

REPORT ON THE PHILIPPINE EXTRAJUDICIAL KILLINGS 2001-2010

Atty. Al A. Parreño



The Asia Foundation



USAID
FROM THE AMERICAN PEOPLE

Copyright ©2011 Supreme Court of the Philippines

All rights reserved. No part of this Helpbook may be reproduced in any form or by any electronic or mechanical means, including information storage and retrieval systems, without permission in writing from the publisher, except by a reviewer who may quote brief passages in a review. The Asia Foundation and USAID reserve a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the materials for the Foundation's or USAID's purposes. Inquiries should be addressed to The Asia Foundation, 36 Lapu-Lapu Avenue, Magallanes Village, Makati City, Philippines. Email: tafphil@asiafound.org

This Helpbook is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents are the responsibility of the authors and do not necessarily reflect the views of USAID, the United States Government, or The Asia Foundation.

ISBN: 978-971-92445-3-0

Author: Atty. Al A. Parreño

Cover designed by Aaron A. Arenillo

Edited by Alpha Carole O. Pontanal

Lay-out by Vivien Suerte-Cortez

The National Library of the Philippines CIP Data

Recommended entry:

Report on Philippine Extrajudicial Killings from 2001-August 2010 / Al A. Parreño, author. – Makati City:

The Asia Foundation, c2011.

p. ; cm.

1. Extrajudicial Killings – Philippines – 2001 to August 2010. 2. Human Rights – Philippines. 3. Law and Human Rights – The Asia Foundation. 4. Rule of Law – Convictions – Judicial Remedies - Philippines. 5. Writ of Habeas Corpus – Writ of Amparo – Writ of Habeas Data - Philippines

1. Parreño, Al A.

ISBN: 978-971-92445-3-0

FOREWORD

October 23, 2010

Dear Emma,

You are two years and five months old today. You came back from San Francisco, USA two years back. Your mama and I decided to raise you in Manila. You will probably want to read this 10 to 15 years from now.

We write this legal report to study political killings that were done during the first decade of the millennium in the Philippines. When you read this, I hope that as we grow from members of tribes; to provinces; to countries; and then to human beings, these extrajudicial killings of people no longer exist.

In reading this, you'll know that there were brave people in the country who stood strong for the various causes they believed in. For that, they were murdered.

Our country is still a fairly young democracy. Our institutions are still evolving. Evil people move around in power, unpunished. I hope that through this, I contribute in a small way to the purging of human wrongs in the country. In so doing, with a lot of principled doers from different sectors and countries, we benefit your generation.

You will grow up and soon will choose where to live; what to do; and what to believe in. That will be your choice. All I ask is that in doing so, you act - freely and unafraid.

Always with you,

Al



The Asia Foundation

REPORT ON THE PHILIPPINE EXTRAJUDICIAL KILLINGS

(2 0 0 1 – A U G U S T 2 0 1 0)

ATTY. AL A. PARREÑO*

* Al A. Parreño, University of the Philippines, College of Law, 2003.

Al graduated in the top ten of his law class. He was an editor of the Philippine Law Journal. He has represented human rights groups in legal cases, including human trafficking cases. He also lectures on the use of electronic data discovery, improvement of legal processes and contract management tools in the Mandatory Continuing Legal Education program of the Supreme Court. He is a member of the Diaz, Parreño and Caringal Law Firm.

He works with the Impact Solutions Research Institute. Al would like to thank his senior researchers, Francis Baclay and Darwin Angeles.

Contact him at: aa.parreno@dopclaw.net.

TABLE OF CONTENTS

AND QUICK SUMMARY

- FINDINGS -	1
---------------------------	----------

I. Statistical Conclusions	2
A) Extrajudicial Killing is an Epidemic in the Philippines.....	2
B) The Philippines Has One Too Many Incidences of Extra Judicial Killings.....	3
C) Most of the Victims Are Members or Officers of Activist Groups.....	4
D) Most Identified Suspects Belong to the Military.....	9
E) Policemen Are Also Involved.....	10
F) State Actors Are Involved.....	11
G) The Rebels Comprise 12% of Suspects.....	11
H) Pampanga has the Most Number of Victims, followed by Negros Occidental and Northern Samar.....	12
I) The Years 2005 and 2006, During the Term of Gloria Macapagal-Arroyo, Had the Most Number of Cases.....	13
J) The United Nations Representative Expressed Concern.....	15
K) The Commission on Human Rights Clamored for Solutions.....	19
L) Oplan Bantay Laya – The Beginning of the End?.....	20
M) The Aquino Administration Promises to Stop It.....	21

II.

III. BACKGROUND ON THE EXTRAJUDICIAL KILLINGS

AUDIT.....32

I) Project Objectives, Scope and Methodology.....32

A) Project Objectives.....32

B) Covered Cases (Scope).....32

C) Methodology.....32

II) Definitions.....33

A) Extrajudicial Killing, Defined.....33

B) Extrajudicial Killing, Elements.....34

C) Extrajudicial Killings, Victims.....35

D) Incidents, defined.....36

III) Available Laws for Extrajudicial Killings.....37

A) Judicial Remedies.....40

1) Supreme Court Administrative Order No. 25-2007.....40

2) Writ of Habeas Corpus.....40

3) Writ of Amparo (A.M. 07-9-12-SC).....41

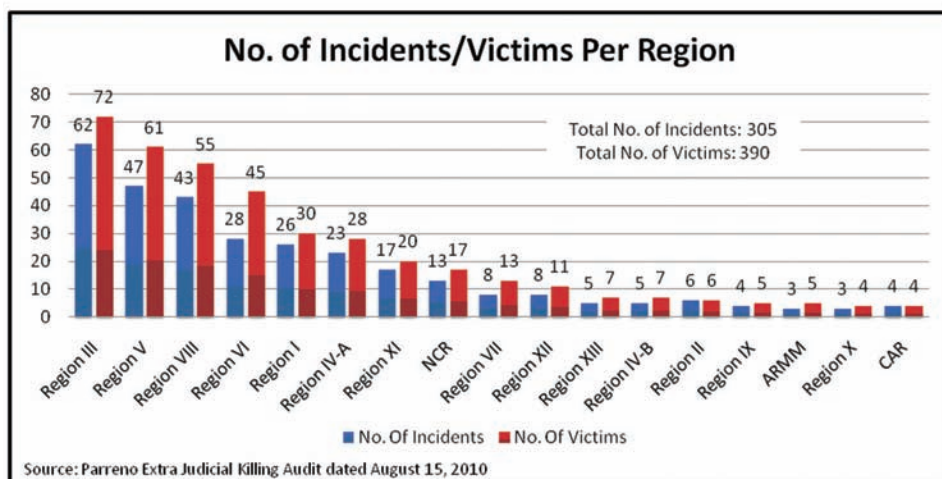
4) Writ of Habeas Data (A.M. 08-1-16-SC).....42

IV. RECOMMENDATIONS.....	44
CONCLUSION.....	62
Annex “A” Example of Extrajudicial Killing Case (Not Filed).....	64
Annex “B” Example of Extrajudicial Killing Case (Dismissed by Prosecutor).....	65
Annex “C” Example of Extrajudicial Killing Case (Dismissed in Trial Level).....	66
Annex “D” Backgrounder in Kenya.....	67
Annex “E” Backgrounder in Guatemala.....	70
Annex “F-1” Writ of Amparo (A.M. 07-9-12-SC).....	73
Annex “F-2” Writ of Amparo (A.M. 07-9-12-SC) (Full Text).....	78
Annex “G-1” Writ of Habeas Data (A.M. 08-1-16-SC).....	90
Annex “G-2” Writ of Habeas Data (A.M. 08-1-16-SC) (Full Text).....	91
Annex “H” Administrative Order 25-2007 (Full Text).....	100
Annex “I” Stages in Philippine Criminal Procedure.....	112
Annex “J” List of All Cases Included.....	117

FINDINGS

I. STATISTICAL CONCLUSIONS

A) EXTRAJUDICIAL KILLING IS AN EPIDEMIC IN THE PHILIPPINES



Extrajudicial killings are rampant and remain unsolved in the Philippines. Based on our research, there are a total of 305 incidents¹ of extrajudicial killings² in the country with 390 victims³ from 2001 to 2010. Only a total of 161 cases⁴ or 56% of the incidents have been filed with the prosecutor.

The real number of extrajudicial killings in the Philippines escapes exact determination. Regardless however of the true body count, the mere fact that there are so many extrajudicial killings is by itself a cause for alarm.⁵ While we consider ours a more human right friendly country, it is very clear we have a human rights disaster in our midst.

1 Incidents as used in this report refer to all incidents of extrajudicial killings regardless of it being filed in court.

2 Extrajudicial killings are defined by law as killings due to the political affiliation of the victims; the method of attack; and involvement or acquiescence of state agents in the commission of the killings (Supreme Court Administrative Order No. 25-2007). However, due to our inability to determine whether state actors are involved early on, we have used the "method of attack" and "political affiliation of the victims" as basis for defining extrajudicial killings in this report.

3 Victims as used in this report refer to all victims that have died due to extrajudicial killings and do not include the survivors. It also does not include victims of enforced disappearances.

4 Case as used in this report is understood to refer to those filed with the prosecution.

5 See Jose A.R. Melo, et al., *Report of the Independent Commission to Address Media and Activist Killings*, January 22, 2007, p. 1, available at: <http://www.pinoynhr.net/reports/meloreport.pdf>.

B) THE PHILIPPINES HAS ONE TOO MANY INCIDENTS OF EXTRA JUDICIAL KILLINGS.

The Philippines tops another survey – as having a huge number of incidences of extrajudicial killings.

It can be conceded as well that in some jurisdictions⁶, an exact audit of extrajudicial killings is nigh impossible due to a myriad of challenges ranging from open armed conflict, non-collaboration of respective host state or its state agents or the state of unrest or unstable political climate that pervades States. Yet the fact remains that in our supposed non-war state, the numbers of extrajudicial killings far outrank those of other countries’.

It is of common knowledge nowadays, as well as a depressing fact that apart from leading the globe in terms of graft and corruption,⁷ the Philippines is a world leader in extrajudicial killings. As early as 2006, the Philippines has already attracted international attention after international press freedom watchdog Reporters Without Borders (Reporters Sans Frontières, RSF), ranked the Philippines at the bottom 20 of the World Press Freedom Index at 142nd place.⁸

RSF attributed the dismal rating of the Philippines to the unresolved chain of killings and harassments suffered by journalists in the country, placing it in the company of North Korea (168th), China (163rd) and the Democratic Republic of Congo (142nd).⁹ The plummet of the Philippines towards depravity began in 2002 when it was ranked 82nd but gradually fell deeper and deeper to 118th in 2003 and 139th in 2005.¹⁰ Even the UN Special Rapporteur for extrajudicial killings noted in his report on his Mission to the Philippines, that a culture of impunity pervades the country.¹¹

6 See Philip Alston, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, A/64/187, United Nations Human Rights Council, available at: http://www.extrajudicialexecutions.org/application/media/64%20GA%20SR%20Report%20%28A_64_187%29.pdf.

7 ABS-CBN News, *Investors rank Philippines 4th most corrupt in AsiaPac*, March 9, 2010, available at: <http://www.abs-cbnnews.com/business/03/09/10/investors-rank-philippines-4th-most-corrupt-asiapac>.

8 Alecks P. Pabico, *Philippines among worst-ranked countries in press freedom index*, The Daily PCIJ, October 24, 2006, available at: <http://www.pcij.org/blog/?p=1263>.

9 Alecks P. Pabico, *Philippines among worst-ranked countries in press freedom index*, The Daily PCIJ, October 24, 2006.

10 Alecks P. Pabico, *Philippines among worst-ranked countries in press freedom index*, The Daily PCIJ, October 24, 2006.

11 Philip Alston, *Mission to the Philippines*, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 5 available at: <http://www.extrajudicialexecutions.org/application/media/2007%20Philippines%20mission%20report%20-%20English1.pdf>.

There is a striking parallelism with what is happening in the Philippines and the countries of Kenya and Guatemala. For a thorough discussion of this comparison, see Annex “D” and “E” of this report.

C) MOST OF THE VICTIMS ARE MEMBERS OR OFFICERS OF ACTIVIST GROUPS

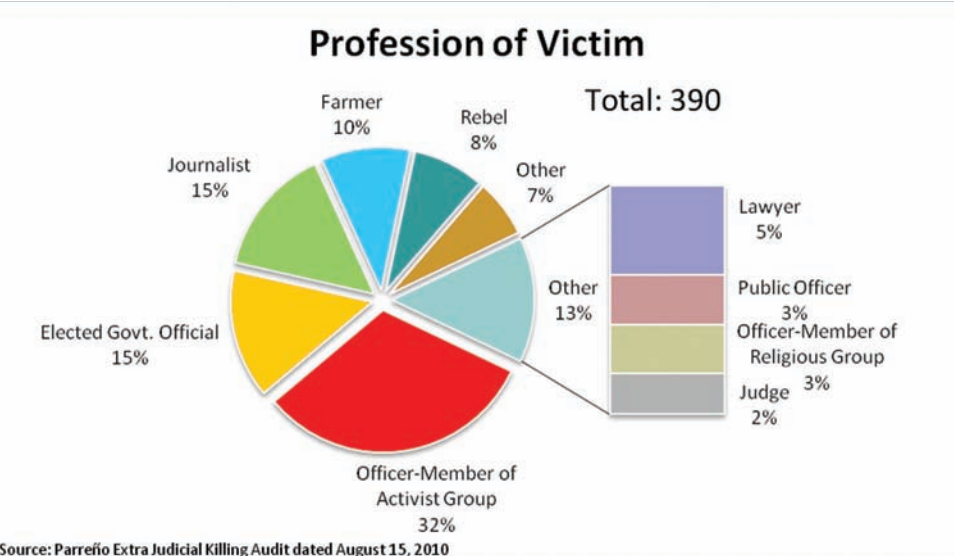
The data gathered shows that 32 percent out of the total 390 victims of extrajudicial killings are officers or members of activist groups such as Bayan Muna and Anakpawis.

Bayan Muna¹² is a party-list organization represented by Satur Ocampo while Anakpawis¹³ is the electoral wing of the radical trade union movement Kilusang Mayo Uno (KMU) headed by Crispin Beltran and Rafael Mariano. Majority of the victims were serving as coordinators for these activist groups when they were murdered.

One example of such case is the case of Elena Mendiola, 54 years old, who acted as the Secretary General and Regional Coordinator of Bayan Muna in Echague, Isabela. She was shot six times in the head on May 10, 2006. Members of activist-peasant groups have also been the victims of these killings. On May 16, 2006, Jose Doton, President of Tignayan dagiti Mannalon a Mangwayawaya ti Agno (TIMMAWA), a peasant organization in San Manuel, Pangasinan, was killed while his brother Diosdado Doton survived the incident in San Nicolas, Pangasinan. Jose Doton was one of the key leaders of the struggle against the construction of the San Roque Multi-Purpose Dam in the boundary of Pangasinan and Benguet provinces. His killing is one of the few cases which resulted in a conviction.

¹² Representatives of Bayan Muna available at: <http://www.bayanmuna.net/ourreps1.php>.

¹³ Anakpawis- Wikipedia, the free encyclopedia available at: <http://en.wikipedia.org/wiki/Anakpawis>.



One example of such case is the case of Elena Mendiola, 54 years old, who acted as the Secretary General and Regional Coordinator of Bayan Muna in Echague, Isabela. She was shot six times in the head on May 10, 2006. Members of activist-peasant groups have also been the victims of these killings.

On May 16, 2006, Jose Doton, President of Tignayan dagiti Mannalon a Mangwayaway ti Agno (TIMMAWA), a peasant organization in San Manuel, Pangasinan, was killed while his brother Diosdado Doton survived the incident in San Nicolas, Pangasinan. Jose Doton was one of the key leaders of the struggle against the construction of the San Roque Multi-Purpose Dam in the boundary of Pangasinan and Benguet provinces. His killing is one of the few cases which resulted in a conviction.

Elected government officials comprise 15 percent of the victims of extrajudicial killings. We included these incidents in the study due to the nature of their death and, for some, their affiliation with activist groups and human rights movements. The methodology of killing by motorcycle-riding unidentified armed men is common in these cases. In one case, Abner Dalan, a Barangay Captain in Brgy. Mataqui, Capalonga, Camarines Norte, was abducted

and killed by alleged members of the Military Intelligence Group of the Armed Forces of the Philippines (AFP). The incident happened on January 23, 2006. He was also a known coordinator and supporter of Anakpawis.

Journalists comprise 15 percent of the total number of victims. Majority of journalist fatalities are radio commentators in local radio stations. The most recent case recorded is the killing of Jovelito Agustin, 37, a radio commentator for dzJC Aksyon Radyo Laoag, on June 15, 2010 in Laoag City, Ilocos Norte. The killing occurred less than 24 hours after the murder of Desiderio Camangyan, anchor for local radio station Sunrise FM in Mati City, Davao Oriental. Reports said that Agustin's hard-hitting comments against illegal-logging operations in the area were a possible motive for his murder.

Farmers and peasant workers comprise 10 percent of the total victims. One distinct case is that of Ricardo Ramos, farmer and president of the Central Azucarera de Tarlac Labor Union, a labor organization in Hacienda Luisita in Tarlac. On October 25, 2005, Ramos and other members of the labor union were celebrating the distribution of the farmer's wages and benefits after a month's struggle, when he was shot squarely on the head. It may be inferred that peasant workers who are involved in the struggle for the distribution of land against their landlords are usually the victims of extrajudicial killings.

Known and suspected members and supporters of communist rebel groups such as the New People's Army (NPA) and National Democratic Front (NDF) have also been profiled as making up eight percent of the victims. Based on the findings of the study, the summary execution of suspected NPA members have been rampant in Northern Samar in the year 2005. The military has denied any involvement in their killings. Until now, the perpetrators of these killings remain unidentified.

Another distinct group of victims are judges and lawyers which comprise a total of seven percent of the total victims. Some of the lawyers are affiliated with activist groups. One case is that of Atty. Ambrocio Matias in Nueva Ecija. Atty. Matias was a known counsel for peasant organizations in Central Luzon while his son, Leonard Matias was a law student. They were shot to death by unidentified gunmen on May 8, 2005. A recent murder of a human rights lawyer in Nueva Vizcaya was also recorded. Ernesto Salunat was

boarding his white BMW car in front of the Municipal Trial Court building in Solano, Nueva Vizcaya, at 8:15 a.m. on June 22, 2010, when he was shot dead by two unidentified men. The perpetrators escaped using a motorcycle. Salunat, who was also the campaign manager of the Liberal Party in the province, was known to have made critical commentaries against alleged cases of graft in the provincial government over the Liberal Party's paid radio program "Arya Vizcaya" on dwRV.

Judges have also been victimized by extrajudicial killings. On September 27, 2002, Regional Trial Court Judge Oscar 'Gary' Uson was killed in an ambush by two motorcycle-riding men while on his way home to Urdaneta City, Pangasinan. In Batangas, Judge Voltaire Rosales was gunned down at Tanauan City, Batangas while driving from his office. Gunmen riding a motorcycle and an L300 van blocked the path of his Mitsubishi Pajero and shot him numerous times, causing his instantaneous death. Even before he became a judge, while serving as an assistant prosecutor, Judge Uson was allegedly already receiving death threats because of his successful prosecution of notorious gangs in Alaminos, Pangasinan. This gives an implication that judges are targeted in extrajudicial killings because of their unfavorable decisions against influential and armed individuals.

Those that belong to religious groups are not spared as victims of extrajudicial killings. It is noteworthy that three percent of the victims are members of religious groups. The case of Father Cecilio Lucero may give us a clue why they are also targeted in extrajudicial killings. Lucero, parish priest of the Roman Catholic Church of Catubig, Northern Samar was active in human rights and social action measures in Northern Samar before he died. He was killed in an ambush by 30 armed men while he was riding his van in Sitio Puente, Barangay Layuhan, San Jose, Northern Samar on September 6, 2009.

It is quite alarming that most cases of extrajudicial killings involve the killing of leftist activists. The most pressing reason for this perhaps is that leftist activists are generally associated with the communist group, the Communist Party of the Philippines/New People's Army/National Democratic Front (CPP/NPA/NDF). The primary suspects for their killings are members of

the Armed Forces of the Philippines (AFP). The Melo Report states that a good reason to suspect the AFP as the perpetrator of such killings is the fact that the AFP considers some leftist organizations as “enemies of the state.” Men composing the top brass of the Philippine military believe certain leftist organizations are identified to be influenced or affiliated with the CPP/NPA/NDF or are in fact actively and covertly assisting the latter in its goals to supplant the current government with a communist state.¹⁴ The NDF is allegedly composed of organizations infiltrated or influenced by the NPA and serve as front organizations in the armed struggle of the NPA.¹⁵

Philip Alston, the UN Special Rapporteur, stated that it appears that the killing of human rights defenders, trade unionists and other civil society leaders may be due to the fact of their affiliation with an organization identified to be part of the CPP/NPA/NDF rather than their particular activity.¹⁶ The UN Special Rapporteur cites the cases of Federation of Free Workers (FFW) and Kilusang Mayo Uno (KMU), both trade union groups. Both groups claim several hundred thousand members, but while KMU has lost numerous members to extrajudicial executions, FFW has not lost any. The key distinction appears to be that KMU is commonly cited by government officials as a CPP front group whereas FFW is not. While both their activities entail the danger of attack or violence, the likelihood that such an attack will take the extreme form of an extrajudicial execution appears to be far higher if the worker is associated with what is purported to be a CPP front group.¹⁷ This angle appears to hold true when cross-referenced against the numbers of reported extrajudicial killings. Karapatan, a civil society group that maintains their own body count of extrajudicial killings in the country stated that there are 390 victims with known political or organizational affiliations.¹⁸ When the affiliation of the victims is cross-referenced with the list of associations that the AFP considers as a front group of the CPP/NPA/NDF, it was observed that 94 percent of the victims with known affiliations belonged to alleged front groups.¹⁹

14 Jose A.R. Melo, et al., Report of the Independent Commission to Address Media and Activist Killings, January 22, 2007, pp. 5, 11-13, 21-23.

