popular uprisings in the Arab world that few would have imagined. Given the violent forces resisting the "Arab Spring," the international community has an important role to play in assisting the birth of rights-respecting democracies in the region, Human Rights Watch said in the report.

Despite this unprecedented development, unlawful killings continue and the government should do more to hold those responsible to account, Human Rights Watch said. Human Rights Watch has documented at least seven extrajudicial killings and three enforced disappearances for which there is strong evidence of military involvement since Aquino took office in June 2010.

Hundreds of leftist politicians and political activists, journalists,

The UNCHR also took note of the case and urged the Philippine government to pursue the prosecution.

Pestaño graduated from the Philippine Military Academy in 1989. In 1993, he became an ensign in the Philippine Navy and was assigned as a cargo master on a Navy ship. - With Jaime Laude

and outspoken clergy have been killed or abducted since 2001, Human Rights Watch said. The government has largely failed to prosecute military personnel implicated in such killings, even though strong evidence exists in many cases. Only seven cases of extrajudicial killings from the past decade have been successfully prosecuted, none of which were in 2011, or involved active duty military personnel. Even in the Palparan case, it was the victims' family - not the government - who initiated the criminal case.

The police and military were implicated in numerous incidents of torture in 2011. While several investigations are ongoing, the rigor of investigations varies and no one has been convicted under the 2009 Anti-Torture Act. In July, soldiers allegedly stripped naked, sexually assaulted, and set on fire a 39-year-old baker, Abdul-Khan Balinting Ajid, in Basilan. While the military says several soldiers involved have been restricted to barracks in Manila, no criminal charges have been filed.

"The arrest and prosecution of Palparan would be the most significant move against impunity for military abuses in the last decade," Pearson said. "But the government should be more proactive in investigating killings and torture, arresting suspects, and vigorously prosecuting them."

Aquino has defended the use of poorly trained and abusive paramilitary forces to fight communist insurgents and Islamist armed groups in 2011, Human Rights Watch said. Despite campaign promises to dismantle "private armies" of politicians and wealthy landowners, which have long been responsible for serious abuses, Aquino has not revoked Executive Order 546, which local officials cite to justify arming their personal forces. In October, Aquino announced the deployment of additional paramilitary personnel to provide security to mining companies. Members of the powerful Ampatuan clan, military, police, and paramilitary personnel, among other suspects, are on trial for



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the massacre of 58 people, including more than 30 journalists, in Maguindanao province on the southern island of Mindanao, in November 2009. Two years later, the trial is ongoing, albeit snail-paced, with witnesses for the prosecution, including families of the victims, testifying. In addition to abuses by government forces, the communist New People's Army (NPA) has unlawfully killed and detained civilians and extorted "taxes" from individuals and businesses, Human Rights Watch said. NPA leaders have often sought to justify targeted killings by asserting that those killed had earlier been condemned by NPA-organized "people's courts" for "crimes against the people." Then-UN special rapporteur on extrajudicial executions, Philip Alston, concluded that the NPA's

Philippine Daily Inquirer, 05.02.12

AFP: Military not remiss in acting on rights abuses

By DJ Yap

The Armed Forces of the Philippines (AFP) through its Human Rights Office (HRO) met with a representative from New York-based Human Rights Watch (HRW) Friday to respond to the latter's allegations of military involvement in human rights abuses.

In a statement, Col. Domingo J. Tutaan, AFP HRO chief, said he told journalist Carlos H. Conde, also the HRW's researcher for its Asia division, that his agency had not been remiss in acting on complaints against military personnel accused of human rights violations.

"For the year 2011, my office has received and documented a total of 59 official complaints that we promptly addressed and reported to the higher authorities," Tutaan said.

In July 2011, the independent HRW released a report citing seven human rights violation cases allegedly involving AFP members based on interviews conducted in 11 provinces.

Tutaan said his office had talked to HRW's Jessica Evans and Elaine Pearson to ask for more information so that it might be able to conduct a deeper investigation. "However, no data was given," the official said.

Due process

"But even so, the AFP is not taking this hands down," he said.

"As a result of investigations initiated by the AFP, two of the military personnel involved in a killing incident in Negros Occidental in June 2010 have been placed behind bars in the Himamalayan city jail," he said.

"We are with the HRW and other independent organizations in putting a just resolution to these cases but we must bring them to the courts to undergo due process," he said.