15 Jose A.R. Melo, et al., Report of the Independent Commission to Address Media and Activist Killings, January 22, 2007, pp. at 11-13.

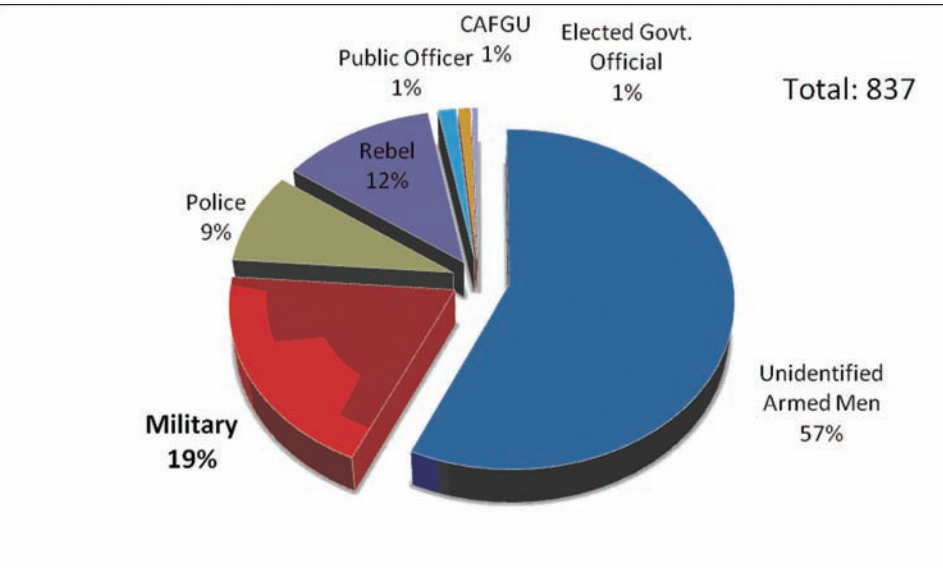
16 Philip Alston, Handbook on Extrajudicial Killings: Victim Groups, p. 67, United Nations Human Rights Council, available at: <http://www.extrajudicialexecutions.org/application/media/Handbook%20Chapter%208%20-%20Victim%20Groups%2C%20Handbook.pdf>

17 Philip Alston, Handbook on Extrajudicial Killings: Victim Groups, United Nations Human Rights Council, pp. 67-68.

18 As of 2007, the Karapatan list of killings totalled 734. Today the number has risen to more than 1000. Karapatan Monitor, January – March 2010, available at: http://www.karapatan.org/files/2010_KarapatanMonitor_Jan-March.pdf.

19 Philip Alston, Handbook on Extrajudicial Killings: Victim Groups, United Nations Human Rights Council, p. 68. For a complete list of the groups see Philip Alston, *Mission to the Philippines*, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, pp. 29-30.

D) MOST IDENTIFIED SUSPECTS BELONG TO THE MILITARY



Source: Parreño Extra Judicial Killings Audit dated August 15, 2010

Although majority of the cases has not been successfully prosecuted because most of the suspects are still unidentified (57 percent of the total 837 suspects), the data gathered revealed that 19 percent of those identified are members of the Armed Forces of the Philippines (AFP). One name that comes up in Region 3 is Wilfredo Layug, Jr.,²⁰ also known as Wilfredo T. Yumul, Jr. and Leodegario Yumul, Jr. It seems that these three names refer to only one person, a Private First Class of the 7th Infantry Division of the Philippine Army based in Fort Magsaysay, Palayan City, Nueva Ecija. Based on the records, he was accused of seven murders in Pampanga in 2005 and 2006. Until now, said accused is still in the custody of the 7th Infantry Division of the Philippine Army due to a pending military court martial case against him.

20 Victim: Victorina Miranda-Gomez, *People of the Philippines vs. Wilfredo T. Yumul Jr., et al.*, Criminal Case. No. 15396, Regional Trial Court Branch 41, San Fernando, Pampanga;
Victim: Manuel Nardo, *People of the Philippines vs. Wilfredo Layug Jr., et al.*, Criminal Case No. 15501, Regional Trial Court Branch 44, San Fernando, Pampanga;
Victim: Arnel Guevarra, *People of the Philippines vs. Leodegario Yumul Jr. and four (4) John Does*, Criminal Case No. 15552, Regional Trial Court Branch 43, San Fernando, Pampanga;
Victim: Antonio Adriaes, *People of the Philippines vs. Wilfredo T. Yumul Jr., et al.*, Criminal Case. No. 15551, RTC, Branch 42, San Fernando Pampanga.

The Citizen Armed Force Geographical Unit (CAFGU) has been tagged as responsible for two of the recorded cases.²¹ CAFGUs are under the administration and control of the Armed Forces of the Philippines.²² They are tasked to prevent the re-infiltration of insurgents into communities that have already been cleared of their influence by combat operations conducted by regular units of the Armed Forces of the Philippines.

The high command of the Armed Forces of the Philippines vehemently denies engaging in acts of extrajudicial killings. In the investigation conducted by the Melo Commission, the fact-finding body established by then President Gloria Macapagal-Arroyo to look into the cases of extrajudicial killings, then AFP Chief of Staff General Hemorgenes Esperon refused to categorically state that the AFP has nothing to do with the killings of activists on the reason that such statement would be “too presumptuous.”²³

E) POLICEMEN ARE ALSO INVOLVED

Not surprisingly, members of the Philippine National Police (PNP) have been implicated as perpetrators in some cases of extrajudicial killings. They comprise nine percent of the total number of accused. While the exact cause of this is not exactly known, it may have something to do with the directive to the PNP to perform counter-insurgency operations.²⁴ However, it is also equally plausible that such incidences of police involvement in cases of extrajudicial killings are but the result of rogue servicemen offering their services as hired guns to augment their income.

21 Case of *Ildefonso Serrano*, killed on February 2, 2002 in Legazpi City, Albay and *Pepito Santillan*, killed on January 25, 2007 in La Castellana, Negros Occidental.

22 Executive Order No. 264, July 25, 1987.

23 Jose A.R. Melo, et al., Report of the Independent Commission to Address Media and Activist Killings, January 22, 2007, p. 11.

24 Rep. Act No. 8552, §3. This is also known as the “Philippine National Police Reform and Reorganization Act of 1998”.

F) STATE ACTORS ARE INVOLVED

Of the hundreds of extrajudicial killings committed in the Philippines, hardly any of the perpetrators thereof are identified. Most of the identified assailants happen to be state actors. Either they are members of the AFP; members of the police force; or public officers.

Thus, there exists reasonable cause to believe that some cases of extrajudicial killings were committed by state actors. The Republic of the Philippines may incur state responsibility under international law. The Philippines is a party to many international conventions prohibiting extrajudicial killings such as the International Covenant on Civil and Political Rights (ICCPR) and the Geneva Conventions of 1949 and its Second Additional Protocol to the Geneva Conventions.²⁵

G) THE REBELS COMPRISE 12% OF SUSPECTS

The next major category of identified perpetrators of extrajudicial killings is allegedly communist rebels said to belong to the CPP-NPA, and the Revolutionary Proletariat Army–Alex Boncayao Brigade (RPA-ABB).²⁶

According to the Human Rights Watch, the NPA was known to have used death squads known as “Sparrow Units” in the mid-1980s to purge its ranks of government spies and to steal armaments.²⁷ Based on the audited cases, there is yet no evidence to show that there is a possibility that the murders allegedly perpetuated by the NPA are also done by its “Sparrow Units.” Another former auxiliary group of the New People’s Army, the Revolutionary Proletarian Army-Alex Boncayao Brigade (RPA-ABB), was allegedly responsible for two cases in Negros Occidental.²⁸ Based on the data gathered, “Cinao” Rocamora, Agi Amolo, Lando Baynosa, alleged members of RPA-ABB

25 The Philippines ratified the ICCPR on 23 October 1986, ratified the Geneva Conventions of 1949 on 6 October 1952, and acceded to the Second Additional Protocol to the Geneva Conventions of 1949 on 11 December 1986.

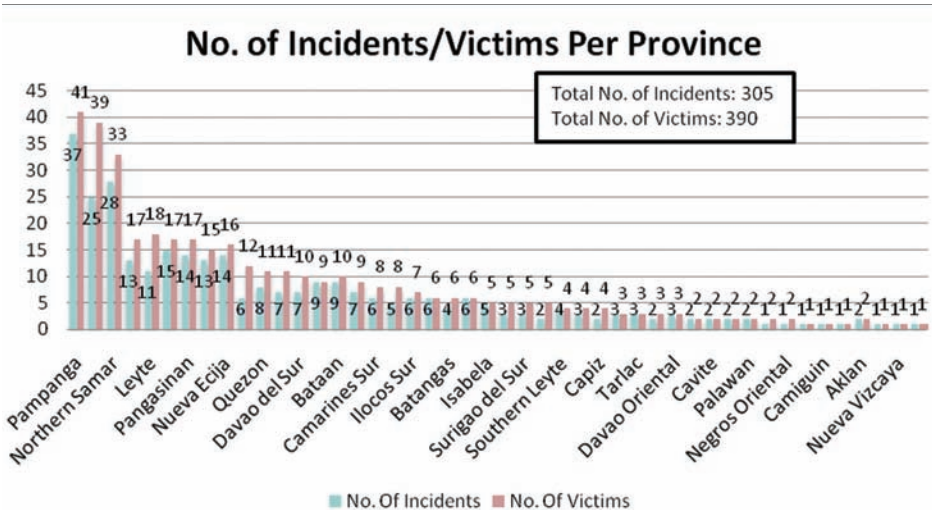
26 Per the case summaries there are 15 cases where the accused were stated to be members of the CPP-NPA or the RPA-ABB. The RPA-ABB is allegedly a breakaway urban hitsquad of the CPP-NPA. It has significantly dwindled in strength and number since 2000.

27 Human Rights Watch, THE PHILIPPINES: VIOLATIONS OF THE LAWS OF WAR BY BOTH SIDES 64(1990).

28 Cases of the victim Antonio Pantonian (People of the Philippines vs. Alias “Cinao” Rocamora, et al.) and the victim Using Bantilan.

were allegedly used by the military for the murder of several members of the Negros Federation of Sugar Workers in 2005.²⁹

H) PAMPANGA HAS THE MOST NUMBER OF EXTRAJUDICIAL KILLINGS VICTIMS, FOLLOWED BY NEGROS OCCIDENTAL AND NORTHERN SAMAR



Source: Parreño Extra Judicial Killing Audit dated August 15, 2010

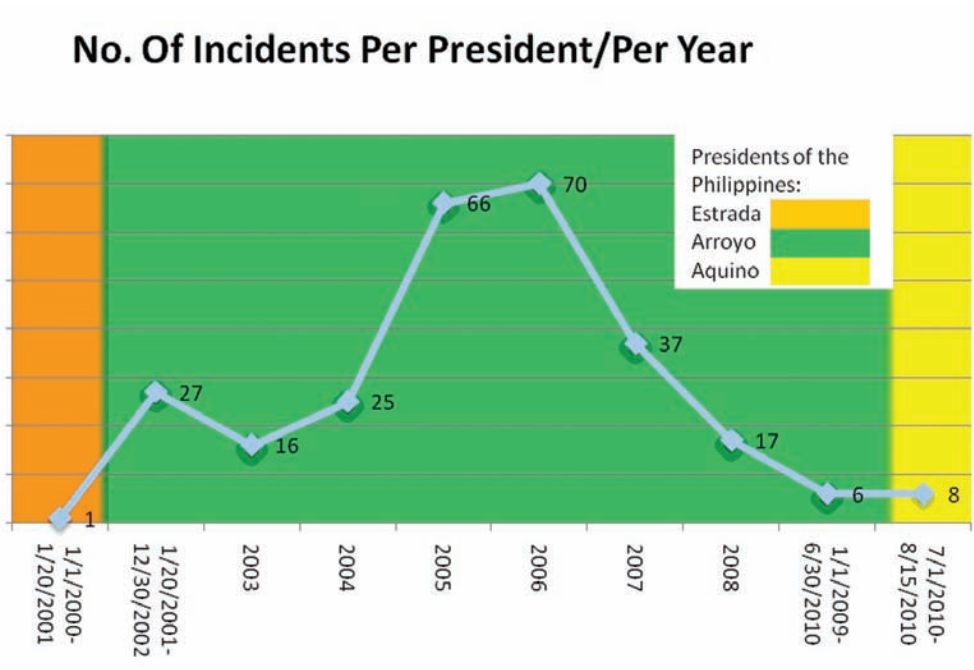
Pampanga³⁰ had the most number of cases with the record of having 37 cases and 41 victims. Majority of the Pampanga cases still remain unsolved as the suspects are still unidentified and some of the cases are dismissed. Most of the victims in Pampanga are elected government officials or alleged members of the NPA.

²⁹ Cases of the victim Antonio Pantonal (People of the Philippines vs. Alias "Cinao" Rocamora, et al.) and the victim Using Bantilan.

³⁰ During the course of this audit, our staff was repeatedly prohibited from doing our research in the Office of the Provincial Prosecutor in Pampanga.

Although Negros Occidental only has 25 recorded cases, there are 39 victims who were profiled, majority of whom are farmers working for the haciendas in Negros Occidental. Fourth in the list of having the most number of cases is Northern Samar, a known haven³¹ for the New People’s Army.

1) THE YEARS 2005 AND 2006, DURING THE TERM OF GLORIA MACAPAGAL-ARROYO, HAD THE MOST NUMBER OF CASES

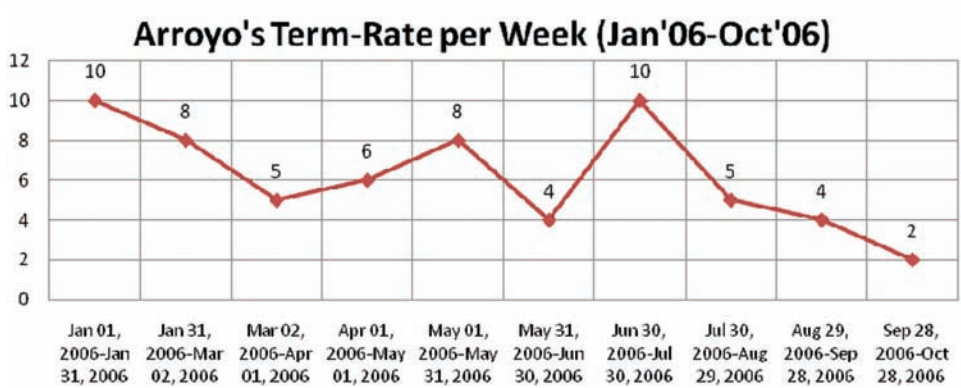


Source: Parreño Extra Judicial Killing Audit dated August 15, 2010

31 Thomas A. Mark, MAOIST INSURGENCY SINCE VIETNAM, 154 (2005)

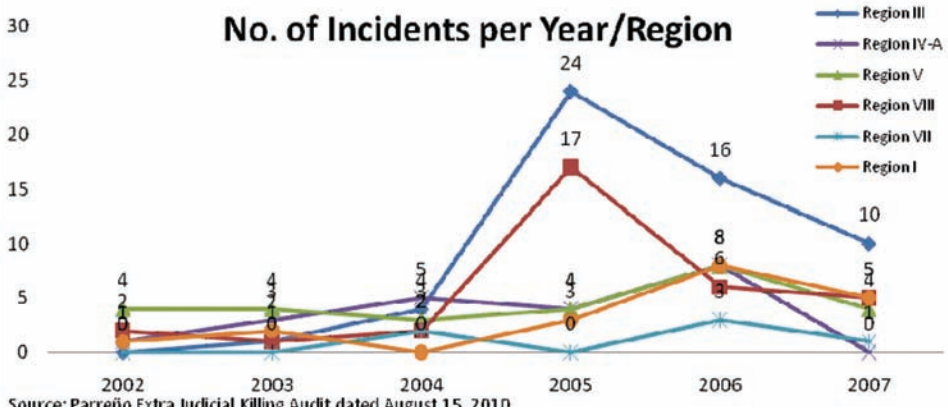
Was extrajudicial killing a government policy during the former President Gloria Macapagal-Arroyo's (GMA) regime?

In 2005 and 2006, under the administration of GMA, the incidences of extrajudicial killing was on its peak with a record of 66 (21.64 percent) and 70 (22.95 percent) cases, respectively. Based on the data gathered, 264 of the 305 (87 percent) of the recorded cases occurred during Arroyo's administration.



Source: Parreño Extra Judicial Killing Audit dated August 15, 2010

In the year 2005, 24 cases of extrajudicial killings were recorded in Region 3. It is curious to note that a famous general was the Commander of the 7th Infantry Division of the Philippine Army whose area of responsibility is Central Luzon from September 2005 to September 2006. Most of the killings in this area occurred from the period March 2005 until mid-2006 where close to 40 incidents of extrajudicial killings are reported.



J) THE UNITED NATIONS REPRESENTATIVE – “IMPUNITY IN THE PHILIPPINES”

On February 12-21, 2007, the UN Special Rapporteur conducted a visit to the Philippines concerning the problem of extrajudicial killings. In his report,³² the UN Special Rapporteur immediately concedes that there pervades impunity for extrajudicial executions in the Philippines. The unabated slew of killings has eliminated civil society leaders, including human rights defenders, trade unionists and land reform advocates.³³ Concern was particularly expressed at the manner that the killings were done: carefully selected and intentionally targeted. The killings were observed to have for their aim a chilling effect on the activism of the general public by intimidating civil society actors leading to the serious endangerment of democratic rights of Filipinos.³⁴

32 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008.

33 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 5.

34 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 5.

According to the report, the main causes of the problem in the Philippine jurisdiction are:

1. The killings of leftist activists;
2. The killings by the New People's Army;
3. The killings related to conflicts in Western Mindanao;
4. The killings related to agrarian reform disputes;
5. The killings of journalists; and
6. The killings conducted by vigilantes or death squad in Davao City.

A concern of the UN Special Rapporteur was that in killings of leftist activists, law enforcement authorities seem to follow distorted priorities that have them focused on prosecuting civil society leaders rather than their killers.³⁵ He expressed concern at certain practices of the military which tend to aggravate the situation or constitute a vain attempt to deny liability. He notes that the military engages in aggressive intelligence operations in the countryside in an attempt to identify potential members of the rebel CPP-NPA. This is done through the means of a census or a "Know Your Enemies"³⁶ seminar.

The UN Special Rapporteur took notice of the killings allegedly committed also by the CPP/NPA/NDF. The Government figures peg the death toll at 1,335. Intelligence personnel of the AFP in general are considered legitimate targets for attack.³⁷ However it was noted that while some of these personnel are indeed combatants, the Report states that the CPP/NPA/NDF defines intelligence personnel too broadly that it encompasses even casual informers who happened to answer some queries posed by the AFP or those who report on the NPA.

³⁵ Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 5.

³⁶ The census is generally a one-on-one interview conducted by soldiers with residents of the local barangay whereby soldiers attempt to elicit information from the latter in a casual and private setting. Names that come up in the conversations are added into a list known as the "order of battle" which contains identified or suspected communist individuals or entities. "Know Your Enemies" seminars serve to spread propaganda denouncing the CPP-NPA lies, revealing its true aims and its rampant use of front organizations. However, the purpose of such meetings would appear simply to encourage "surrender" and to lay the groundwork for making killings of civil society members appear justified and legitimate.

³⁷ Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 14.

Violence in Western Mindanao drew grave concern as incidences of extrajudicial killings there appear to be committed for little or no apparent reason.³⁸ It was found that investigation on the said killings is the most difficult to conduct as little or no witnesses dare come forward and concerned parties merely pass on the blame incoherently – victims blame the AFP while AFP blames the terrorist group Abu Sayyaf or the insurgent group Moro National Liberation Front (MNLF).³⁹

Killings related to agrarian reform disputes can be largely attributed to the conflicts of interest of three parties. Peasants claiming land rights through the Government's Comprehensive Agrarian Reform Program (CARP) find themselves caught in the middle of conflicting interests among the Government, the CPP/NPA/NDF, and large landowners.⁴⁰ Some farmers strive to avail for themselves the benefits of the CARP but nonetheless find their efforts stymied by local government officials who appear more interested in protecting the lands of the local elites rather than the lives and rights of the peasants.⁴¹ Certain landowners also have fiercely resisted the implementation of the CARP, exhausting all means possible.

Killings of journalists appear to have different causes than the killings of leftist activists.⁴² Nonetheless, it would appear that they would have the same effect. The UN Special Rapporteur noted that some of the killings were intended to prevent journalists from exposing information related to the crimes and corruption of powerful individuals while other killings resulted from local disputes.

The focus of the UN Special Rapporteur's report focused on the phenomenon of authorized or tolerated extrajudicial killings that have continuously pervaded Davao City for over 10 years. From data gathered from newspaper articles that chronicled the relentless killings in Davao City, the UN Special Rapporteur finds that around 553 have been killed either by stabbing or gunshot.⁴³ Victims of the killings range from street children, gang members, and petty criminals.⁴⁴

38 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 15.

39 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 15.

40 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 15.

41 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 15.

42 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 16.

43 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 16.

44 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 5.

Notwithstanding the foregoing, the UN Special Rapporteur's general observation was that the government has shown that it is capable of responding to human rights problems with clarity and decisiveness. Nonetheless, the UN Special Rapporteur criticizes the patent shortcomings of the Philippine criminal justice system. He points out the inter-agency policy making group, the Inter-Agency Legal Action Group (IALAG)⁴⁵ as an entity that distorts the priorities of the criminal justice system.⁴⁶

Apart from policy formulation, another problem noted in the Philippine jurisdiction is the apparent irresolution of the police and investigatory bodies of the State to investigate the AFP.⁴⁷ To make matters worse, evidence essential in the prosecution of extrajudicial killings is scarce at best. Poor cooperation between police and prosecutors has been seen to be a serious factor resulting in the impedance in evidence gathering.⁴⁸

As succinctly summarized by the UN Special Rapporteur: "[t]he present message is that if you want to preserve your life expectancy, don't act as a witness in a criminal prosecution for killing."⁴⁹

In concluding his report, the UN Special Rapporteur expressed hope in the many measures adopted by the Philippine Government in attempting to address the systemic problem of extrajudicial killings in the country.⁵⁰ In his follow-up report⁵¹ however, the UN Special Rapporteur regrettably notes that while there has been a drastic reduction in the number of extrajudicial killings in the Philippines, most of his recommendations had not been acted upon.

45 Philip Alston, *Mission to the Philippines*, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 16.

46 The IALAG is a body composed of representatives various criminal justice, intelligence, and military organs and placed under the Office of the National Security Adviser. Its primary purpose is to provide effective and efficient handling and coordination of the investigative and prosecutorial aspects of the fight against threats to national security.

47 Philip Alston, *Mission to the Philippines*, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 18.

48 Philip Alston, *Mission to the Philippines*, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 18.

49 Philip Alston, *Mission to the Philippines*, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 20.

50 These measures include the President's establishment of the Melo Commission (Administrative Order No. 157, 21 August 2006), the establishment of a Presidential Human Rights Committee (Administrative Order No. 29, 27 January 2007); Administrative Order No. 163 8 December 2006), the President's instruction to the Secretaries of Justice and the Department of National Defense to coordinate with the CHRP in constituting a "Joint Fact-Finding body" (Statement of the President, dated 31 January 2007; Memorandum from Executive Secretary Eduardo R. Ermita, dated 31 January 2007), the AFP's establishment of a Human Rights Office in February 2007, the Supreme Court's establishment of special courts, the directive issued by the AFP on command responsibility, the DOJ's measures to strengthen the witness protection program and the Supreme Court Chief Justice's convening of a National Consultative Summit on Extrajudicial Killings and Forced Disappearances in July 2007.

51 Philip Alston, *Follow-up to country recommendations – Philippines*, A/HRC/11/2/Add.8, United Nations Human Rights Council, April 29, 2009, available at: <http://www.extrajudicialexecutions.org/application/media/Philippines%20follow%20up%20April%202009.pdf>.

K) THE COMMISSION ON HUMAN RIGHTS CLAMORED FOR SOLUTIONS

At the height of the problem of extrajudicial killings in 2005 to 2006, the Commission on Human Rights (CHR) was among the entities at the forefront clamoring for concrete action on the Government to address such killings. On July 15, 2005, the CHR issued Human Rights Advisory CHRP A2005-7 entitled “THE SPATE OF KILLINGS OF FILIPINO JOURNALISTS AND THE GRAVAMEN OF IMPUNITY WITH THE LAW”. It reiterated the right of every person to life as embodied in the Covenant on Civil and Political Rights. Characterizing life as the “supreme right”, the CHR stressed that it is through life which all other rights emanate for without life, there are no rights to speak of.⁵² The CHR likewise pointed out that the State has the supreme duty to prevent the “arbitrary loss of life”.⁵³ The CHR further commented that unabated killings of Filipino breeds brazen acts of violation of human rights.⁵⁴

In response to the killing of leftist activists, the CHR promulgated Human Rights Advisory CHRP A2005-5 on July 8, 2005 it reiterated the right to life and the state’s duty to protect it. The CHR has incessantly tried to campaign for the observance of command responsibility particularly among the higher echelons of the PNP and AFP command. Said the CHR:

“The pattern of complaints that come to us show members of the Armed Forces and the PNP as suspects. That has to be addressed and we call on the military to do something about it...Not everybody is to be blamed but if a commander has killings in his area happening, even if he’s not really involved, it is his responsibility. The killings should stop.”⁵⁵

⁵² Human Rights Advisory CHRP A2005-7, July 15, 2005.

⁵³ Human Rights Advisory CHRP A2005-7, July 15, 2005.

⁵⁴ Report of CHR Chairperson Dr. Purificacion C. Valera-Quisumbing at the National Consultative Summit on Extrajudicial Killings and Enforced Disappearances.

⁵⁵ Phil. Daily Inquirer, *Gov’t must answer for all killings – CHR*, Headline, May 23, 2006.

It was likewise noted that the CHR was often treated as the “agency of last resort” and that the fact that victims go to the CHR is a “symptom of impunity” for they fear that their cases are either “neglected, whitewashed or ignored.”⁵⁶ To further expedite the prosecution of cases, it has been suggested that the CHR be given prosecutorial powers and quasi-judicial authority to convert it from a toothless tiger into a quasi-judicial tribunal.⁵⁷

L) OPLAN BANTAY LAYA – THE BEGINNING OF THE END?

In mid-2007, the Arroyo Administration hatched one of its most ambitious projects yet. Running under a platform of “Strong Republic”, the Arroyo Regime envisioned a stronger Philippines that is able to rise from Third World status, weather a global financial crisis, aim for steady growth, and maintain a general prevailing atmosphere of peace and order. Yet, here comes the most ambitious of them all: end the Country’s communist insurgency problem. It was foreseen that a communist-free Philippines would be the launchpad of the Country’s surge to First World status. Thus, Oplan Bantay Laya was hatched. Initially launched in January 2002, Oplan Bantay Laya was intensively implemented in mid-2007 after the Philippine Government resolved to end the communist insurgency by 2010.⁵⁸ However, it has been largely touted as responsible for the unabated epidemic of extrajudicial killings that has wracked the country since 2001.⁵⁹ Generally, the objectives of Oplan Bantay Laya is similar to previous Philippine counter-insurgency operations, that is to check or defeat the Abu Sayyaf Group, the local communist movement (CPP/NPA/NDF) and the southern Philippine secessionist groups, the Moro National Liberation Front (MNLF) and the Moro Islamic Liberation Front (MILF).⁶⁰

⁵⁶ Human Rights Advisory CHRP A2005-7, July 15, 2005.

⁵⁷ Nikko Dizon, *CHR wants power to rule on cases*, PHIL. DAILY INQUIRER, November 2, 2008, available at: <http://newsinfo.inquirer.net/breakingnews/nation/view/20081102-169861/CHR-wants-power-to-rule-on-cases>.

⁵⁸ Ecumenical Movement for Justice & Peace, *Oplan Bantay Laya: A Primer*, available at: <http://stopthekillings.org/stknvp1/files/OBL%20ENGLISH%20BOOKLET.pdf>. Kim Tan & Amita Legaspi, Rights advocates criticize Oplan Bantay Laya extension, GMA News.TV, August 16, 2010, available at: <http://www.gmanews.tv/story/198696/rights-advocates-criticize-oplan-bantay-laya-extension>.

⁵⁹ Ecumenical Movement for Justice & Peace, *Oplan Bantay Laya: A Primer*; Kim Tan & Amita Legaspi, Rights advocates criticize Oplan Bantay Laya extension, GMA News.TV, August 16, 2010.

⁶⁰ Ecumenical Movement for Justice & Peace, *Oplan Bantay Laya: A Primer*; Kim Tan & Amita Legaspi, Rights advocates criticize Oplan Bantay Laya extension, GMA News.TV, August 16, 2010.

Its specific modus operandi however adopts elements of “shock and awe” whereby military operations are designed to pulverize enemies as well as supporters from the civilian populace. It also aims to conduct “pre-emptive strikes” against suspected terrorists” as Oplan Bantay Laya being allegedly patterned after the U.S. anti-terrorism military strategy.⁶¹ While its existence is generally denied by the military, the modus operandi thereof has been verified in international reports most notable of which is the Report of the UN Special Rapporteur in Extrajudicial Killings. The report narrates a similar method by which the military conducts anti-insurgency operations with that as described by militant groups.⁶² The purported success of Oplan Bantay Laya is more illusory than real. While the AFP boasts of its record of drastically reducing the strength of the communist insurgency movement in previously rebel-infested areas, the AFP has nonetheless failed in its overall mission to fully eradicate the communist movement by 2010.⁶³ This failure was at the cost of tarnishing the reputation of the AFP as one of the most watched violators of Human Rights and International Humanitarian Law in Asia if not the world. The NPA has time and again displayed its ability to hibernate for a long period of time and revive itself as strong as ever. Only time will tell if this “victory” has won the battle or the war.

M) THE AQUINO ADMINISTRATION PROMISES TO STOP IT.

Since the newly elected president, Benigno “Noynoy” Aquino III, assumed office on June 30, 2010, eight cases of extrajudicial killings have already been recorded. If compared to GMA, this becomes an alarming rate. Whether or not this is a heritage of the past cannot be determined.

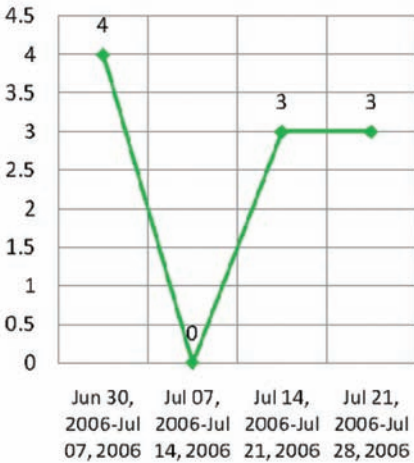
And yet the rates of killings are frighteningly similar. When compared to Arroyo’s 2.5 killings per week in 2006, the rate of killings for Aquino is at 2 per week already at the start of his term.

61 Ecumenical Movement for Justice & Peace, Oplan Bantay Laya: A Primer; Kim Tan & Amita Legaspi, Rights advocates criticize Oplan Bantay Laya extension, GMA News.TV, August 16, 2010.

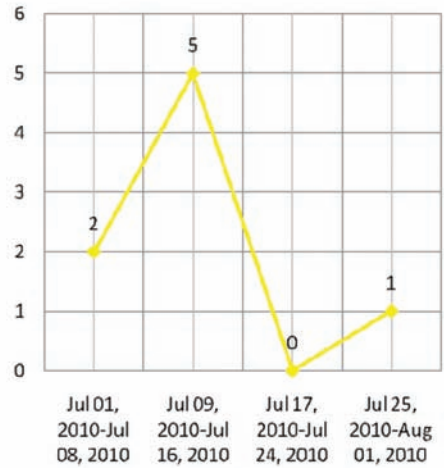
62 See Philip Alston, *Mission to the Philippines*, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008.

63 Jocelyn Uy, *AFP: NPA's strength down to 350 fighters in 7 areas*, Phil. Daily Inquirer, May 23, 2010, available at: <http://newsinfo.inquirer.net/breakingnews/nation/view/20100523-271638/AFP-NPAs-strength-down-to-350-fighters-in-7-areas>.

Arroyo's 2nd Term-Rate per Week=2.5 (1st month)



Aquino's Term-Rate per Week=2, (1st Month)



Right off the bat, President Benigno Simeon Aquino III has made it clear that his administration is taking a resolute stand in preventing extrajudicial killings as well as delivering justice to victims that suffered under the prior administration. Claiming to be a victim of extrajudicial killings himself, it was declared that President Aquino “will not tolerate extrajudicial killings in his administration.”⁶⁴ In a press conference, President Aquino further declared that: “[W]e don’t have a policy on extrajudicial killings. We don’t tolerate that. That’s plain and simple.”⁶⁵ Following the slay of ex-broadcaster Jose Daguio and Bayan Muna provincial coordinator Fernando Baldomero on July 4 and 6, 2010, respectively, which was coincidentally barely a week after the assumption to power of the new administration, pressure mounted on President Aquino to take decisive action. Swift justice was promised by the new administration.⁶⁶

64 Christine O. Avendaño & Nestor P. Burgos Jr., ‘Extrajudicial killings not my gov’t policy’, PHIL. DAILY INQUIRER, July 7, 2010, available at: <http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20100707-279643/Extrajudicial-killings-not-my-govt-policy>.

65 Maila Ager, *Aquino won’t tolerate political killings*, PHIL. DAILY INQUIRER, July 6, 2010, available at: <http://newsinfo.inquirer.net/breakingnews/nation/view/20100706-279528/Aquino-wont-tolerate-political-killings>

66 <?> Christian V. Esguerra, *Palace vows swift justice for 2 latest slay victims*, PHIL. DAILY INQUIRER, July 5, 2010, available at: <http://newsinfo.inquirer.net/inquirerheadlines/regions/view/20100705-279351/Palace-vows-swift-justice-for-2-latest-slay-victims>.

To address the current problem in prosecuting cases of extrajudicial killings, one of the first Cabinet appointments made by President Aquino is the appointment of former CHR Chair Leila De Lima as Secretary of the Department of Justice. Described as the feisty legal eagle and outspoken spokesperson of the National Human Rights body, De Lima is touted to be the hammer of the new administration to crack down on previous cases of extrajudicial killings.⁶⁷ Her splendid work as Chair of the CHR has won her acclaim both locally and abroad leading to great expectations to her appointment.⁶⁸

President Aquino also issued a stern directive to Police Chief General Director Jesus Versoza to investigate and resolve the recent cases of extrajudicial killings with conviction.⁶⁹ Aquino pointed to the results accomplished so far in Region VI, one of the most problematic regions as far as extrajudicial killings are concerned.⁷⁰ Aquino was referring to the progress made in the case of Baldomero saying that as far as extrajudicial killings under the new administration is concerned, it would be better to let “the results speak for themselves.”⁷¹

But still, we wait for results.

67 Gil C. Cabacungan, Jr., et al., *Rights chief to head DOJ*, PHIL. DAILY INQUIRER, June 23, 2010, available at: <http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20100623-277073/Rights-chief-to-head-DoJ>.

68 Raul C. Pangalangan, *Passion for Reason: Human rights bona fides at the DOJ*, PHIL. DAILY INQUIRER, June 25, 2010, available at: <http://opinion.inquirer.net/inquireropinion/columns/view/20100625-277420/Human-rights-bona-fides-at-the-DoJ>; PHIL. DAILY INQUIRER, *De Lima as DOJ head an inspired choice*, June 29, 2010, available at: <http://opinion.inquirer.net/inquireropinion/letterstotheeditor/view/20100629-278309/De-Lima-as-DOJ-head-an-inspired-choice>.

69 Maila Ager, *Aquino vows to go after perpetrators of extrajudicial killings*, PHIL. DAILY INQUIRER, July 12, 2010, available at: <http://newsinfo.inquirer.net/breakingnews/nation/view/20100712-280705/Aquino-vows-to-go-after-perpetrators-of-extrajudicial-killings>

70 Per the case summary, Region VI has one of the highest recorded incidences of extrajudicial killings with 28 cases.

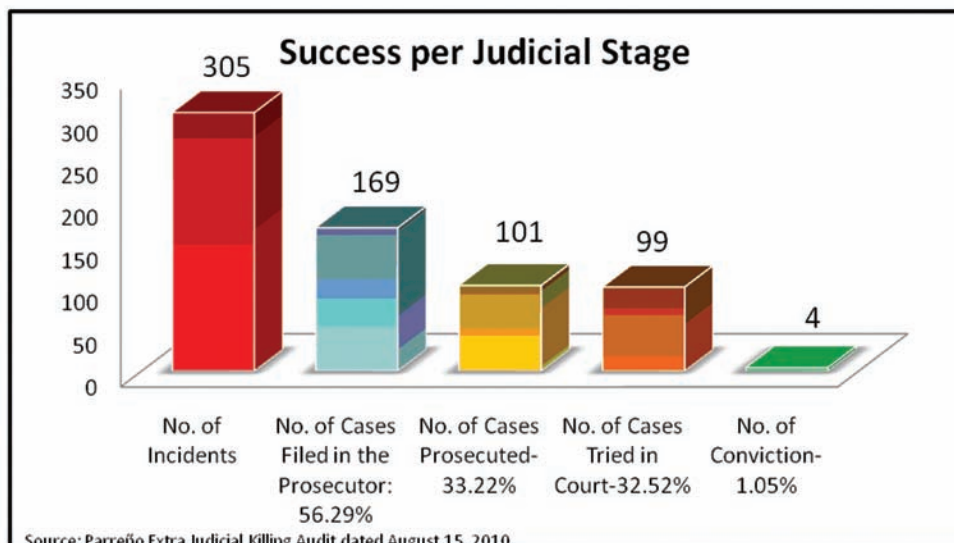
71 Abigail Kwok, *Aquino on extrajudicial slays: Let results speak*, PHIL. DAILY INQUIRER, July 16, 2010, available at: <http://newsinfo.inquirer.net/breakingnews/nation/view/20100716-281479/Aquino-on-extrajudicial-slays-Let-results-speak>.

II. JUDICIAL CONCLUSIONS

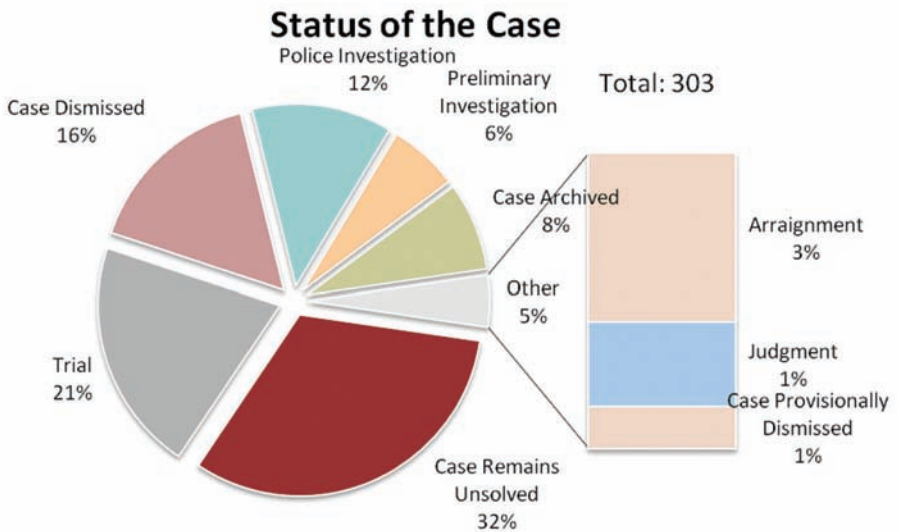
A) NINETY NINE PERCENT OF THE CASES SURVEYED HAVE NOT BEEN SOLVED

The conviction rate for extrajudicial killings is disturbingly low. Of the cases surveyed, barely over one percent of the cases have been solved. Simply put, 99 percent are unsolved.

Of the 305 incidents recorded for the years 2000 to 2010, only 169 or 56.29 percent of the cases reached the prosecutorial level. Only 101 cases or 33.22 percent of the total number of incidents are successfully prosecuted. This means that only 59 percent of the total number of the criminal complaints are found to have probable cause that a crime has been committed and the accused is probably guilty thereof. Unfortunately, barely over one percent of the cases have attained a conviction. Note that some cases are still pending



B) THIRTY-TWO PERCENT OF THE CASES ARE COLD CASES

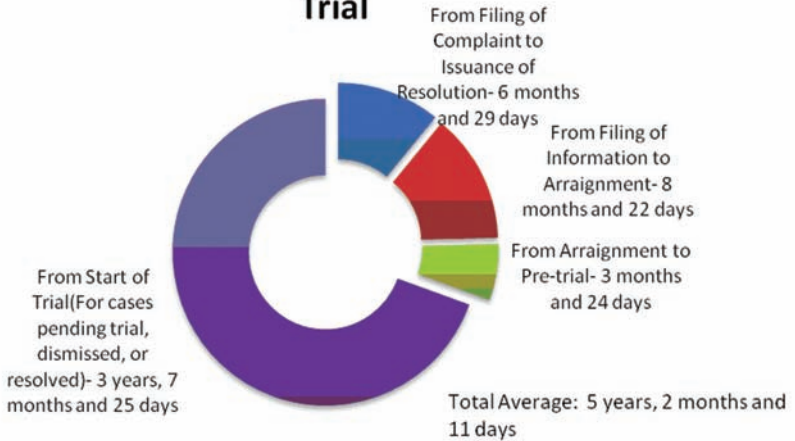


Source: Parreño Extra Judicial Killing Audit dated August 15, 2010

Thirty two percent of the cases are untouched. This is due to the fact that the identities of the assailants are still undetermined. Thus, no case can be filed in court. A number of high profile cases have been included in this category. One such case is that of Ruben and Rodriga Apolinar and their eight year old daughter Niña Apolinar. On May 20, 2002, the Apolinar were massacred inside their own home at Brgy. Ilag, San Teodoro, Oriental Mindoro. According to witnesses, military men were seen circling the area several hours prior to the incident. Ruben Apolinar was a Bayan Muna coordinator while his wife was a member of Gabriela. The case was initially investigated by PNP San Teodoro but the investigation has not progressed and no suspects, until this day, have been identified.