Phil. Star, 03.01.12

Probe of PNP procurement anomalies highlights 2011

By Cecille Suerte Felipe

Incidents of car theft, killings of journalists, natural disasters, and allegations of anomalous procurement of police equipment bore down on the Philippine National Police (PNP) in 2011.

In July, Sen. Panfilo Lacson accused former PNP chief Jesus Verzosa and 30 other active and retired police officials and suppliers of involvement in the anomalous purchase of Raven 44 helicopters.

Lacson alleged that two of the three helicopters, purchased for P104.9 million supposedly as brand new, were previously owned by former first gentleman Jose Miguel Arroyo.

The expose led to the conduct of a Senate inquiry, during which it was learned that the two helicopters had been used frequently by members of the Arroyo family and their friends during the

court system "is either deeply flawed or simply a sham."

In 2011, the Philippine army fabricated stories that several children taken into military custody were NPA rebels. In several cases investigated by Human Rights Watch, the army paraded the children in front of the media, publicly branding them rebels despite conclusive contrary evidence. In two of the cases, the army detained the children for several days. "It beggars belief why two years after the Maguindanao massacre, Aquino still has not dismantled the country's paramilitary forces," Pearson said. "Both government forces and armed rebels should ensure compliance with the laws of war and protect ordinary civilians, who bear the brunt of the conflict."

Tutaan cited Rule 110 of the Rules of Criminal Procedure which states that prosecution could only start when a formal complaint or a sworn statement by the complainant had been filed before the appropriate authorities.

"No formal complaints were filed in the cases cited by the HRW in its report therefore prosecution did not commence," he said.

Military justice system

"We go by our military justice system but the AFP is not a prosecutory body. We can only go as far as undertaking disciplinary actions such as dismissal from the military service and privileges but once an involved soldier goes outside military bounds, the final say will come from the higher civilian court," Tutaan said.

The official urged the HRW to work hand in hand with the AFP to stop human rights abuses.

"I am with the HRW to prosecute whoever it is from our organization that violates human rights. The AFP is right there at the helm to cooperate with the proper authorities to bring justice, above all," he said.

Protectors of the people

In the statement, AFP Chief of Staff Lt. Gen. Jessie Dellosa said: "It is embodied in our IPSP (Internal Peace and Security Plan) Bayanihan that as protectors of the people, we must always promote the protection of human rights and adherence to international humanitarian law."

"This is why we are continuously strengthening our Human Rights Office which has been replicated down to the battalion level to address human rights issues and concerns," Dellosa said.

campaign for the 2010 elections.

Graft charges were eventually filed against Arroyo, Verzosa, and the 30 other accused.

During the investigation on the helicopter purchase, Interior Secretary Jesse Robredo exposed that the PNP, under Verzosa's leadership, had procured P131-million worth of rubber boats under anomalous conditions.

The boats, procured to strengthen disaster response and preparedness, were found to be defective as the engines did not match specifications given by the National Police Commission. Investigators said some police officials in charge of procurement adjusted the specifications to accommodate the suppliers who turned out to be their friends. Robredo also exposed the alleged

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anomalous repair of 30 units of armored personnel carriers or V-150s that cost the government P409 million. The Criminal Investigation and Detection Group (CIDG), the investigating arm of the PNP, had referred all the cases to the Office of the Ombudsman for assessment and investigation.

The conduct of the investigations did not affect the usual turnover of command from PNP chief Director General Raul Bacalzo to PNP chief Director General Nicanor Bartolome on Sept. 9.

President Aquino personally witnessed the turnover ceremony at Camp Crame in Quezon City. Bacalzo's term and the three-month leadership of Bartolome have been considered smooth-sailing, albeit punctuated with natural disasters caused by strong typhoons.

Car theft

During the early part of 2011, incidents of car theft that led to the killing of car traders Emerson Lozano, his co-employee Ernani Sensil and Venson Evangelista underscored the problem of car theft in the country. On two separate occasions, the victims accommodated potential buyers for a test drive and did not return. Police found Sensil's burned body in a grassy area in La Paz, Tarlac on Jan. 13, while Lozano's body was recovered in Porac, Pampanga on Jan. 17.

Evangelista's body, on the other hand, was found on Jan. 14 in Nueva Ecija but was only properly identified by his father Arsenio on Jan. 17.

Authorities pointed to the car theft group led by brothers Raymond and Roger Dominguez as being responsible for the killings. They were arrested and charged in courts, but denied involvement.

After the incidents, the PNP, through the Highway Patrol Group (HPG), strengthened the campaign against car theft.