- C) THE PROCESS TAKES TOO LONG –**
IT TAKES AN AVERAGE OF 5 YEARS, 2 MONTHS AND 11 DAYS
FOR A CASE OF EXTRA JUDICIAL KILLING TO UNDERGO THE
CRIMINAL PROCESS.

Average Number of Days for Each Stage of the Trial



Source: Parreño Extra Judicial Killing Audit dated August 15, 2010

If your loved one is a victim of extrajudicial killing, do not expect justice soon.

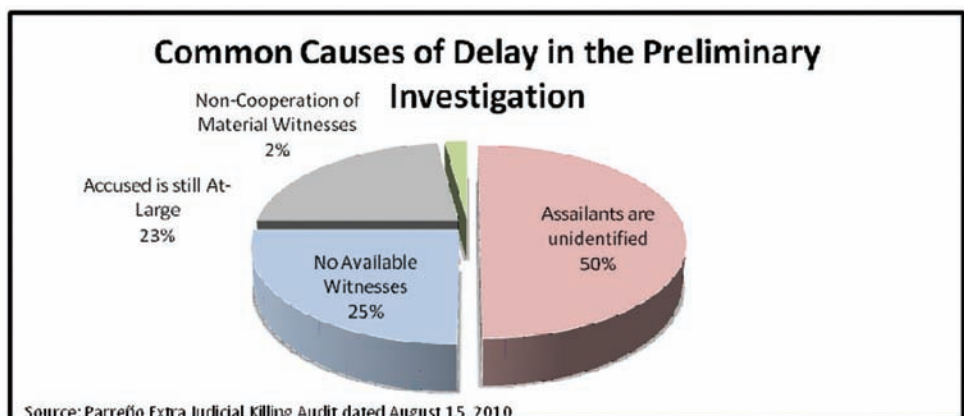
The data from the available records collected shows that it takes five years, two months and 11 days for a case of extrajudicial killing to undergo the criminal process – assuming it goes through the process. This data is also based on cases that are still undergoing criminal prosecution (20 percent are undergoing trial and 6 percent are undergoing preliminary investigation). Thus, this average may still increase if these cases will not be resolved in the nearest time possible.

Even with the issuance by the Supreme Court of the Philippines in March 1, 2007 of Administrative Order No. 25-2007, the process is still very slow. The said Order designated 99 regional trial courts across the country to “specially and preferentially” hear, try, and decide cases involving extralegal killings and enforced disappearances. These special courts were ordered to conduct mandatory continuous trial for at most 60 days, after which judgment should be rendered within 30 days.

While we were informed that said special courts no longer exist, at present however, some special courts are unaware as to whether they still exist as such. Even assuming they still exist, there is also no known process on how cases classified initially as murder are then categorized as extrajudicial killings for purposes of utilizing the said special courts.

We find learnings, however, in one case of conviction. The case of Jose Doton, was prosecuted in only one year and ten months. The speed of the trial was mostly because of strong public monitoring coupled with the strong evidence against the accused.

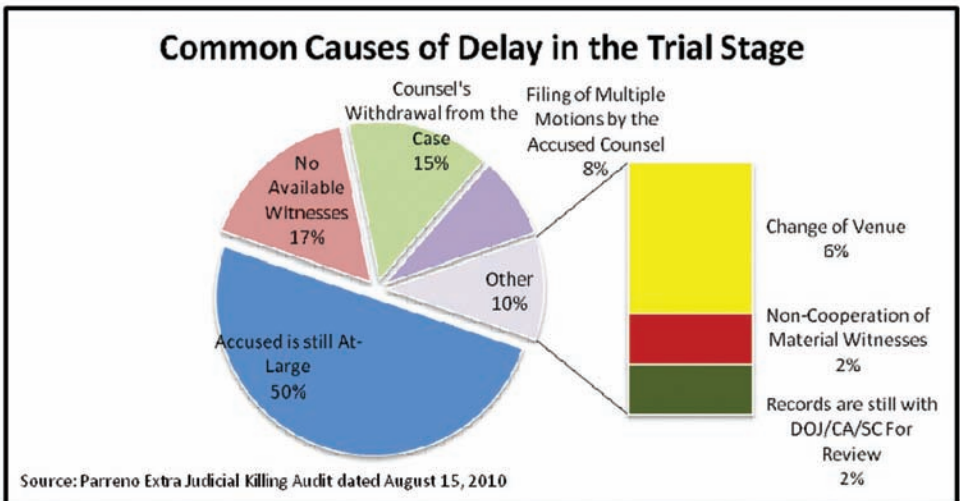
D) IT TAKES AN AVERAGE OF 6 MONTHS AND 22 DAYS FOR THE PRELIMINARY INVESTIGATION



Based on the data gathered for this report, it takes an average of 6 months and 22 days for the process of the preliminary investigation to be completed for extrajudicial killings. This process begins from the filing of the criminal complaint until the issuance of the prosecutor's resolution.

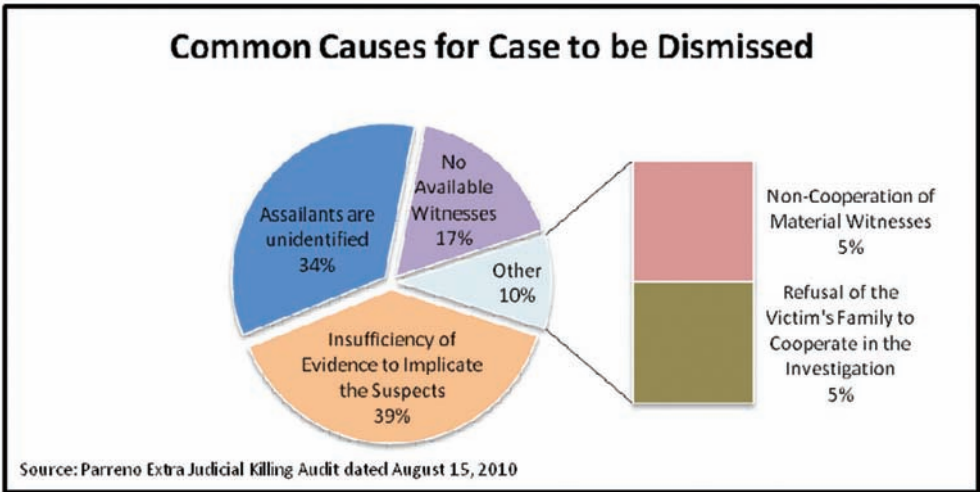
It has been identified that there are four common causes of delay during the preliminary investigation. Delay in fifty percent of the cases is brought about by the non-identification of the assailants. 25 percent of the time, a case is halted because there are no witnesses who are willing to give their testimony in the preliminary investigation. And even if there are already witnesses, their non-cooperation in the latter stages of the preliminary investigation delays the prosecution even more.

**E) BASED ON AVAILABLE DATA,
IT TAKES AN AVERAGE OF 3 YEARS, 7 MONTHS AND 25 DAYS
FOR A CASE TO COMPLETE THE TRIAL STAGE**



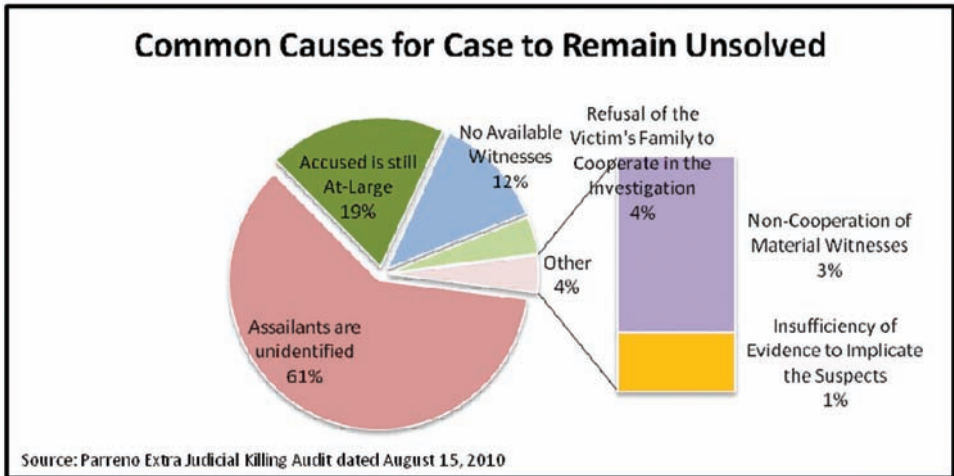
The audit revealed that a total of 62 cases are currently undergoing trial. Delay during trial in 50 percent of the cases is the fact that the accused is still at large. 17 percent of the time, the case does not progress because no witnesses are available. The withdrawal of the counsel for the accused also contributes to the delay of the case. Six percent of the time, the prosecution requests for a change of venue, which while arguably effective against threats on the witnesses and families, also contributes to the delay of the trial.

F) INSUFFICIENCY OF EVIDENCE IS THE NUMBER 1 REASON FOR DISMISSAL



The main cause of dismissal is problem with evidence, particularly witnesses. 39 percent of cases cite insufficiency of evidence presented by the prosecution as the reason for dismissal. 34 percent of the time, a case is dismissed because the accused are not the proven perpetrators of the crime. On the other hand, 17 percent of the time, delay is due to the non-cooperation of material witnesses.

G) FAILURE TO IDENTIFY ASSAILANTS IS THE MAIN REASON WHY CASES REMAIN UNSOLVED



As already mentioned, a staggering 32 percent of the cases have remained unsolved – no case is filed at all for prosecution. The main reason is investigative failure – assailants remain unknown and no witness could positively identify the suspects.

Clearly, gaps in investigation remain to be the biggest reason for our failure to prosecute extrajudicial killings cases successfully.

REPORT ON
THE PHILIPPINE
EXTRAJUDICIAL KILLINGS

III.

BACKGROUND ON THE EXTRAJUDICIAL KILLINGS AUDIT

I. PROJECT OBJECTIVES, SCOPE AND METHODOLOGY

A) PROJECT OBJECTIVES

Three objectives were set out to guide this project.

- 1) Identify the prevailing factors in the cases of extrajudicial killings in the Philippines thru an audit of the cases.
- 2) Have a thorough analysis of the cases thru consolidation in a database and straightforward case summaries.
- 3) Identify the factors that delay or defer the resolution of the cases, the data gathered and analyzed may be used to recommend key legal reforms.

B) SCOPE

Cases included in this report span the years 2000 to 2010 only. The Department of Justice (DOJ), Integrated Bar of the Philippines (IBP), and Commission on Human Rights (CHR) furnished the cases that were the subject of the legal audit for this report. The list of all cases audited is found in Annex “J.” For this specific report, cases involving the victims of the infamous Maguindanao massacre were not included.

C) METHODOLOGY

Cases pending in the trial courts, prosecutor’s office, and the CHR were collated and studied for this audit. These cases were then uploaded in a database where the graphical analysis were automatically generated and the comprehensive status and reasons for the delays were deduced. For recent cases, information on the killing was collated from newspapers as it could not be ascertained if cases have already been filed.

The following court records were reproduced as original reference for the audit:

1. Prosecutor's Resolution/ Information
2. Complaint Affidavit/ Reply-Affidavit of Accused, when available
3. Latest Orders of the Court
4. Latest Pleadings of the Prosecution and Accused Counsel
5. Final Order of Court, when Available

II. DEFINITIONS

A) EXTRAJUDICIAL KILLING, DEFINED

“Extrajudicial killings” is defined by law as killings due to the political affiliation of the victims; having a specific method of attack; and where there are reports of involvement or acquiescence of state agents in the commission of the killings.¹ As the term is used in international instruments, extrajudicial killings are killings committed without due process of law, i. e. without legal safeguards or judicial proceedings. Enforced disappearance on the other hand is defined as deprivation of liberty for political reasons committed by or with the authorization, support or acquiescence of the State.² These are disappearances or abductions attended by an arrest, abduction, or detention of a person by a government official or organized groups or private individuals acting with the direct or indirect acquiescence of the government. It involves the refusal of the State to disclose the fate or whereabouts of the person concerned or a refusal to acknowledge the deprivation of liberty which places such persons outside of the protection of law.³

In this jurisdiction, extrajudicial killings are almost synonymous to political killings.⁴ It would appear that all extrajudicial killings are impelled by some form of political motive or agenda. Further, the usual victims of extrajudicial killings and enforced disappearances are political activists, journalists, or media persons. However, for purposes of this paper, we shall

1 Supreme Court Administrative Order No. 25-2007.

2 Lucas P. Bersamin, Available Judicial Remedies in Cases of Extrajudicial Killings and Enforced Disappearances, 1, July 16-17, 2007, available at: <http://sc.judiciary.gov.ph/publications/summit/Summit%20Papers/Bersamin%20-%20Extrajudicial%20Killings%20Summit.pdf>.

3 United Nations, Declaration on the Protection of All Persons from Enforced Disappearances.

4 In his paper presented before the National Consultative Summit on Extrajudicial Killings and Enforced Disappearances – Searching For Solutions, Justice Lucas P. Bersamin equates extrajudicial killings and political killings.

treat political killings as a mere subset of extrajudicial killings, as certain incidences of the latter do not have clear or even a scintilla of political motive so as to classify such as political killings.⁵

B) EXTRAJUDICIAL KILLING, ELEMENTS

Generally, extrajudicial killings can be distinguished from homicide through the presence of certain elements. Perhaps its most common element is the familiar motive of the perpetrators, which is political in nature. Another striking feature of an extrajudicial killing is the manner they are executed. They are generally professionally executed with the killing done in an almost systematic fashion – the victim is identified beforehand by the perpetrators, the gunman/men approaches the victim while concealing his identity through the cover of darkness or use of bonnets or ski masks, the gunman/men shoots the victim repeatedly often at vital parts of the body, the gunman/men flees the scene by using a motorcycle usually lying in wait and driven by a companion.

The victims are always killed treacherously and without warning. Treachery is defined as the deliberate employment of means, methods or forms in the execution of a crime against persons which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the intended victim might raise.⁶ There are a variety of ways by which the killing is conducted but generally, the assailants are unidentified or cannot be identified because of their use of bonnets or ski masks.⁷ Other ways employed to hide the identity of the assassins is to employ the cover of darkness.⁸ But regardless of the method employed, the same result is achieved, the ensured killing of a person without risk to the killer.

Numerous incidences of extrajudicial killings cite the use of the motorcycle as the getaway vehicle of choice of the assassins.⁹ Apart from being a common sight in all thoroughfares in the country, whether urban or rural, the low cost and highly mobile nature of motorcycles makes it deadly efficient in the realm of extrajudicial killings.

⁵ See generally Cases NCR-2, NCR-10, NCR-13, NCR-14, R-III-16, R-III-18, R-III-26, R-V-17, R-V-33, R-V-40, Annex J.

⁶ *People v. Dagani*, G.R. No. 153875, August 16, 2006.

⁷ See generally Cases R-V-12, R-VI-22 and R-VIII-1.

⁸ See generally Cases R-VI-22, R-X-2 and R-XI-3.

⁹ Almost all cases in the case summary indicate that the type of vehicle used by assassins in extrajudicial killings is a motorcycle.

Another facet of an extrajudicial killing is that it is usually conducted with impunity. In one of the most notorious cases of extrajudicial killing, the assassin had the audacity to walk inside the home of the victim, greet her casually and then shoot her point-blank in front of the victim's children.¹⁰ Other cases involve the killing of victims within the proximity of their homes or loved ones.¹¹

Extrajudicial killings are usually planned attacks against the victim. The elements of precision and finesse that attend extrajudicial killings are clearly the product of careful planning by the perpetrators. In one case, it is observed that several days before the victim was killed, unidentified men were looking for him in the locality.¹² Most killings take place either at the victim's workplace¹³, home¹⁴ or somewhere in between.¹⁵

C) EXTRAJUDICIAL KILLINGS, VICTIMS

The victims of extrajudicial killings are generally political activists and journalists.

1) *Political Activists*

Political activists are among the most passionate advocates for reform and change. Their work takes them, more often than not, bitterly at odds with the advocates of the status quo and who incidentally occupy the pinnacles of power in Philippine society. Furthermore, political activists are often affiliated with civil society groups or political associations whom the AFP considers as communist-influenced.

10 See Case of Marlene Garcia-Esperat, R-XII-1. See also Eliza Victoria, Marlene Esperat Murder, PHIL. DAILY INQUIRER, Oct. 23, 2008, available at: <http://services.inquirer.net/search/search.php?cx=partner-pub-1605567560733750%3Asv9uao60u5g&cof=FORID%3A10&ie=ISO-8859-1&q=extrajudicial+killings+philippines&sa=Search&siteurl=newsinfo.inquirer.net%2Finquirerheadlines%2Fnation%2Fview%2F20081023-167961%2FMarlene-Esperat-murder#999>.

11 See generally Cases NCR-4, R-III-8, R-III-15, R-III-23, R-III-54, R-IV-A-18, R-V-18.

12 See Case R-X-1.

13 See generally Case R-II-2 and R-III-21.

14 See generally Cases NCR-4, R-III-8, R-III-15, R-III-23, R-III-54, R-IV-A-18, R-V-18.

15 See generally Cases R-I-10, R-IV-A-1 and R-IV-A-21.

2) ***Journalists & Media Persons***

Another class of persons that are often the victims of extrajudicial killings are journalists and media workers. It is reported that from 2001 until 2010, a total of 104 media workers have been killed under the presidency of former President Gloria Macapagal-Arroyo. Not all of them however were classified as political killings and thus were not part of this report.¹⁶ Yet even if we remove journalists killed for reasons which are not political in nature, the percentage of journalists killed is still high. This is a grim figure considering that since the fall of the Marcos regime in 1986, a total of 140 journalists have been killed.¹⁷

The reason for the high incidences of killings of journalists is intimately linked with the nature of their work whereby they criticize as well as expose the numerous ills and evils that pervades Philippine society. From the cases studied, it is readily apparent that the killing of journalists and media persons has a direct connection with their work.¹⁸ In the Melo Report, it was found that the killings of media personnel are more or less attributable to reprisals for the victims' *exposés* or other media practices.¹⁹

D) INCIDENTS, DEFINED

"Incidents" as defined in this report refer to all incidents of extrajudicial killing. It refers to the actual act of killing by assailants that contains all the elements of an extrajudicial killing as outlined above. The term incidents as used in this report do not discriminate whether or not a case has been filed in the local prosecutor's office or the courts. Furthermore, reported incidents of extrajudicial killings and enforced disappearances are likewise included for documentation purposes.

16 Jeffrey M. Tupas, CULTURE OF IMPUNITY: US to help Aquino stop media killings, PHIL. DAILY INQUIRER, June 23, 2010, available at: http://services.inquirer.net/print/print.php?article_id=20100623-277074.

17 Jeffrey M. Tupas, CULTURE OF IMPUNITY: US to help Aquino stop media killings, PHIL. DAILY INQUIRER, June 23, 2010.

18 See Cases R-I-4, NCR-12, R-IV-A-1, R-IV-A-5, R-XI-3.

19 Jose A.R. Melo, et al., Report of the Independent Commission to Address Media and Activist Killings, January 22, 2007, available at: <http://www.pinoyhr.net/reports/meloreport.pdf>, p. 51.

III. AVAILABLE LAWS AND REMEDIES FOR EXTRAJUDICIAL KILLINGS

Although there is no law clearly defining or punishing “extrajudicial killings” per se, we have available provisions in the Revised Penal Code to punish and prosecute perpetrators of extrajudicial killings.

In the Philippine jurisdiction, extrajudicial killings are penalized as a form of Murder as defined by the Revised Penal Code. Murder is defined in Article 248 of the Revised Penal Code as any killing of a person that does not constitute parricide²⁰ where the killing is attended by any of the circumstances enumerated therein.

Incidents of extrajudicial killings are committed through treachery and with evident premeditation. In the cases audited, the qualifying circumstance that the killing was done in consideration of a price, reward or promise is also present.

To successfully prosecute an extrajudicial killing, the following elements must be proven by the prosecution beyond reasonable doubt:

- (1) that a person was killed;
- (2) that the accused killed the victim; and
- (3) that the killing was attended by treachery or evident premeditation or that the killing was done in consideration of a price, reward or promise.

That a Person was Killed

The fact of death of a person is the very *corpus delicti* of murder. *Corpus delicti* has two elements: (a) that a certain result has been established, for example, that a man has died and (b) that some person is criminally responsible for it.²¹

Proving the *corpus delicti* is very problematic in cases of enforced disappearances where in some cases, the victim is simply never seen again. There

²⁰ Parricide is defined by Article 246 of the Revised Penal Code as the killing of one's own father, mother, child, any of his own ascendants or descendants or his own spouse.

²¹ *People v. Cabodoc*, 331 Phil. 491 (1996).

are no bodies that can be presented for autopsy and identification.

Furthermore, the witnesses can only prove the fact of abduction or that the victim was last seen alive at a particular place and time before his enforced disappearance. However, *corpus delicti* is not an inflexible principle. While proof of *corpus delicti* is indispensable, such proof can partake of different forms. The corpse, body or cadaver (or what remains of it) of the victim is not the only conclusive proof of *corpus delicti*. While the autopsy report of a medico legal expert in cases of murder or homicide is preferably accepted to show the extent of the injuries suffered by the victim, it is not the only competent evidence to prove the injuries and the fact of death.²² *Corpus delicti* can also be proven by credible witness testimony.

That the Accused Killed the Victim

Most of the failure in the prosecution of extrajudicial killing is due to the inability to establish that the accused killed the victim. This is the most problematic issue in prosecuting cases of extrajudicial killings. Almost all instances of extrajudicial killings involve men wearing bonnets or ski masks. The assailants or gunmen could not be identified due to the suddenness of the killing. Proving criminal liability is indeed a very daunting task. That the accused killed the victim in murder cases is usually proven by witness testimony, preferably eyewitnesses. Even the testimony of a single witness,²³ if positive and credible, is sufficient to support a conviction for murder.²⁴

The availability of witnesses is a very disturbing concern in the realm of extrajudicial killings. Witnesses, more often than not, refuse to come forward and offer their testimony for fear of reprisal and imminent threats to their life. Their fears are well-grounded. Most witnesses that do surface get death threats which are more often than not, consummated to the grave prejudice of the cases where their testimony is essential.²⁵

22 *People v. Barro, Sr.*, 338 SCRA 312 (2000).

23 See *People v. Tuniao*, G.R. No. 185710, January 19, 2010; *People v. Vasquez*, 430 SCRA 52 (2004).

24 *People v. Goleas*, G.R. No. 181467, August 6, 2008.

25 See Abigail Kwok, et al., Four suspects tagged in Maguindanao massacre witness killing, PHIL. DAILY INQUIRER, June 28, 2010, available at: <http://newsinfo.inquirer.net/breakingnews/nation/view/20100628-278050/Four-suspects-tagged-in-Maguindanao-massacre-witness-killing>; Nikko Dizon, Rights group urges Aquino gov't to secure crime witnesses, PHIL. DAILY INQUIRER, June 24, 2010, available at: <http://newsinfo.inquirer.net/breakingnews/nation/view/20100624-277327/Rights-group-urges-Aquino-govt-to-secure-crime-witnesses>; Leila Salaverria, Star witness in NBN deal seeks SC help, PHIL. DAILY INQUIRER, September 24, 2008, available at: <http://newsinfo.inquirer.net/breakingnews/nation/view/20080924-162510/Star-witness-in-NBN-deal-seeks-SC-help>.

That the Killing was Attended by Qualifying Circumstances

Extrajudicial killings are qualified into murder because incidents of extrajudicial killings are always attended by treachery, evident premeditation or that the killing was done in consideration of a price, reward or promise.

As defined earlier treachery is the deliberate employment of means, methods or forms in the execution of a crime against persons which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the intended victim might raise.²⁶ The essence of treachery is that the attack comes without a warning and in a swift, deliberate, and unexpected manner, affording the hapless, unarmed, and unsuspecting victim no chance to resist or escape.²⁷

For treachery to be considered, the prosecution must prove that: (1) the accused employed a certain means of execution that gives the persons attacked no opportunity to defend themselves or retaliate; and (2) the means of execution were deliberately or consciously adopted.²⁸ Thus, a sudden attack by the assailant, whether frontally or from behind, is treachery if such mode of attack was deliberately adopted by him with the purpose of depriving the victim of a chance to either fight or retreat.²⁹ Evident premeditation exists when the execution of the criminal act is preceded by cool thought and reflection upon the resolution to carry out the criminal intent during the space of time sufficient to arrive at a calm judgment.³⁰ In order for evident premeditation to be considered, it is essential that the following elements should concur: (1) the time when the offender has determined to commit the crime, (2) an act manifestly indicating that the culprit has clung to his determination and, (3) a sufficient interval of time between the determination and the execution of the crime has lapsed to allow him to reflect upon the consequences of his act.³¹ The last qualifying circumstance is that the killing was done in consideration of a price, promise or reward. However, as in the case of evident premeditation, this circumstance is not readily proven as it is essential that not only did the accused receive something for the killing but that the killing was impelled by such motive.

26 *People v. Dagani*, G.R. No. 153875, August 16, 2006.

27 *People v. Albarido*, 368 SCRA 194 (2001).

28 *People v. Amazan*, 349 SCRA 218 (2001).

29 *People v. Academia, Jr.*, G.R. No. 129251, May 18, 1999.

30 *People v. Repollo*, G.R. No. 134631, May 4, 2000.

31 *People vs. Gatchalian*, 300 SCRA 1.

A) JUDICIAL REMEDIES

1) Supreme Court Administrative Order No. 25-2007

Pursuant to the unabated chain of extrajudicial killings prior 2007, the Supreme Court promulgated SC Administrative Order (A.O.) No. 25-2007 on March 1, 2007. While stated to have been suspended at present, A.O. No. 25-2007 designated 99 special courts to hear, try and decide cases involving killings of political activists and members of the media.

In the said special courts, cases of extrajudicial killings are given priority in their respective trial calendars. Cases would undergo continuous trial to be terminated within 60 days from the commencement of the hearing and decided within 30 days from the time the cases are submitted for decision.

To further expedite the proceedings, no postponement of trial proceedings shall be allowed except for clearly meritorious cases. The filing of pleadings or motions which are clearly dilatory in nature is a ground for direct contempt of court.

(For the full text of SC Administrative Order 25-2007, see Annex “H.”)

2) Writ of Habeas Corpus

For the case of enforced disappearances, the usual remedy is a special proceeding for the issuance of the writ of *habeas corpus*.³² Under Sec. 1, Rule 102 of the Rules of Court, the writ of habeas corpus shall extend to all cases of illegal confinement or detention by which any person is deprived of his liberty, or by which the rightful custody of any person is withheld from the person entitled thereto. It is issued when one is either deprived of liberty or is

³² Fundamentally, in order to justify the grant of the writ of habeas corpus, the restraint of liberty must be in the nature of an illegal and involuntary deprivation of freedom of action. In passing upon a petition for habeas corpus, a court or judge must first inquire into whether the petitioner is being restrained of his liberty. If he is not, the writ will be refused. Inquiry into the cause of detention will proceed only where such restraint exists. If the alleged cause is thereafter found to be unlawful, then the writ should be granted and the petitioner discharged.

The writ may be granted by the Regional Trial Court or any judge thereof, by the Court of Appeals or any member thereof or by the Supreme Court or any member thereof. If the writ is issued by the Court of Appeals or by the Supreme Court, it shall be enforceable anywhere in the Philippines, however for writs granted by the Regional Trial Court, its enforceability shall only within the judicial district of said court. When the petition for the writ for habeas corpus is found to be meritorious, the writ shall be directed to an officer who shall be commanded to produce the body of the person restrained of his liberty before the court or judge designated in the writ at the time and place therein specified.

wrongfully being prevented from exercising legal custody over another person.³³ As was held in the case of *In the Matter of the Petition of Habeas Corpus of Eufemia Rodriguez*,³⁴ to wit:

“In general, the purpose of the writ of habeas corpus is to determine whether or not a particular person is legally held. A prime specification of an application for a writ of habeas corpus, in fact, is an actual and effective, and not merely nominal or moral, illegal restraint of liberty. The writ of habeas corpus was devised and exists as a speedy and effectual remedy to relieve persons from unlawful restraint, and as the best and only sufficient defense of personal freedom. A prime specification of an application for a writ of habeas corpus is restraint of liberty. The essential object and purpose of the writ of habeas corpus is to inquire into all manner of involuntary restraint as distinguished from voluntary, and to relieve a person therefrom if such restraint is illegal. Any restraint which will preclude freedom of action is sufficient.”

Admittedly however, the writ of *habeas corpus* has limitations. As mentioned earlier, a petition for a writ of *habeas corpus* can only prosper upon a showing to the court that the person subject of the petition is unlawfully restrained of his liberty.³⁵ Further, if the respondents are not detaining or restraining the applicant or the person in whose behalf the petition is filed, the petition should be dismissed.³⁶ A simple excuse likewise, when the victim is a victim of enforced disappearances, is that the one detaining will simply say “the subject is not with us.” With that, the writ, even if successfully secured is nonetheless not executed”.

3) Writ of Amparo (A.M. 07-9-12-SC)

On September 25, 2007, the Supreme Court promulgated the rules on the writ of *amparo*. Meaning literally “to protect”, the writ of *amparo* was designed to be a revolutionary judicial remedy that can be availed of by anyone

33 *Ilusorio v. Bildner*, 387 Phil. 915 (2000).

34 G.R. No. 169482, January 29, 2008.

35 *Ngaya-an v. Balweg*, 200 SCRA 149 (1991).

36 *Ngaya-an v. Balweg*, 200 SCRA 149 (1991).

37 Jay B. Rempillo, CJ Puno: Amparo, Best Legal Weapon to Protect People's Constitutional Rights, October 16, 2007, available at: <http://scjudiciary.gov.ph/news/courtnews%20flash/2007/10/10150701.php>.

to protect one's constitutional rights.³⁷ It was hailed by no less than Chief Justice Reynato S. Puno as the best legal weapon to protect people's constitutional rights. The writ of *amparo* originated from Latin American countries to protect against human rights abuses especially during the time they were ruled by military juntas.³⁸ Generally, the writ of *amparo* was developed for:

1. The protection of personal freedom, equivalent to the writ of *habeas corpus* (*amparo libertad*);
2. The judicial review of the constitutionality of statutes (*amparo contra leyes*);
3. The judicial review of the constitutionality and legality of a judicial decision (*amparo casacion*);
4. The judicial review of administrative actions (*amparo administrativo*);
5. The protection of peasants' rights derived from the agrarian reform process (*amparo agrario*).³⁹

Within the first month of its effectivity, the Supreme Court has noted four successful petitions for the privilege of the writ of *amparo*.⁴⁰

(For more information for the Writ of *Amparo*, see Annex "F-1" and "F-2")

4) Writ of Habeas Data (A.M. 08-1-16-SC)

The writ of *habeas data* is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting, or storing of data or information regarding the person, family, home and correspondence of the aggrieved party.⁴¹ It was primarily based in the Council of Europe's 108th Convention on Data Protection of 1981 which was convened to develop safeguards to secure the privacy of the

38 Annotation on the Writ of Amparo, p. 1, available at: http://sc.judiciary.gov.ph/Annotation_amparo.pdf.

39 Adolfo S. Azcuna, The Writ of Amparo: A Remedy to Enforce Fundamental Rights, 37 ATENEO L.J. 15 (1993).

40 Jay B. Rempillo, Chief Justice Puno Lauds Writ of Amparo's Victory, November 9, 2007, available at: <http://sc.judiciary.gov.ph/news/courtnews%20flash/2007/11/11090701.php>.

41 Rule on the Writ of Habeas Data, §1.

42 Gleo Guerra, SC Promulgates Rule on the Writ of Habeas Data, January 24, 2008, available at: <http://sc.judiciary.gov.ph/news/courtnews%20flash/2008/01/01240801.php>

individual by way of regulating the processing of personal information or data.⁴² Also having found application in Latin American jurisdictions, the writ has also become a fundamental instrument for investigating human rights violations by military dictatorships through obtaining information concerning government conduct, learning the fate of disappeared persons, and exacting accountability.⁴³ Like the writ of *amparo*, the writ of *habeas data* is a prerogative writ and does not preclude the filing of separate criminal, civil, or administrative suits.⁴⁴

(For more information for the *Writ of Habeas Data*, see Annex “G-1” and “G-2”)

43 Gleo Guerra, SC Promulgates Rule on the Writ of Habeas Data, January 24, 2008, available at: <http://sc.judiciary.gov.ph/news/court-news%20flash/2008/01/01240801.php>.

44 Rule on the Writ of Habeas Data, §20.

IV. RECOMMENDATIONS

Many studies on the subject have all been unanimous in their recommendation that reforms are needed in the Philippine criminal justice system. Three years have passed since measures were undertaken to address the problem of extrajudicial killings but to no avail.

Philosophically we can state that the solution to the perennial problem of extrajudicial killings in the Philippines depends on the successful collaboration between the government, the different groups comprising civil society, the Armed Forces of the Philippines, the international community, and ultimately the people. Yet, it is of the essence that a direction for the efforts of all parties concerned must be sought and clearly defined in order to attain the desired result.

In doing so, we seek accountability and prevention.

After careful contemplation and reflection, this report submits that the Six Pillars of Success are essential for a holistic solution to this problem:

The Six Pillars of Success (6As)

1. An Independent Watchdog
2. Aggressive Government
3. Public Awareness
4. Availability of Evidence
5. A Dedicated Prosecutor
6. An Impartial Tribunal

Pillar of Success #1 – An Independent Watchdog

One key solution in solving the problem is through institutional monitoring. This is the Commission on Human Rights. One of its outputs should be an official monthly bulletin on the state of extrajudicial killings and other human rights violations. The determining measures there must be standardized - free from political advertisements. To be credible, it must report nothing but numbers and cold analysis.

We need to standardize how we measure the problem through a reliable system within a government institution. We cannot have varying official data from different sources such as the PNP, the DOJ and the AFP. Thus, we recommend the creation of a trained and dedicated team, division or entity within the Commission on Human Rights to be the primary repository of all data and measurements regarding the problem. This will generate regular reports readily available to the public. This will also be the basis for any administrative sanctions or investigation that will be conducted against erring public officials.

Given that extrajudicial killings intertwine with factors that affect the socio-political realities that pervade Philippine society, it is of public interest. The unabated slew of extrajudicial killings has eliminated civil society leaders, human rights defenders, trade unionists and land reform advocates⁴⁵ – who are all vital elements of a healthy and dynamic democratic society. The killings, as noted by the UN Special Rapporteur, have a chilling effect on the activism of the general public by intimidating essential civil society actors placing the democratic rights of Filipinos in grave peril.⁴⁶

Thus, we need a proper monitoring agency to look at this looming human rights disaster.

Such civilian body or agency will be primarily tasked with the monitoring of incidences of extrajudicial killings and other pertinent data. It is envisioned that the independent watchdog will coordinate with other agencies for monitoring purposes and assist them in the fulfillment of their

⁴⁵ Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 5.
⁴⁶ Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 5.

specific mandates. For this purpose, a standardized definition of extrajudicial killings must be formulated – one that is comprehensive and susceptible of quantification from subjective data at the start – not after conviction. From such definition, the body or agency may conduct sampling pursuant to such definition and thus, identify future incidences of extrajudicial killings. The cases identified are to be promptly documented and reported. Particular focus must be given to important variables associated with an extrajudicial killing such as the profile of the victim, profile of the assailant (if identified), manner of killing, location of killing, and others. A comprehensive monitoring effort must be undertaken by the said watchdog which will monitor the developments of the case from the commission of the killing, investigation, prosecution, trial, and appeal until final judgment.

For these purposes it is envisioned that such entity, supported by a non-government agency, must have sufficient technical know-how in the legal, statistical and project management aspects that are expected to be demanded by these cases. Documentation and quality control are likewise essential as the data gathered will invariably supplement whatever evidence gathered by the prosecution and thus, inevitably contribute toward the conviction of suspects.

Heavy emphasis must be given to the independent nature of such investigative body or agency. We agree with the Melo Report when it stressed that such body or agency must be civilian in nature – independent of, and not under the command, control or influence of the armed forces.⁴⁷ We dare to go further and say that the independence of such investigative watchdog does not merely cover independence or control from the military or the police force only but also a total insulation from all forms of biases, partisan, political, or otherwise. Such independence is akin to that enjoyed by the judiciary as assured by Article VIII of the Constitution and by the CHR as provided by Article XIII, Sections 18 and 19 of the Constitution. The independent watchdog contemplated herein is not beholden to anyone, most especially to the appointing authority, but only to the truth. To this end, the independent watchdog may be given a definite grant of jurisdiction to investigate and monitor suspected perpetrators of extrajudicial killings and be assured of a regular budget that is to be promptly appropriated and likewise released.

⁴⁷ Jose A.R. Melo, et al., Report of the Independent Commission to Address Media and Activist Killings, January 22, 2007, available at: <http://www.pinoyhr.net/reports/meloreport.pdf>, p. 73.

Pillar of Success #2 – Aggressive Government

We agree with the Melo and Alston Report that the resolution of the problem of extrajudicial killings will boil down to political will.⁴⁸ Their reports mentioned that the Government of the Republic of the Philippines is eager in implementing measures to attempt stymie and bring to an end this spate of killings. However, like all arduous tasks, it is one that tests the determination of the mighty to withstand all setbacks, reverses and roadblocks thrown its way.

Emphasize the Political Will of the President

Reiterate the condemnation with actual “to do’s.”

And it all starts with the President. With the mighty arsenal of the executive arm at his disposal, a great array of resources and technological know-how, while inadequate in some respects, is nonetheless available. This can serve as an existing framework from which the Government can initiate its campaign to eradicate the extrajudicial killing menace. As head of the State, the President is the boss of all Executive Departments most especially the Department of National Defense (DND), Department of Interior and Local Government (DILG), Department of Justice (DOJ) and the National Police Commission (NAPOLCOM) which have policy making and supervisory powers over the AFP, PNP, National Prosecutorial Service (NPS) and other government instrumentalities that have a direct bearing on the issue at hand. The task of dispelling the curse of extrajudicial killings would require an all out effort on the part of the government. While a mere statement of widespread and total condemnation will not suffice, it is the best start there is.

Let the President condemn the act and condemn the people who are accountable for it and those who fail to find accountability. The task at hand would require a major paradigm shift. The first shift will be in the policy making and execution of directives by the military and police forces. They are after all the primary suspects of extrajudicial killings.

48 Jose A.R. Melo, et al., Report of the Independent Commission to Address Media and Activist Killings, January 22, 2007, available at: <http://www.pinoyhr.net/reports/meloreport.pdf>, p. 73.

As the Commander-in-Chief of the AFP and overall Chief of the PNP, an all-out directive from the President to counter extrajudicial killings is a good start as any. The directive must be expressed in clear and unambiguous terms which will inevitably trickle down the chain of command until the individual serviceman. This would entail a reformulation in policy guidelines and directives which will operationalize the general directive of the President.

Institutionalize Human Rights in the AFP / PNP

Second, respect for human rights must be established as a norm if not institutionalized within the ranks. For this purpose, the AFP Human Rights Office (AFP HRO) and the PNP Human Rights Affairs Office (PNP HRAO), allegedly came into being. The AFP HRO is an institutional mechanism of the AFP to further strengthen existing mechanisms on Human Rights and International Humanitarian Law by the AFP. Activated on January 12, 2007, at the height of extrajudicial killings in the Philippines, the AFP HRO was established as an adjunct office of the Chief of Staff, AFP which has specific jurisdiction on Human Rights and International Humanitarian Law concerns. The main functions of the AFP HRO are advocacy, training, investigation, research, monitoring and liaison with the CHR and other government and non-government agencies advocating Human Rights and International Humanitarian Law Concerns.⁴⁹ Likewise, the AFP HRO acts as the primary policy making body of the AFP in matters pertaining to Human Rights and International Humanitarian Law.⁵⁰ Founded on July 15, 2007, the PNP Human Rights Affairs Office, the police counterpart of the AFP HRO, is likewise an adjunct office of the PNP Chief. The function of the PNP HRAO is akin to that of its AFP counterpart: advocacy, training, research, investigation, monitoring and liaison work. Currently, the PNP HRAO is engaged in improving the Human Rights awareness of its servicemen particularly in the rights of the accused under investigation.⁵¹ Furthermore, the PNP HRAO is likewise engaged in the investigation of erring servicemen particularly those who resort to torture in custodial investigation to facilitate the interrogation of suspects.⁵²

49 AFP Staff Memorandum No. 1, February 13, 2007.

50 AFP Staff Memorandum No. 1, February 13, 2007.

51 See PNP HRAO, KNOW YOUR RIGHTS: A CITIZEN'S PRIMER ON LAW ENFORCEMENT (2008).

52 Alcuin Papa, Human rights chief chides PNP, PHIL. DAILY INQUIRER, July 15, 2008, available at: <http://newsinfo.inquirer.net/inquirer-headlines/nation/view/20080715-148465/Human-rights-chief-chides-PNP>.

The PNP HRAO has recently taken the lead in investigating transgressions committed by men in uniform in the PNP.⁵³ Of course, going through the motions of investigation, advocacy, training, and research are simply not enough.

Linkages between AFP and PNP and the concerned government entities such as the CHR, NAPOLCOM, DND, DILG would surely strengthen the human rights initiative. Furthermore, in order for these institutions to achieve the results they were intended for, they must be given the authority to undertake measures that will achieve results. Greater investigatory powers as well as a strong process to determine administrative liability will provide maximum teeth to these bodies to fully concretize their respective mandate.

Make Human Rights Compliance a Success Factor in the AFP / PNP

AFP and PNP Commanders are promoted based on well defined success measures. Human rights compliance must be one of the performance evaluators for AFP and PNP commanders. It must also be included in the field reports submitted. These reports must be officially sourced from the monitoring body to ensure consistency and integrity.