On Jan. 19, however, the high-end sport utility vehicle owned by a cousin of former senator Mar Roxas was stolen in Makati City. The Toyota Land Cruiser of Margarita Fores was parked along De la Rosa Street in Legaspi Village when it disappeared.

There were no reports if the vehicle had been recovered or if the thieves had been identified.

It was also discovered that over 30 personnel of the PNP and the Land Transportation Office (LTO) connived with car thieves by "cleaning" the records of the stolen vehicles.

The stolen vehicles usually end up in the Visayas and Mindanao. The HPG had made several recommendations to address the series of car thefts in Metro Manila but these have not yet been acted on by the Office of the President.

Killing of journalists

The killings of journalists also remained a problem for the PNP in 2011.

On Jan. 24, Palawan-based radio broadcaster Dr. Gerry Ortega

Urgent Appeal Update: AHRC-UAU-003-2012, 31.01. 2012

Torture victims whose complaints of injuries were ignored by doctors had their case dismissed

The Asian Human Rights Commission (AHRC) has learnt that two complaints of torture in Basilan province, Mindanao, which we asked the police to investigate were dismissed because they claimed the victims could not provide medical proof of their torture. The absence of medical proof, however, was because the doctors ignored the victims' complaints and did not adequately record a medical report.

UPDATED INFORMATION

In our previous appeal (AHRC-UAC-174-2011) we mentioned that torture victims Jedil Esmael Mestiri, presently detained at the provincial jail in Isabela City, Basilan; and Rahman Totoh,

was shot dead by an unidentified man believed to be from Metro Manila.

Broadcaster Maria Len Flores Somera, 44, host of "Arangkada 1530" on radio dzME, was shot dead on March 24. Charges have been filed against the alleged attackers and their cohorts. The motive for the slay was supposedly a land dispute.

Training

Before Bacalzo stepped down as PNP chief, he and Deputy Director General Arturo Cacdac Jr. initiated a program to ensure that all investigators receive formal training.

The STAR had previously reported that eight out of 10 police investigators nationwide lacked formal training.

A document obtained by The STAR showed that only 908 of 3,781 police investigators in nine regions have had formal training on case investigation.

Cacdac said the PNP has completed the training for police investigators.

Also in 2011, the PNP national headquarters at Camp Crame was formally declared as a national historical site by the National Historical Institute.

The declaration will prevent the plan to sell the police camp built in the 1950s and named after the first Filipino general, Rafael Crame.

The PNP likewise continued to reconstruct 39 dilapidated police stations nationwide.

Better year

For 2012, Bartolome said he is expecting a better climate of peace and order as people are now more security conscious and aware of their responsibilities.

"We foresee a better climate for change, especially since people are aware of their responsibilities. Our citizens know their roles so we can achieve peace and order," said Bartolome.

"When it comes to crimes, our records would show that from January to November 2011, crime volume went down by 23 percent," said Bartolome, who expressed optimism that when records for December are submitted and consolidated, the same downtrend in crime volume will be sustained.

Bartolome also said the PNP is set to launch an electronic warrant and electronic rogues' gallery to allow policemen nationwide to see and get copies of warrants of arrest and pictures of criminals.

"We started with e-blotter, next is e-warrant which will be launched by the next quarter and e-rogue, meaning photos of wanted persons will be put on a database and can be accessed by all police stations," said Bartolome.

The electronic blotter or e-blotter was launched by Bacalzo to allow the PNP leadership to monitor the performance of every police station.

presently detained at the Bureau of Jail Management and Penology (BJMP) also of the same city have complained of being tortured by the military and police.

Mestiri claimed soldiers attached to the 32nd Infantry Battalion (IB), Philippine Army (PA) tortured him inside their camp where he was taken for questioning. On the other hand, Rahman claimed the policemen attached to the Special Action Force (SAF) of the Basilan Police Provincial Office (BPPO) who took custody of him tortured him after his arrest and set his moustache on fire. For details of torture, read our previous appeal.

In Mestiri's case, before the soldiers remanded him to prison the

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soldiers did take him to the General hospital in Isabela City where he was examined by a doctor; however, the doctor did not pay attention to his complaints of chest pains and injuries. The victim also saw the doctor speaking to the soldiers before he examined him. The doctor did not bother informing him what was it they were discussing.

In Rahman's case, although Dr. Jesus Daniel Naon M.D., the physician who examined him attached to the General Hospital of Basilan, did indicated the injuries that he had; however, other than mentioning the centimeters of his injuries and their location, there were no adequate medical explanations, as required by Anti-torture Act of 2009, that would have explained the cause of those injuries.