Determine Whether Extrajudicial Killing was a Past Government Policy

To be able to seriously wage a war against extrajudicial killings, there is a pressing need to exorcise the ghosts of the previous administration. Considering that there is overwhelming evidence pointing to state actors as largely responsible for the spate of extrajudicial killings coupled with the undeniable fact that more than 90 percent of incidences of extrajudicial killings occurred during the administration of former President and now Representative Gloria Macapagal-Arroyo, it is inescapable that an inquiry as to whether the previous government had a hand in all these cases is absolutely necessary. Ultimately, the goal is to determine whether or not the previous

⁵³ Francis Wakefield, PNP assures probe on alleged video torture, THE MANILA BULLETIN, August 19, 2010, available at: <http://www.mb.com.ph/node/273153/pnp-human-right>.

administration can be charged with gross negligence or gross incompetence for failing to curb such epidemic despite its resources. We need to determine if the allegations that there pervaded an official government policy sanctioning the use of extrajudicial killings for counter-insurgency purposes is true. Ultimately, the goal is to determine on whom the utmost responsibility can be pinned pursuant to the command responsibility doctrine.

Review Policies and Directives

Policy and directive reformulation are necessary not only to operationalize the President's directive but to consolidate whatever short-term gains were achieved. It is also needed to institutionalize the reforms already implemented. For this purpose, the formulation of policies, guidelines and operating procedures must be human rights oriented and they must guarantee the respect thereof.

Police the Ranks

An enforcement mechanism must be instituted for breach of the Presidential directive and the subsequent breach of the policies and directives issued pursuant to it. For this purpose the AFP and the PNP have its internal administrative bodies to investigate and provide sanctions for Human Rights violations. We also have the National Prosecution Service (NPS) of the DOJ which serve as the primary prosecution arm of the State against violators of the law. For high-ranking officials charged with violations of the law, we have the Office of the Ombudsman. For each executive department, there is a component office tasked with quasi-prosecutorial powers for prosecution of administrative offenses in connection with violations of this nature, including violations of civil service law particularly on malfeasance, misfeasance or nonfeasance of duty. Under Section 7, Rule I of Memorandum Circular No. 19 Series of 1999, also known as the Uniform Rules on Administrative Cases in the Civil Service, heads of departments, agencies, provinces, cities, municipalities and other government instrumentalities shall have original concurrent jurisdiction with the Civil Service Commission over administrative cases filed

against their respective personnel. However, the mere availability of a relief from breach of such policy or directive is not enough. We need to start filing cases, administrative or otherwise, against public officials and commanders who have the most number of violations in their fields.

Operationalizing Command Responsibility

Another way to further strengthen the proper implementation and enforceability of these policies and directives is to enforce the command responsibility doctrine by virtue of an administrative issuance from the present Office of the President.

Command responsibility, in its simplest terms, means the “responsibility of commanders for crimes committed by subordinate members of the armed forces or other persons subject to their control in international wars or domestic conflict.”⁵⁴ It is a form of criminal complicity.⁵⁵ Through the doctrine of command responsibility, criminal liability may be imputed upon a commanding officer for the crimes committed by persons down the chain of command. The Supreme Court itself has recently recognized that the command responsibility doctrine is substantial law that is now part of the law of the land. In their decision in *Rubrico v. Macapagal-Arroyo*,⁵⁶ the Supreme Court stated that “[i]t may plausibly be contended that command responsibility, as legal basis to hold military/police commanders liable for extra-legal killings, enforced disappearances, or threats, may be made applicable to this jurisdiction on the theory that the command responsibility doctrine now constitutes a principle of international law or customary international law in accordance with the incorporation clause of the Constitution.”

The institution of command responsibility as a disputable presumption under the Rules of Court will not only act as a deterrent against the commission of extrajudicial killings but it will also enable the expeditious prosecution of its perpetrators and masterminds. Pursuant to the command responsibility doctrine, masterminds behind killings done in conspiracy can be charged and convicted accordingly. It allows the hurdling of the innate difficulty of pinning criminal responsibility to the one who was not at the scene of the

54 *Rubrico v. Macapagal-Arroyo*, G.R. No. 183871, February 18, 2010.

55 *Rubrico v. Macapagal-Arroyo*, G.R. No. 183871, February 18, 2010.

56 G.R. No. 183871, February 18, 2010.

crime or the one who pulled the trigger. This will essentially create accountability from the top.

All these must be consummated in deft and precise strokes. Furthermore, the aggressive approach to the implementation of these reforms cannot be overemphasized. There will be detractors and oppositors left and right raising questions ranging from philosophy to practicality. Yet as mentioned earlier, this is a test, specifically of political will. And ultimately, the test of political will is burdened upon the persons comprising the said offices and the officials tasked with its powers, control and supervision that represent the State.

Pillar of Success #3 – Public Awareness

We need to create an easily accessible system which reports and generates feedback from and to the public. This might be through traditional or new media.

A crucial partner that has not been tapped for its support in the overall campaign against the menace of extrajudicial killings is the public – both through public and private media.

The Government has unwittingly been at odds with the traditional media owing to its recurring failure to curb the violence and at the same time appear to be the primary suspect for it. It must be remembered that far from an adversary in these trying times, the media is a potent partner that the Government should ally itself with in this crusade against violence. Their goals have been, or perhaps, should have been identical: to stop the killings. Undoubtedly, the media has a direct interest or stake involved: violence and killings have victimized their comrades in the profession. The purported policy of the State of either condoning extrajudicial killings or actively encouraging it as a measure of counter-insurgency or otherwise has made journalism the most dangerous profession in the country. If the Government wants the killings to stop, the media would like nothing less.

Regular public discussion can also be a way of improving, standardizing, and generating reactions among the different stakeholders. The CHR, again, can host a monthly conference for this. Members of the AFP and PNP can be mandated to attend. On the other hand, NGOs, the media and the general public are encouraged to participate. Discussion of the monthly report can be the agenda.

New media is another way of cascading reports and generating quick feedback.

In the Digital Age of quad-media, the public has more sources of information than ever before – radio, television, newspaper and the Internet. Tapping these media can easily facilitate and develop awareness on key issues. Special attention must be given to information dissemination of government measures taken against extrajudicial killings specifically the protocols and rules implementing such measures. The end in mind is that a well informed public is a well prepared public that is poised to take action against extrajudicial killings. Lastly, the nice thing about an effective public awareness campaign is it can be effectively used to drum up support for government initiatives against killings by local and international groups.

Pillar of Success #4 – Availability of Evidence

We must implement ways in making evidence readily available.

Extrajudicial killings involve persons who are powerful and capable of unleashing violence when they feel so. It is of the essence that for each case of extrajudicial killing on trial, the prosecution is equipped with evidence that can prove guilt beyond reasonable doubt and thus guarantee a conviction. However, it is undeniable that reality is far from the ideal. Like most criminal cases in our country, the cases of extrajudicial killings where conviction was obtained were proven by credible witness testimony that has been put to the test by cross-examination in an adversarial judicial proceeding.

This betrays the ultimate weakness of the prosecution: it lives or dies on the witness testimony. Notwithstanding the exceptional character of extrajudicial killings, witnesses are still human and are prone to the frailties of the human nature. It cannot be helped considering that the Philippines has an appalling witness protection record. The average time of approximately five years to prosecute an offender is too long a time to ensure that families, witnesses, lawyers and judges remain dedicated in the quest for justice. Witnesses may disappear. Judges may be threatened. Lawyers may be killed. Worst, the key players may just simply lose interest. Time and place after all runs in favor of the accused. Thus, to ensure victory within the bounds of the judicial process, creativity on the part of lawyers is an invaluable premium.

Use Discovery Procedures Early On

Train both private and public prosecutors on the use of discovery procedures.

Discovery procedures⁵⁷ are available even in criminal cases. In the case of *People v. Webb*,⁵⁸ the Supreme Court ruled that they can be used in criminal proceedings, to quote:

“As defined, a deposition is - “The testimony of a witness taken upon oral question or written interrogatories, not in open court, but in pursuance of a commission to take testimony issued by a court, or under a general law or court rule on the subject, and reduced to writing and duly authenticated, and intended to be used in preparation and upon the trial of a civil or criminal prosecution. A pretrial discovery device by which one party (through his or her attorney) asks oral questions of the other party or of a witness for the other party. The person who is deposed is called the deponent. The deposition is conducted under oath outside of the court room, usually in one of the lawyer’s offices. A transcript

57 RULES OF COURT, Rules 23-29

58 G.R. No. 132577, August 17, 1999, 312 SCRA 573.

- word for word account - is made of the deposition. Testimony of [a] witness, taken in writing, under oath or affirmation, before some judicial officer in answer to questions or interrogatories.” (emphasis supplied)

The purposes of taking depositions are to: (1.) Give greater assistance to the parties in ascertaining the truth and in checking and preventing perjury; (2) Provide an effective means of detecting and exposing false, fraudulent claims and defenses; (3) Make available in a simple, convenient and inexpensive way, facts which otherwise could not be proved except with great difficulty; (4) Educate the parties in advance of trial as to the real value of their claims and defenses thereby encouraging settlements; (5) Expedite litigation; (6) Safeguard against surprise; (7) Prevent delay; (8.) Simplify and narrow the issues; and (9) Expedite and facilitate both preparation and trial.⁵⁹

With the nonavailability of witnesses comprising the biggest reason for the failure to prosecute, this alternative mode of securing witnesses’ testimonies becomes viable. This is an invaluable asset not only to protect the lives of witnesses but also to discourage the rampant practice of killing witnesses.

Improve the Technological Capacity of the PNP/NBI in Gathering Evidence

Let us create a pilot investigative center in Pampanga, where the most number of incidents are. Let us equip it with the best process, best minds, and best technology available. A hundred days after, let us determine if they are successful.

As was lamented earlier, the unavailability of evidence, most especially physical evidence, is the greatest challenge to a successful prosecution of extrajudicial killings. The totality of characteristics of extrajudicial killings

⁵⁹ *People v. Webb*, G.R. No. 132577, August 17, 1999, 312 SCRA 573 citing 23 Am Jur 2d 493.

(i. e., the suddenness of the attack, the concealed identity of the assailants, the quick getaway) all provides a complex problem as far as evidence gathering is concerned. This forces prosecutors to rely heavily on witness testimony to build their case against the accused. Philippine law enforcement authorities have made significant strides with respect to global investigative techniques. Despite such developments however, the Philippines still remains ill-equipped to handle the investigation of extrajudicial killings.

One measure that can be undertaken to assist law enforcement and investigatory bodies in investigating and prosecuting extrajudicial killings is the acquisition of firearms and ballistics identification equipment. Considering that most pieces of evidence that are available after an extrajudicial killing are shell casings and other residual evidence resulting from the gunshots employed by the assailants, a system that can match bullets fired from a gun to the respective licensed firearm that shot the same will exponentially improve the chances of identifying the perpetrators of killings.

Another possible approach would be to fully institutionalize the Scene of the Crime Operative (SOCO) groups throughout the country and focus on their training and acquisition of equipment. Unfortunately, the SOCO has been largely institutionalized only in highly urbanized cities. Rural areas generally do not have access to a SOCO team due to lack of resources or qualified personnel. Even in certain areas where SOCO operates, the teams are ill-equipped and the personnel are in need of additional training.

Take Extra Effort to Identify the Mastermind

Let the DOJ task force build one case against a mastermind. Have the NBI investigate the case of Wilfredo Layug, Jr.,⁶⁰ also known as Wilfredo T. Yumul, Jr. and Leodegario Yumul, Jr.

60 Victim: Victorina Miranda-Gomez, People of the Philippines vs. Wilfredo T. Yumul Jr., et al., Criminal Case. No. 15396, Regional Trial Court Branch 41, San Fernando, Pampanga; Victim: Manuel Nardo, People of the Philippines vs. Wilfredo Layug Jr., et al., Criminal Case No. 15501, Regional Trial Court Branch 44, San Fernando, Pampanga; Victim: Arnel Guevarra, People of the Philippines vs. Leodegario Yumul Jr, and four (4) John Does, Criminal Case No. 15552, Regional Trial Court Branch 43, San Fernando, Pampanga; and Victim: Antonio Adriaes, People of the Philippines vs. Wilfredo T. Yumul Jr., et al., Criminal Case. No. 15551, RTC, Branch 42, San Fernando Pampanga.

61 Literally means “for whom the crime advances, he has done it”.

Behind almost every incident of extrajudicial killing is a political motive or agenda that provoked such killing. Perpetrators of extrajudicial killings are often hired guns that are only in it for the money, or in cases of soldiers, acting on orders from their superiors. Extrajudicial killings are also conspiracies brought at the instance of an individual who seeks to gain immensely from the death of the victim. Following the Latin phrase *cui prodest scelus is fecit* ⁶¹, such person is the mastermind of such killings.

The mastermind is the moving spirit behind the heinous act for which he must be held accountable for. Owing to the very nature of extrajudicial killings as was discussed at length earlier, imputing liability for extrajudicial killings to the actual perpetrators is in itself a very daunting task. Thus, to successfully land the big fish so to speak, magistrates of the judiciary, legal practitioners, as well as concerned members of civil society groups have actively campaigned for the adoption of the doctrine of command responsibility which as mentioned earlier is part of substantive law in the Philippine jurisdiction.

Institute a Proper Implementation of the Witness Protection Program

Have the DOJ Task Force review the witness protection program.

The witness protection program has been largely seen as inept and ineffective for the purposes that it was instituted. As can be taught by prior experience, the Witness Protection Program is not perfect and is prone to grave consequences often leading to the extrajudicial killing of witnesses and thus, the untimely compromise of the case for the prosecution. Essential for the success of the Witness Protection Program is its credibility. There have been instances where witnesses refuse to surface or refuse to place themselves under the Witness Protection Program due to its perceived ineffectiveness. To remedy the situation, either the Executive or Legislative branches of Government can allot more funds into the program for its improvement. Congress can also look into introducing amendments into Republic Act No. 6981⁶² particularly liberalizing the requirements to enter into the program.

Pillar of Success#5 – A Dedicated Prosecutor

Let us create or strengthen the existing DOJ body tasked with curbing extrajudicial killings. More so, let us make it a dedicated Task Force with no other function at hand except to curb extrajudicial killings. They will be measured in terms of conviction of extrajudicial killings, nothing else.

Under Section 5, Rule 110 of the Rules of Court all criminal actions commenced by complaint or information shall be prosecuted under the direction and control of the public prosecutor. Prior to the filing of an information against a suspected offender, preliminary investigation is to be conducted by the public prosecutor for the purpose of determining whether a *prima facie* case exists warranting the prosecution of the accused. The stage of preliminary investigation is terminated upon the filing of the information in the proper court.⁶³ At this stage, the prosecutor is an executive exercising a quasi-judicial discretion as to whether or not there exists probable cause for which the accused must stand trial.⁶⁴ Upon filing of the information with the proper trial court, the prosecutor represents the People of the Philippines in the prosecution of the accused for the stated offense.⁶⁵ Thus, the role of the public prosecutor cannot be overemphasized.

As cases of extrajudicial killings are characterized by lack of witnesses and an inherent high risk to one's life and limb, the prosecution of such cases would require men and women composed of mettle that will not fold under any circumstance. With the foregoing backdrop in mind, this report recommends the strengthening of the Task Force that will be ***dedicated solely*** to the successful prosecution of extrajudicial killings cases.

The contemplated task force is akin to that of Task Force 211. Under Administrative Order No. 211, Series of 2007 issued by former President Gloria Macapagal-Arroyo, Task Force 211 was created with the mandate "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

62 Also known as the "Witness Protection, Security and Benefit Act."

63 *People v. Odilao, Jr.*, G.R. No. 155451, April 14, 2004.

64 *People v. Odilao, Jr.*, G.R. No. 155451, April 14, 2004.

65 *City Fiscal of Tacloban vs. Espina*, G.R. No. 83996, October 21, 1988, 166 SCRA 614.

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.” The Task Force was composed of representatives from the following offices:

1. Department of Justice
2. Department of National Defense
3. Department of Interior and Local Government
4. Office of the National Security Adviser
5. Office of the Political Adviser
6. Office of the Presidential Adviser on Peace Process
7. Presidential Human Rights Committee, and
8. Philippine Information Agency

Ordered to actively support Task Force 211 were the AFP, PNP, the National Intelligence Coordinating Agency and the NBI. Task Force 211 was also mandated to coordinate and work with the Judiciary, as well as the Presidential Commission on Values Formation, the Commission on Human Rights, the Union of Local Authorities of the Philippines and non-government organizations.

While the conviction rate is still very low, the formula however, is not unsound. The formation of a body whose sole purpose and criteria for success is the successful resolution or conviction in cases of extrajudicial killing is imperative.

Pillar of Success #6 – An Impartial Tribunal

Make the Remedy of Transfer of Venue to Metro Manila or Metro Cebu Readily Available

Most cases happen in provinces where governmental authority and gun power lay both with the military or the local government. It is therefore more convenient for investigators to turn a blind eye or for witnesses to fade away. Judges and lawyers, another group of common victims, can easily be

intimidated or worse, end up as victims of extrajudicial killing. Transfer of venue therefore, as provided under Section 5(4), Article IV of the Constitution⁶⁶ is an available remedy. This remedy has been successfully invoked in the celebrated case of Marlene Esperat when the Supreme Court granted the petition for change of venue filed by the Freedom Fund for Filipino Journalists (FFFJ) requesting the transfer of the trial involving her killing from the Regional Trial Court of Tacurong City to the Regional Trial Court of Makati City.⁶⁷ In a more recent case, the Supreme Court granted the request to transfer the trial of the February 23, 2009 killing of broadcaster Ernesto Rollin from Oroquieta City to Cebu City.⁶⁸ To facilitate the speedy resolution of cases as well as ensure the impartiality of the judges called to rule upon the contentious issues, it can be requested of the Honorable Supreme Court to prioritize petitions for transfer of venue in cases of extrajudicial killings. The other problem of course is when to know when a case is an extrajudicial killing or not.

Monitor and Update the Status of Compliance to SC A.O. No. 25-2007

As discussed earlier, SC A.O. No. 25-2007 provided for the designation of ninety-nine (99) special courts to hear and try cases involving killings of political ideologists and members of media. Such cases are to be given priority in the trial calendars of the respective courts and trial in said cases shall undergo mandatory continuous trial to be terminated within sixty (60) days from commencement of trial. Despite the enactment of the said A.O. by the Supreme Court, certain cases covered thereby have remained pending to this day. Some of these cases are the cases of *People v. Angelito Soriano, et al.*⁶⁹, *People v. Ligan et al.*⁷⁰, and *People v. Garcia et al.*⁷¹ The penultimate paragraph of SC A.O. No. 25-2007 requires that the special courts hearing cases of extrajudicial killings shall submit a status of the said cases in the monthly report of cases.

66 The said provision provides the Supreme Court with the power to order a change of venue or place of trial to prevent a miscarriage of justice.

67 Center for Media Freedom & Responsibility, Transfer of venue of case against masterminds in Esperat murder granted, September 16, 2009, available at: <http://cmfr-phil.org/2009/09/16/transfer-of-venue-of-case-against-alleged-masterminds-in-esperat-murder-granted>.

68 Cebu Daily News, Cebu City courts to try radioman murder case, PHIL. DAILY INQUIRER, March 7, 2010, available at: <http://globalnation.inquirer.net/cebudailynews/news/view/20100307-257144/Cebu-City-courts-to-try-radioman-murder-case>.

69 Criminal Case No. 4887 filed on May 3, 2007 where it still remains pending before RTC Branch 57 of San Carlos City of Pangasinan (Case No. R-I-1).

70 Criminal Case No. 8167-2k6 filed on May 15, 2006, where it still remains pending before RTC Branch 18 of Pagadian City (Case No. R-IX-3).

71 Criminal Case No. 1-6583 filed on August 10, 2004 where it still remains pending before RTC Branch 52 of Guagua, Pampanga (Case No. R-III-59).

Despite this requirement however, there are sixty-three (63) cases⁷² remaining for trial distributed throughout the Regional Trial Courts of the country. Unfortunately, we were told that these special courts have already been suspended.

⁷² See Parreño Extra Judicial Killing Audit dated August 15, 2010.

CONCLUSION

This human rights disaster is wrongly branded as a dispute between the right and the left ideologies. That is the current paradigm for many. To some, extrajudicial killing is an expedient way of curing insurgency. To others, it might be a way of implementing the people's justice. Unfortunately, those against extrajudicial killings are brought into this wrong spectrum. People against it are branded as anti-military, supporters of the left, or "duped by the left." On the other hand, people accused of it are sometimes branded as heroes of democracy. Perpetrators, probably from both end of the right and left spectrum, are probably hyping this to be so.

But that is not the case.

The paradigm is not left versus right. It is not the military versus the rebels. It is not democracy versus communism. It is justice versus injustice. Rule of Law versus Impunity. As seekers of justice, we should not deal with the generalities of branding ideologies, but in the individual rightness of each case. Rule of Law, after all, is the foundation of democracy.

Thus, the paradigm should shift. It is with this changing philosophy that we will be able to harness the people's full support in eradicating it.

ANNEXES

ANNEX “A” EXAMPLE OF EXTRAJUDICIAL KILLING CASE (NOT FILED)

Edwin Bargamento, January 11, 2005, Negros Occidental

On April 15, 2005, at around 5:00 PM, at Tortosa, Manapla, Negros Occ., Edwin Bargamento was on his way to a friend’s house after a series of labor protests in Bacolod City when he was shot. He was repeatedly shot by two armed men and died instantly. It is suspected that the killing was the handiwork of the military, possibly using the elements of the pro-government Revolutionary Proletarian Army (RPA) as assets or assassins. On September 1, 2006, his elder brother, Sanito, was also killed after giving testimony to foreign NGOs about this case. Sanito was riding a van together with his wife, when they were ambushed by two unidentified motorcycle-riding gunmen.

It has been five years, and five months since the date of the incident. The wife of Edwin Bargamento confided to the investigators that she already knew the killers of her husband. However, for fear that she will be the next target, she refused to pursue the prosecution. The witnesses also strongly refused to come out in the open to testify.

Three reasons why the prosecution is not pursued are present in this case. One, the lack of protective or financial support to the victim’s heirs; two, the lack of effort on the part of investigative bodies to look for witnesses; and three, the lack of effort to provide protective custody to the witnesses. Glaring is that fact that placing witnesses in protective custody entails a lot of expenses, commitment and manpower which the Philippine police force is unable to provide. Thus, unless some non-governmental organizations or religious groups provide them with protective custody, the victim’s heirs and the witnesses will always feel threatened.

ANNEX “B” EXAMPLE OF EXTRAJUDICIAL KILLING CASE (DISMISSED BY PROSECUTOR)

Noel “Noli” Capulong, May 27, 2006, Laguna
I.S. No. 937-06-C, City Prosecution Office, Calamba

On May 27, 2006, at around 6:00 PM, Noel Capulong was shot dead at Brgy. Parian, Calamba City, Laguna. The victim, while driving his owner-type jeep, was gunned down by bonnet-wearing men onboard motorcycles. Capulong was the Deputy Secretary-General of Bayan Muna Southern Tagalog Chapter and a volunteer Radio Veritas reporter.

His wife, Doyette Capulong, filed a complaint for murder against one Alfred Alinsunurin in the City Prosecution Office of Calamba, Laguna on May 28, 2006. The prosecutor during the preliminary investigation is Asst. City Prosecutor Miguel Noel T. Ocampo. The Prosecutor’s resolution was issued on January 18, 2007 and has the following substantive content:

“WHEREFORE, in view of all the foregoing, the undersigned finds no probable cause sufficient to indict the respondents as charged hence it is recommended that this case be dismissed.”

Because the information for the prosecution was only based on a police report, the prosecutor dismissed the case for insufficiency of evidence. This case exemplifies the quality of investigation being done by the police and the prosecutors themselves. The investigation should have had the coordination of the National Bureau of Investigation (NBI) and the witnesses should have been identified.

ANNEX “C” EXAMPLE OF EXTRAJUDICIAL KILLING CASE

(DISMISSED IN TRIAL LEVEL)

Noel Villarante, August 19, 2003, Laguna
People of the Philippines vs. Senando Palumbarit, et al.
Criminal Case No. 31832, Regional Trial Court Branch 28, Sta. Cruz, Laguna

At about 6:45 pm of August 19, 2003, Noel Villarante, a commentator in the local DZRJ Radio and a writer for the local newspaper Laguna Score, was shot dead at Santa Cruz, Laguna. After being shot, Villarante ran inside his home. As his relatives helped him outside to get to a hospital, the gunman once again shot Villarante, causing his instantaneous death. The editor of the Laguna Score stated that the victim has received numerous death threats before the murder.

A criminal complaint was filed by SPO2 Frelito S. Fresco against Senando Palumbarit and two John Does on August 26, 2003. The handling prosecutor during the preliminary investigation is 2nd Assistant Provincial Prosecutor Dan B. Rodrigo. The Prosecutor found probable cause to set the case on trial and the resolution was issued on November 8, 2003. The information was filed in court on November 8, 2003. The arraignment for the case was conducted on March 17, 2004 and the pre-trial on April 14, 2004. The trial for the case began on October 27, 2006. Eventually though, the case against Palumbarit was dismissed by the trial court and the case against the remaining unidentified suspects was archived. The case against Palumbarit was dismissed because the witnesses were no longer interested in testifying against the accused. Furthermore, because the other suspects remained unidentified, the court found it futile to pursue the case.

ANNEX “D” BACKGROUNDER IN KENYA

The UN Special Rapporteur visited Kenya from February 16 to 25, 2009. His report⁷³ highlighted that the main cause of killings in the Kenyan jurisdiction were killings by police death squads, violence in the Mount Elgon District and election-related killings.⁷⁴ It was noted that it is a pervasive practice by Kenyan police to execute individuals who are suspected leaders or members of criminal organizations.⁷⁵ For the period from mid-2007 until September 2008, more than 500 men have been killed or disappeared.⁷⁶ In the 1960s, the Kenyan Government initiated a land reform scheme for the benefit of the Ndorobo and Soy sub-clans of the Sabaot people⁷⁷ which led to a bitter land dispute over the area.⁷⁸ A militia force called the Sabaot Land Defense Force was established which sought to reclaim the lands that were allegedly taken away from its members. To accomplish its goals, the SLDF engaged in acts of harassment and terrorism. The Special Rapporteur pointed out that in certain regions, the SLDF was the law and those who disobeyed paid with their lives.⁷⁹

All in all, the Special Rapporteur confirms that the body count committed by the SLDF amounts to 700 killings and 120 disappearances though he is quick to add that this count “is likely a fraction of the total number.”⁸⁰ The last category of killings in Kenya are said to be politically motivated in connection with the December 2007 elections. The greatest incident was the post-election protest sparked by allegations of electoral fraud and anger at the announced election results.⁸¹ In a report rendered by the Waki Commission, a national commission of inquiry chaired by Justice Waki, the circumstances and causes of 1,113 killings were documented.⁸²

73 Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, available at: http://www.extrajudicialexecutions.org/application/media/Kenya%20Mission%202009%20%28A_HRC_11_2_Add.6%29.pdf

74 Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, p. 2.

75 Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, p. 8.

76 Kenya National Commission on Human Rights, *The Cry of Blood: Report on Extrajudicial Killings and Disappearances*, (September 2008).

77 Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, p. 18.

78 Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, p. 18.

79 Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, p. 18.

80 Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, p. 18.

81 Philip Alston, Election-related violence and killings, A/HRC/14/24/Add.7, United Nations Human Rights Council, May 21, 2010, p. 36 available at: <http://www.extrajudicialexecutions.org/application/media/14%20HRC%20Election%20violence%20%28A.HRC.14.24.Add7.%29pdf.pdf>.

82 Philip Alston, Election-related violence and killings, A/HRC/14/24/Add.7, United Nations Human Rights Council, May 21, 2010, p. 36.

Similarities with the Philippines

The similarities in the methodology employed for the killings in Kenya as against the reports of forced disappearances in the Philippines is troubling: the victims have been identified beforehand as a result of a prior comprehensive investigation⁸³, victims are either executed on the spot⁸⁴ or are killed in remote areas after being detained by the police.⁸⁵ Nonetheless, as in the Philippines, the killings have been described to have been done with widespread impunity and brutality⁸⁶ and apparently with evident premeditation. Evidence gathered by the Special Rapporteur shows a strong indication that the *modus operandi* of such killings was done by death squads which form part of the existing police force in their jurisdiction which is primarily engaged in the “cleansing” of Kenyan criminal organizations.⁸⁷ The parallelism with the Philippine experience is striking where killings appear to be indirectly sanctioned or condoned either by law enforcement or the military as necessary in the counter-insurgency campaign.⁸⁸

The perpetrators of extrajudicial killings have yet to be held accountable. Suspects, particularly members of the police and state officials have remained immune from prosecution. Witnesses to the killings have remained in hiding and are reluctant to testify which is in a large part attributable to the systematic failure of the Kenyan Government’s witness protection program.⁸⁹ In his mission to the Philippines, the UN Special Rapporteur noted the widespread yet covert operations of a death squad operating in one of the biggest cities in the country.⁹⁰ The killings committed by this death squad reportedly account for majority of extrajudicial killings in the Philippines. The problem with the SLDF in the Kenyan jurisdiction is likewise

83 Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, p. 9 citing Kenya National Commission on Human Rights, *The Cry of Blood: Report on Extrajudicial Killings and Disappearances*, (September 2008).

84 “Some suspects are murdered at the location of arrest. They are generally ordered by the police to lie down on the ground and are then shot. Police then attempt to set the crime scene to look like a “shoot out” occurred between criminals and police - weapons will be placed next to the bodies of the suspect, and fired into the air to give the appearance of an exchange of fire. Such victims are often taken to the mortuary by the police.” Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, p. 9.

85 Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, p. 10.

86 See Philip Alston, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/64/187, United Nations Human Rights Council, available at: http://www.extrajudicial-executions.org/application/media/64%20GA%20SR%20Report%20%28A_64_187%29.pdf.

87 Philip Alston, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/64/187, United Nations Human Rights Council, pp. 8-11.

88 See Jose A.R. Melo, et al., Report of the Independent Commission to Address Media and Activist Killing, January 22, 2007, available at: <http://www.pinoyhr.net/reports/meloreport.pdf>, pp. 8, 10-15, 21-30.

89 Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, p. 2.

90 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 5.

mirrored in the counter-insurgency campaign against the communist, New People's Army (NPA). In Kenya, persons residing in SLDF controlled areas were required to "donate" food or pay levies under the pain of torture or execution.⁹¹ The SLDF also monitored the activities of the villagers, employing "informers" to identify police collaborators who are then liquidated upon identification.⁹² With respect to election-related killings, the Philippine counterpart is starkly milder with a reported number of 69 election related violence incidents (ERVIs) from the start of election season until the start of elections resulting to 52 fatalities and 33 wounded.⁹³

State of the Rule of Law in Kenya

Government response to the violence has been encouraging as the government is able to conduct successful and independent audit of extrajudicial killings in their jurisdiction.⁹⁴ However, recommendations put forward by concerned state and non-state actors have gone largely unheeded particularly the recommendations of the Waki Commission – the commission tasked to investigate the 2007 election-related killings. The recommendations have yet to be implemented. Compounding the problem further are the acts of intimidation and violence directed against human rights defenders and members of civil society. Harassment is generally done by security forces tasked to keep the peace and other government officials.⁹⁵ The UN Special Rapporteur is optimistic with the Kenyan situation noting that institutional and legal structures necessary to institute reform is in place. The international community has shown its willingness to fully support a genuine reform program and Kenyan citizens have been politically and civilly responsible in ensuring steps are taken to protect human rights.⁹⁶ In the end, the UN Special Rapporteur concludes that the Government of Kenya can choose to deny the problems and insist everything is under control. On the other hand, it can acknowledge the problem and stick steadfastly in its reform program to strongly rectify the culture of impunity that is killing the rule of law in the country.⁹⁷

91 Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, p. 19.

92 Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, p. 19.

93 Consortium on Electoral Reform, Vote Peace 2010 Election Report, May 8, 2010 available at: <http://rp2010.com/2010/05/upsurge-of-election-violence.html>.

94 Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, p. 2.

95 Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, p. 3.

96 Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, p. 3.

97 Philip Alston, Mission to Kenya, A/HRC/11/2/Add.6, United Nations Human Rights Council, May 26, 2009, p. 3.

ANNEX “E” BACKGROUNDER IN GUATEMALA

The case of Guatemala is a curious one. It is neither a poor nor a rich country and it has emerged from a long and tragic history of killings and massacres committed allegedly by no less than members of the government. From 1962 to 1996, the country experienced armed confrontation between a relatively weak insurgent movement and the State military. It was noted that the Guatemalan government’s counter-insurgency effort involved a scorched-earth campaign directed against civilians in an attempt to deter recruitment and prevent further uprisings from insurgents.⁹⁸ By the mid-1980s the principal tactic of the counter-insurgency campaign shifted to selective killing wherein individual civil society leaders were killed to deter social organization and political participation.⁹⁹ The total death toll from the conflict is estimated to be over 200,000 with 90 percent of the killings committed by the Government.¹⁰⁰ To put an end to the conflict, the United Nations intervened in 1994 and mediated negotiations between the Government and insurgents from 1994 until 1996 culminating in the execution of the Peace Accords, a set of agreements which provided for, apart from cessation of hostilities, terms regarding the respect of human rights.¹⁰¹

While the Peace Accords had the primary effect of stopping the insurgency movement, problems arose in its implementation. There was a general problem of maintaining peace and order which civil society groups and the Government increasingly found more difficult, following the gradual withdrawal of international involvement.¹⁰² Apart from rising crime and disorder, Guatemalan society finds itself faced with new post-insurgency problems such as social cleansing and vigilante justice brought about by the decaying peace and order situation as well as the weakness of civilian institutions.¹⁰³ Currently, the numbers for Guatemala are grim. There has been a steady rise in an already high rate of murders and homicides in Guatemala.

98 Philip Alston, Mission to Guatemala, A/HRC/4/20/Add.2, United Nations Human Rights Council, February 19, 2007, p. 4, available at: http://www.extrajudicialexecutions.org/application/media/%28Guatemala%29%20A_HRC_4_20_Add.2.pdf

99 Philip Alston, Mission to Guatemala, A/HRC/4/20/Add.2, United Nations Human Rights Council, February 19, 2007, p. 4.

100 Philip Alston, Mission to Guatemala, A/HRC/4/20/Add.2, United Nations Human Rights Council, February 19, 2007, p. 4.

101 Philip Alston, Mission to Guatemala, A/HRC/4/20/Add.2, United Nations Human Rights Council, February 19, 2007, pp. 45.

102 Philip Alston, Mission to Guatemala, A/HRC/4/20/Add.2, United Nations Human Rights Council, February 19, 2007, p. 5.

103 Philip Alston, Mission to Guatemala, A/HRC/4/20/Add.2, United Nations Human Rights Council, February 19, 2007, p. 5.

In 2001 there were 3,230 reported deaths; in 2002, 3,631; in 2003, 4,236; in 2004, 4,507, in 2005, 5,308; and by mid-August 2006, there had been 2,905.¹⁰⁴ The rate of increase was at an alarming 64 percent over five years.¹⁰⁵ Lastly, another category of extrajudicial killings that pervades Guatemala is the high incidence of election-related killings. In the run-up to the 2007 Guatemalan elections, over 50 political candidates and political activists were killed, making it the most violent election since the end of the insurgency movement in 1996.¹⁰⁶

Similarity with the Philippines

The Guatemalan situation is strikingly analogous to the Philippine situation. Like Guatemala, the Philippines has been plagued with a relatively weak communist insurgent movement that has existed since 1969. The New People's Army (NPA) has been waging a communist rebellion against the Republic of the Philippines since its establishment in 1969. Its original strength was estimated to be at 25,000 fighters, but after an "all-out war" policy by the Arroyo Administration, the NPA's strength has been reduced to around 5,000 fighters as of 2010 – according to the Armed Forces of the Philippines (AFP).¹⁰⁷ Like Guatemala, killings shifted from active engagements against rebels to selective killings of persons identified with rebels which accounts for a great deal of extrajudicial killings in the Philippine jurisdiction. With respect to election-related violence, the Philippines surprisingly fares worse than Guatemala with 121 reported fatalities and 176 reported wounded in the 2007 elections¹⁰⁸ and with 52 fatalities and 33 wounded in the 2010 national elections despite having a relatively secure peace and order situation in the countryside.¹⁰⁹

104 Philip Alston, Mission to Guatemala, A/HRC/4/20/Add.2, United Nations Human Rights Council, February 19, 2007, p. 7 citing figures reported by the Procuradía de los Derechos Humanos (PDH).

105 Philip Alston, Mission to Guatemala, A/HRC/4/20/Add.2, United Nations Human Rights Council, February 19, 2007, pp. 7-8.

106 Philip Alston, Election-related violence and killings, A/HRC/14/24/Add.7, United Nations Human Rights Council, May 21, 2010, p. 33.

107 See Vincent Cabreza, Bangit to Aquino: AFP failed to end rebellion, PHIL. DAILY INQUIRER, June 20, 2010, available at: http://services.inquirer.net/mobile/10/06/20/html_output/xmlhtml/20100620-276536-xml.html.

108 Election violence from 1992 to 2007, PHIL. DAILY INQUIRER, March 12, 2010, available at: <http://newsinfo.inquirer.net/inquirer-headlines/nation/view/20100312-258108/Election-violence-from-1992-to-2007>.

109 Philip Alston, Election-related violence and killings, A/HRC/14/24/Add.7, United Nations Human Rights Council, May 21, 2010.

The State of the Rule of Law in Guatemala

For the case of Guatemala, the shocking yearly mortality rates due to violence are merely the tip of the iceberg. These skyrocketing figures are not merely indicative of a deteriorating peace and order situation but also expose a chronic failure of the criminal justice system.¹¹⁰ Resort has been made to a vigilante style of justice by the general public either through the hiring of private hitmen or off-duty police officers in liquidating criminals or suspected wrongdoers¹¹¹ or by public lynching by private individuals.¹¹² Private individuals, growing overly concerned over the dismal failure to curb the threats to their rights and very physical safety, have resorted to embark on a form of “social cleansing” by forcefully weeding out from society the “undesirables” such as suspected gang members.¹¹³ What is troubling however is not only are such killings being done with impunity¹¹⁴ but that the killings are attended by acts of torture.¹¹⁵ These indicators are quite alarming and are signs of the impending death of the rule of law in the Guatemalan jurisdiction.

The Road the Philippines is Taking

The Philippine situation so far has not devolved to such a stark situation of lawlessness and impunity that describes the magnitude of extrajudicial killings in Kenya and Guatemala. Nonetheless, the fuel that feeds devious flame of extrajudicial killings is the primal fear and urge of self-preservation brought that kicks in when there is a systemic failure of State institutions most especially those that deal with the preservation of peace and order. The culture of killing with impunity is slowly being cultivated within our shores. Such culture coupled with the systematic failure of State institutions may ultimately lead down the slippery slope towards anarchy and the failure of the rule of law.

110 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, pp. 8-11.

111 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, p. 9.

112 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, pp. 12-14.

113 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, pp. 9-10.

114 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, pp. 17-19.

115 Philip Alston, Mission to the Philippines, A/HRC/8/3/Add.2, United Nations Human Rights Council, April 16, 2008, pp. 9-10.

ANNEX “F-1” WRIT OF AMPARO (A.M. 07-9-12-SC)

While the Constitution does not explicitly provide for the writ of *amparo*, several of the protections provided for by the writ of *amparo* are expressly declared by the Constitution.¹¹⁶ The *Grave Abuse Clause*¹¹⁷ found in Art. VIII, Sec. 2, par. 2 of the 1987 Constitution recognizes the same protection as that of *amparo contra leyes*, *amparo casacion* and *amparo administrativo*. These protections are also recognized in Art. VIII, Sec. 5 of the 1987 Constitution which provides for the *certiorari* jurisdiction of the Supreme Court.¹¹⁸ *Amparo libertad* is comparable to the writ of *habeas corpus* which was adopted from British common law and is provided for in Rule 102 of the Rules of Court.¹¹⁹ *Amparo agrario* is also to a certain extent recognized in Art. II, Sec. 21 and Art. XIII, Secs. 4, 5 and 6 of the 1987 Constitution.

As was explained by Chief Justice Reynato S. Puno in his *ponencia* in *Secretary of National Defense v. Manalo*,¹²⁰ to wit:

“The writ of *amparo* serves both preventive and curative roles in addressing the problem of extralegal killings and enforced disappearances. It is preventive in that it breaks the expectation of impunity in the commission of these offenses; it is curative in that it facilitates the subsequent punishment of perpetrators as it will inevitably yield leads to subsequent investigation and action. In the long run, the goal of both the preventive and curative roles is to deter the further commission of extralegal killings and enforced disappearances.”

The writ of *amparo* provides a broad spectrum of protections to an individual. It was a remedy that was intended to address the unchecked and

116 Adolfo S. Azcuna, *The Writ of Amparo: A Remedy to Enforce Fundamental Rights*, 37 ATENEO L.J. 1 (1993).

117 It reads: Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

118 Adolfo S. Azcuna, *The Writ of Amparo: A Remedy to Enforce Fundamental Rights*, 37 ATENEO L.J. 1 (1993).

119 Adolfo S. Azcuna, *The Writ of Amparo: A Remedy to Enforce Fundamental Rights*, 37 ATENEO L.J. 2 (1993).

120 G.R. No. 180906, October 7, 2008.

unabated string of extrajudicial killings and enforced disappearances in the country. The writ of *amparo* is available to any person whose right to life, liberty and property is violated.¹²¹ The protection accorded by the writ of *amparo* extends to threats or unlawful acts or violations by either a public official or employee, or of a private individual or entity whether they actual or threatened.¹²²

The petition for the issuance of a writ of *amparo* may be filed by either the aggrieved party or any qualified person or entity in the following order:

1. Any member of the immediate family of the aggrieved party;
2. Any ascendant or descendant or collateral relative of the aggrieved party within the fourth civil degree of consanguinity or affinity;
3. Any concerned citizen, organization, association or institution.¹²³

The right of any party to file a petition for writ of *amparo* on behalf of the aggrieved party is subject to the priority established in the above enumeration. As such, the filing of the petition by a more authorized party takes precedence over the right of others for the orderly administration of justice.¹²⁴ The petition can be filed at any day and at any time with the Regional Trial Court of the place where the threat, act or omission or any of its elements occurred.¹²⁵ It can be likewise filed with the Sandiganbayan, the Court of Appeals, the Supreme Court or any of the justices of such courts.¹²⁶ When the writ is issued, it shall be enforceable anywhere in the Philippines regardless of the court of origin.¹²⁷ The filing of a petition for the issuance of a writ of *amparo* shall be exempt from the payment of docket fees.¹²⁸ The petition shall be verified and should implead the respondent responsible for the threat, act or omission.¹²⁹ If the name of the respondent is unknown, the respondent may be given an assumed appellation as long as he or she is particularly described.¹³⁰ The petition should also allege the right to life, liberty and security that has

¹²¹ Rule on the Writ of Amparo, §1.