In our letter to the Philippine National Police (PNP), we did mention how the doctors had performed their examination on two torture victims. But in his letter to AHRC dated January 6, 2012, Police Director Nicanor Bartolome, chief of the PNP, rejected both Mestiri and Rahman's allegations of torture against the perpetrators.

In Mestiri's case P/Director Bartolome claimed that: "before Mestiri was brought to the Provincial Jail of Isabela, he was subjected to medical check-up at the Basilan General Hospital where no signs of physical abuse or maltreatment was found". He further defended his men invoking their general as: "(the) Basilan PPO maintained that Mestiri was treated fairly at the time of his confinement and that he was not subjected to any kind of torture".

In justifying the injuries that Rahman had, he said: "Totoh at-

tempted to escape that forced the arresting officers to chase and subdue him. After which, Totoh was committed at the Isabela City Jail where he complaint of chest pain". He further trivialized his medical certificate and in defending his men made a conjecture invoking that: "his injuries were mostly found in the chest which could have been inflicted when the arresting officers placed him in prone position to handcuff him when he resisted arrest."

P/Director Bartolome further argued that: " police procedure that requires a suspect to lie on the ground facing down is a standard technique applied in performing arrest. Hence, it was concluded that the arresting officers performed their duties with regularity".

The AHRC completely rejects P/Director Bartolome's explanation as to the result of their investigation regarding the victims' allegations of torture. To require torture victims to produced medical proof where, in fact, the doctors who examined them ignored their complaints and deliberately failed in recording a medical report as required by the Anti-Torture Law, is completely unacceptable.

Here, it is obvious that the doctors had failed in their duties and legal obligations to conduct examination on the victims. Thus, it should be the doctors involved and not the victims who should provide an explanation why there was no medical proof. The doctors' neglect and incompetence in examining the victims and in conducting forensic examination are themselves breached to medical practice and are criminal offenses.

InterAksyon.com, 04.01.12

Aquino OKs submission of Palace's FOI bill to Congress

After languishing for 13 long years, the Freedom of Information bill finally appears on the verge of becoming law after President Benigno Aquino III approved a final Palace version of the measure on Wednesday and ordered it submitted to Congress.

Aquino gave the green light after meeting with his spokesman Edwin Lacierda, Presidential Communications Development and Strategic Planning Office head Ramon Carandang, PCDSPO Undersecretary Manolo Quezon, Budget Secretary Florencio Abad, and Energy Secretary Rene Almendras.

Quezon said the Palace version -- finalized after months of consultations with lawmakers, stakeholders, and government officials -- will be submitted to Congress "in a few days" to ensure its swift passage.

"The President's marching order is to push ahead with the FOI," Quezon said.

Lawmakers on Wednesday welcomed Aquino's order, although Eastern Samar Representative Ben Evardone, who chairs the House of Representatives' public information committee, said this did not mean the chamber would totally adopt the Palace version.

While saying the submission of the Palace version would "definitely hasten the approval of the FOI bill," Evardona added that "it does mean, however, that we will adopt it hook line and sinker."

Like freedom of information advocates, Evardone said they should watch out for the inclusion of the phrases "national security" and "national interest" in the exemptions to the information that should be released to the public.

"We want to see how they will define national security and what (is) its scope. But including matters of national interest as part of exemptions for not releasing documents is definitely not acceptable, it's too broad," he said.

The final Palace version basically amends the draft measure proposed by Deputy Speaker Lorenzo Tañada III.

Aquino earlier said he wants an FOI law that is "livable by everybody" and balances the concerns of the state with citizens' right to information.

However, the Right to Know, Right Now! Coalition, a group of civil society and media organizations pushing for the FOI, earlier said the Palace draft of the FOI bill includes "national security" and the President's "deliberative process" in the list of exceptions.

The Palace also expanded the concept of national security beyond national defense and foreign affairs, the coalition said.

The coalition said the Palace study group defined the "deliberative process" as covering records of minutes, advice given or opinions expressed during decision-making or policy-formulation meetings.

But once policy has been formulated, the minutes may be disclosed unless they were made in executive session.

During the meeting at the Palace, Aquino moved to strike out a proposed Information Commission, envisioned to have quasi-judicial powers to solve disputes between state agencies and parties seeking disclosure of public documents.

"The President said this would just add another layer of bureaucracy," Quezon said