¹²² Rule on the Writ of Amparo, §1.

¹²³ Rule on the Writ of Amparo, §2.

¹²⁴ Adolfo S. Azcuna, *The Writ of Amparo: A Remedy to Enforce Fundamental Rights*, 37 ATENEO L.J. 4 (1993).

¹²⁵ Rule on the Writ of Amparo, §3.

¹²⁶ Rule on the Writ of Amparo, §3.

¹²⁷ Rule on the Writ of Amparo, §3.

¹²⁸ Rule on the Writ of Amparo, §4.

been violated or is threatened to be violated.¹³¹ The manner how the threat or violation was committed as well as the attendant circumstances should be detailed in supporting affidavits attached to the petition.¹³²

Once the petition is filed, it shall be docketed and the justice or judge is required to act on the petition immediately by causing the issuance of the writ.¹³³ There should be a distinction as to issuance of the writ and the granting of the privilege of the writ of *amparo*. The issuance of the writ will set the date and time for the summary hearing on the case.¹³⁴ If the petitioner is able to prove his cause of action after the hearing, the privilege of the writ of *amparo* shall be granted, i. e., the court will grant the petitioner his appropriate reliefs.¹³⁵ Upon receipt of the writ, the respondent will be given 72 hours to make a return which shall contain all the lawful defenses that can be interposed by the respondent.¹³⁶ No general denial shall be allowed.¹³⁷ The respondent shall be required to give a full explanation and account which will not only seek the persons liable but also help in the determination of their compliance with the standard of conduct required of them.¹³⁸ All defenses that are not properly raised in the return shall be deemed waived.¹³⁹ If the respondent files no return, the proceedings shall proceed *ex parte*.¹⁴⁰ Dilatory and unnecessary pleadings are banned from being filed in *amparo* proceedings.¹⁴¹

The proceedings to determine the merit of the petition shall be summary and will be conducted day to day until completed.¹⁴² While the petition is currently pending, the petitioner may apply to the court for interim relief. Section 14 of the Rule on the Writ of *amparo* enumerates the following interim relief:

1. Temporary Protection Order;
2. Inspection Order;

129 Rule on the Writ of Amparo, §5.

130 Rule on the Writ of Amparo, §5.

131 Rule on the Writ of Amparo, §5.

132 Rule on the Writ of Amparo, §5.

133 Rule on the Writ of Amparo, §§4,6.

134 Rule on the Writ of Amparo, §6.

135 Adolfo S. Azcuna, *The Writ of Amparo: A Remedy to Enforce Fundamental Rights*, 37 ATENEO L.J.7 (1993).

136 Rule on the Writ of Amparo, §9.

137 Rule on the Writ of Amparo, §9.

138 Rule on the Writ of Amparo, §9.

139 Rule on the Writ of Amparo, §10.

140 Rule on the Writ of Amparo, §12.

141 Rule on the Writ of Amparo, §11.

3. Production Order; and
4. Witness Protection Order.

Upon motion by the petitioner or upon discretion of the judge/justice *motu proprio*, the Court can order the petitioner or the aggrieved party, or any member of the immediate family be protected by a government agency, an accredited person, or private institution capable of keeping or securing their safety.¹⁴³ The Supreme Court shall accredit persons and private institutions that shall extend temporary protection to petitioners or aggrieved parties availing of the privilege of the writ of amparo to ensure their capability to extend adequate protection.¹⁴⁴

The Court can also issue an inspection order upon verified motion by either party¹⁴⁵ and after due hearing, which will order any person in possession or control of a designated land or other property, to permit entry for the purpose of inspecting, measuring, surveying, or photographing the property.¹⁴⁶

A production order can also be issued by the court upon verified motion by either party¹⁴⁷ and after due hearing. The production order shall obligate any person in possession or control of designated documents, books, accounts, letters, photographs, objects or other tangible objects or objects in digitized or electronic form which constitute or contain evidence relevant to the petition or return to produce and permit their inspection, copying or photographing by or on behalf of the movant.¹⁴⁸ The motion can be opposed on the grounds of national security or of the privileged nature of the information.¹⁴⁹

Upon motion by the petitioner or whether *motu proprio*, the Court, judge or justice may refer witnesses to the DOJ for admission to the witness

142 Rule on the Writ of Amparo, §13.

143 Rule on the Writ of Amparo, §14(a).

144 Adolfo S. Azcuna, The Writ of Amparo: A Remedy to Enforce Fundamental Rights, 37 ATENEO L.J. 11 (1993); Rule on the Writ of Amparo, §14(a).

145 Rule on the Writ of Amparo, §14(b) and 15.

146 Rule on the Writ of Amparo, §14(b).

147 Rule on the Writ of Amparo, §14(c) and 15.

148 Rule on the Writ of Amparo, §14(c).

149 Rule on the Writ of Amparo, §14(c).

150 Rule on the Writ of Amparo, §14(d).

protection program under Republic Act No. 6981.¹⁵⁰ Witnesses may also be referred to other government agencies or to accredited persons or private institutions capable of keeping and securing their safety.¹⁵¹

The writ of *amparo* imposes a higher standard of diligence (extraordinary diligence) on public officers or employees than it does on private individuals or entities (ordinary diligence). There shall be no presumption of regularity on the part of the public official or employee.¹⁵² In the hearing on the petition, the parties must establish their claims by substantial evidence.¹⁵³ Jurisprudence defines substantial evidence as that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion. If the allegations in the petition are supported by substantial evidence, the Court shall grant the privilege of the writ of *amparo* and shall grant the petitioners the relief prayed for as well as that are proper and appropriate in the circumstances.¹⁵⁴ A judgment on a petition for the writ of *amparo* may be appealed to the Supreme Court in accordance with Rule 45 of the Rules of Court within five days from notice of the adverse judgment.¹⁵⁵ The writ of *amparo* is a prerogative writ and does not preclude the filing of separate the filing of separate criminal, civil or administrative suits.¹⁵⁶

151 Rule on the Writ of Amparo, §14(d).

152 Rule on the Writ of Amparo, §17.

153 Rule on the Writ of Amparo, §17.

154 Rule on the Writ of Amparo, §18.

155 Rule on the Writ of Amparo, §19.

156 Adolfo S. Azcuna, *The Writ of Amparo: A Remedy to Enforce Fundamental Rights*, 37 ATENEO L.J. 16 (1993).

ANNEX “F-2” WRIT OF AMPARO (A.M. 07-9-12-SC) (FULL TEXT)

Republic of the Philippines
SUPREME COURT
Manila

EN BANC

A.M. No. 07-9-12-SC
September 25, 2007

THE RULE ON THE WRIT OF AMPARO

RESOLUTION

Acting on the recommendation of the Chairperson of the Committee on Revision of the Rules of Court submitting for this Court’s consideration and approval the proposed Rule on the Writ of Amparo, the Court Resolved to APPROVE the same.

This Rule shall take effect on October 24, 2007, following its publication in three (3) newspapers of general circulation.

September 25, 2007.

(Sgd.)
RENATO S. PUNO
Chief Justice

(Sgd.)
MA. ALICIA AUSTRIA-MARTINEZ
Associate Justice

(Sgd.)

LEONARO A. QUISUMBING
Associate Justice

(Sgd.)

LEONARO A. QUISUMBING
Associate Justice

(Sgd.)

CONSUELO YNARES-SANTIAGO
Associate Justice

(Sgd.)

ANGELINA SANDOVAL-GUTIERREZ
Associate Justice

(Sgd.)

ANTONIO T. CARPIO
Associate Justice

(Sgd.)

DANTE O. TINGA
Associate Justice

(Sgd.)

MINITA V. CHICO-NAZARIO
Associate Justice

(Sgd.)

CANCIO C. GARCIA
Associate Justice

(Sgd.)

RENATO C. CORONA
Associate Justice

(Sgd.)

CONCHITA CARPIO MORALES
Associate Justice

(Sgd.)

ADOLFO S. AZCUNA
Associate Justice

(Sgd.)

PRESBITERO J. VELASCO, JR.
Associate Justice

(Sgd.)

ANTONIO EDUARDO B. NACHURA
Associate Justice

(Sgd.)

RUBEN T. REYES
Associate Justice

THE RULE ON THE WRIT OF AMPARO

Section 1. Petition. - The petition for a writ of amparo is a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity.

The writ shall cover extralegal killings and enforced disappearances or threats thereof.

Sec. 2. Who May File. - The petition may be filed by the aggrieved party or by any qualified person or entity in the following order:

1. Any member of the immediate family, namely: the spouse, children and parents of the aggrieved party;
2. Any ascendant, descendant or collateral relative of the aggrieved party within the fourth civil degree of consanguinity or affinity, in default of those mentioned in the preceding paragraph; or
3. Any concerned citizen, organization, association or institution, if there is no known member of the immediate family or relative of the aggrieved party.

The filing of a petition by the aggrieved party suspends the right of all other authorized parties to file similar petitions. Likewise, the filing of the petition by an authorized party on behalf of the aggrieved party suspends the right of all others, observing the order established herein.

Sec. 3. Where to File. - The petition may be filed on any day and at any time with the Regional Trial Court of the place where the threat, act or omission was committed or any of its elements occurred, or with the Sandiganbayan, the Court of Appeals, the Supreme Court, or any justice of such courts. The writ shall be enforceable anywhere in the Philippines.

When issued by a Regional Trial Court or any judge thereof, the writ shall be returnable before such court or judge.

When issued by the Sandiganbayan or the Court of Appeals or any of their justices, it may be returnable before such court or any justice thereof, or to any Regional Trial Court of the place where the threat, act or omission was committed or any of its elements occurred.

When issued by the Supreme Court or any of its justices, it may be returnable before such Court or any justice thereof, or before the Sandiganbayan or the Court of Appeals or any of their justices, or to any Regional Trial Court of the place where the threat, act or omission was committed or any of its elements occurred.

Sec. 4. No Docket Fees. - The petitioner shall be exempted from the payment of the docket and other lawful fees when filing the petition. The court, justice or judge shall docket the petition and act upon it immediately.

Sec. 5. Contents of Petition. - The petition shall be signed and verified and shall allege the following:

1. The personal circumstances of the petitioner;
2. The name and personal circumstances of the respondent responsible for the threat, act or omission, or, if the name is unknown or uncertain, the respondent may be described by an assumed appellation;
3. The right to life, liberty and security of the aggrieved party violated or threatened with violation by an unlawful act or omission of the respondent, and how such threat or violation is committed with the attendant circumstances detailed in supporting affidavits;
4. The investigation conducted, if any, specifying the names, personal circumstances, and addresses of the investigating authority or individuals, as well as the manner and conduct of the investigation, together with any report;

5. The actions and recourses taken by the petitioner to determine the fate or whereabouts of the aggrieved party and the identity of the person responsible for the threat, act or omission; and the relief prayed for. The petition may include a general prayer for other just and equitable reliefs.

Sec. 6. Issuance of the Writ. - Upon the filing of the petition, the court, justice or judge shall immediately order the issuance of the writ if on its face it ought to issue. The clerk of court shall issue the writ under the seal of the court; or in case of urgent necessity, the justice or the judge may issue the writ under his or her own hand, and may deputize any officer or person to serve it.

The writ shall also set the date and time for summary hearing of the petition which shall not be later than seven (7) days from the date of its issuance.

Sec. 7. Penalty for Refusing to Issue or Serve the Writ. - A clerk of court who refuses to issue the writ after its allowance, or a deputized person who refuses to serve the same, shall be punished by the court, justice or judge for contempt without prejudice to other disciplinary actions.

Sec. 8. How the Writ is Served. - The writ shall be served upon the respondent by a judicial officer or by a person deputized by the court, justice or judge who shall retain a copy on which to make a return of service. In case the writ cannot be served personally on the respondent, the rules on substituted service shall apply.

Sec. 9. Return; Contents. - Within FIVE (5) WORKING DAYS after service of the writ, the respondent shall file a verified written return together with supporting affidavits which shall, among other things, contain the following:

- (a) The lawful defenses to show that the respondent did not violate or threaten with violation the right to life, liberty and security of the aggrieved party, through any act or omission;

(b) The steps or actions taken by the possession to determine the fate or whereabouts of the aggrieved party and the person or persons responsible for the threat, act or omission;

(c) All relevant information in the possession of the respondent pertaining to the threat, act or omission against the aggrieved party; and

(d) If the respondent is a public official or employee, the return shall further state the actions that have been or will still be taken:

(i) to verify the identity of the aggrieved party;

(ii) to recover and preserve evidence related to the death or disappearance of the person identified in the petition which may aid in the prosecution of the person or persons responsible;

(iii) to identify witnesses and obtain statements from them concerning the death or disappearance;

(iv) to determine the cause, manner, location and time of death or disappearance as well as any pattern or practice that may have brought about the death or disappearance;

(v) to identify and apprehend the person or persons involved in the death or disappearance; and

(vi) to bring the suspected offenders before a competent court.

THE PERIOD TO FILE A RETURN CANNOT BE EXTENDED EXCEPT ON HIGHLY MERITORIOUS GROUNDS.

The return shall also state other matters relevant to the investigation, its resolution and the prosecution of the case.

A general denial of the allegations in the petition shall not be allowed.

(Amended A.M. No. 07-9-12-SC, October 16, 2007)

Sec. 10. Defenses not Pleaded Deemed Waived. - All defenses shall be raised in the return, otherwise, they shall be deemed waived.

Sec. 11. Prohibited Pleadings and Motions.- The following pleadings and motion are prohibited:

- (a) Motion to dismiss;
- (b) Motion for extension of time to file opposition, affidavit, position paper and other pleadings;
- (c) Dilatory motion for postponement;
- (d) Motion for a bill of particulars;
- (e) Counterclaim or cross-claim;
- (f) Third-party complaint;
- (g) Reply;
- (h) Motion to declare respondent in default;
- (i) Intervention;
- (j) Memorandum;
- (k) Motion for reconsideration of interlocutory orders or interim relief orders; and
- (l) Petition for certiorari, mandamus or prohibition against any interlocutory order.

(Amended A.M. No. 07-9-12-SC, October 16, 2007)

Sec. 12. Effect of Failure to File Return. - In case the respondent fails to file a return, the court, justice or judge shall proceed to hear the petition ex parte.

Sec. 13. Summary Hearing. - The hearing on the petition shall be summary. However, the court, justice or judge may call for a preliminary conference to simplify the issues and determine the possibility of obtaining stipulations and admissions from the parties.

The hearing shall be from day to day until completed and given the same priority as petitions for habeas corpus.

Sec. 14. Interim Reliefs. - Upon filing of the petition or at anytime before final judgment, the court, justice or judge may grant any of the following reliefs:

(a) Temporary Protection Order. - The court, justice or judge, upon motion or *motu proprio*, may order that the petitioner or the aggrieved party and any member of the immediate family be protected in a government agency or by an accredited person or private institution capable of keeping and securing their safety. If the petitioner is an organization, association or institution referred to in Section 3(c) of this Rule, the protection may be extended to the officers involved.

The Supreme Court shall accredit the persons and private institutions that shall extend temporary protection to the petitioner or the aggrieved party and any member of the immediate family, in accordance with guidelines which it shall issue. The accredited persons and private institutions shall comply with the rules and conditions that may be imposed by the court, justice or judge.

(b) Inspection Order. - The court, justice or judge, upon verified motion and after due hearing, may order any person in possession or control of a designated land or other property, to permit entry for the purpose of inspecting, measuring, surveying, or photographing the property or any relevant object or operation thereon.

The motion shall state in detail the place or places to be inspected. It shall be supported by affidavits or testimonies of witnesses having personal knowledge of the enforced disappearance or whereabouts of the aggrieved party.

If the motion is opposed on the ground of national security or of the privileged nature of the information, the court, justice or judge may conduct a hearing in chambers to determine the merit of the opposition.

The movant must show that the inspection order is necessary to establish the right of the aggrieved party alleged to be threatened or violated.

The inspection order shall specify the person or persons authorized to make the inspection and the date, time, place and manner of making the inspection and may prescribe other conditions to protect the constitutional rights of all parties. The order shall expire five (5) days after the date of its issuance, unless extended for justifiable reasons.

(c) Production Order. - The court, justice or judge, upon verified motion and after due hearing, may order any person in possession, custody or control of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things, or objects in digitized or electronic form, which constitute or contain evidence relevant to the petition or the return, to produce and permit their inspection, copying or photographing by or on behalf of the movant.

The motion may be opposed on the ground of national security or of the privileged nature of the information, in which case the court, justice or judge may conduct a hearing in chambers to determine the merit of the opposition.

The court, justice or judge shall prescribe other conditions to protect the constitutional rights of all the parties.

(d) Witness Protection Order. - The court, justice or judge, upon motion or *motu proprio*, may refer the witnesses to the

Department of Justice for admission to the Witness Protection, Security and Benefit Program, pursuant to Republic Act No. 6981

The court, justice or judge may also refer the witnesses to other government agencies, or to accredited persons or private institutions capable of keeping and securing their safety.

Sec. 15. Availability of Interim Reliefs to Respondent. - Upon verified motion of the respondent and after due hearing, the court, justice or judge may issue an inspection order or production order under paragraphs (b) and (c) of the preceding section.

A motion for inspection order under this section shall be supported by affidavits or testimonies of witnesses having personal knowledge of the defenses of the respondent.

Sec. 16. Contempt. - The court, justice or judge may order the respondent who refuses to make a return, or who makes a false return, or any person who otherwise disobeys or resists a lawful process or order of the court to be punished for contempt. The contemnor may be imprisoned or imposed a fine.

Sec. 17. Burden of Proof and Standard of Diligence Required. - The parties shall establish their claims by substantial evidence.

The respondent who is a private individual or entity must prove that ordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent who is a public official or employee must prove that extraordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent public official or employee cannot invoke the presumption that official duty has been regularly performed to evade responsibility or liability.

Sec. 18. Judgment. - The court shall render judgment within ten (10) days from the time the petition is submitted for decision. If the allegations in the petition are proven by substantial evidence, the court shall grant the privilege of the writ and such reliefs as may be proper and appropriate; otherwise, the privilege shall be denied.

Sec. 19. Appeal. - Any party may appeal from the final judgment or order to the Supreme Court under Rule 45. The appeal may raise questions of fact or law or both.

The period of appeal shall be five (5) working days from the date of notice of the adverse judgment.

The appeal shall be given the same priority as in habeas corpus cases.

Sec. 20. Archiving and Revival of Cases. - The court shall not dismiss the petition, but shall archive it, if upon its determination it cannot proceed for a valid cause such as the failure of petitioner or witnesses to appear due to threats on their lives.

A periodic review of the archived cases shall be made by the amparo court that shall, *motu proprio* or upon motion by any party, order their revival when ready for further proceedings. The petition shall be dismissed with prejudice upon failure to prosecute the case after the lapse of two (2) years from notice to the petitioner of the order archiving the case.

The clerks of court shall submit to the Office of the Court Administrator a consolidated list of archived cases under this Rule not later than the first week of January of every year.

Sec. 21. Institution of Separate Actions. - This Rule shall not preclude the filing of separate criminal, civil or administrative actions.

Sec. 22. Effect of Filing of a Criminal Action. - When a criminal action has been commenced, no separate petition for the writ shall be filed. The reliefs under the writ shall be available by motion in the criminal case.

The procedure under this Rule shall govern the disposition of the reliefs available under the writ of amparo.

Sec. 23. Consolidation. - When a criminal action is filed subsequent to the filing of a petition for the writ, the latter shall be consolidated with the criminal action.

When a criminal action and a separate civil action are filed subsequent to a petition for a writ of amparo, the latter shall be consolidated with the criminal action.

After consolidation, the procedure under this Rule shall continue to apply to the disposition of the reliefs in the petition.

Sec. 24. Substantive Rights. - This Rule shall not diminish, increase or modify substantive rights recognized and protected by the Constitution.

Sec. 25. Suppletory Application of the Rules of Court. - The Rules of Court shall apply suppletorily insofar as it is not inconsistent with this Rule.

Sec. 26. Applicability to Pending Cases. - This Rule shall govern cases involving extralegal killings and enforced disappearances or threats thereof pending in the trial and appellate courts.

Sec. 27. Effectivity. - This Rule shall take effect on October 24, 2007, following its publication in three (3) newspapers of general circulation.

ANNEX “G-1” WRIT OF HABEAS DATA (A.M. 08-1-16-SC)

Any aggrieved party may file a petition for the writ of *habeas data*.¹⁵⁷ However, in cases of extralegal killings and enforced disappearances, the petition may be filed by:

- (a) Any member of the immediate family of the aggrieved party; or
- (b) Any ascendant, descendant or collateral relative of the aggrieved party within the fourth civil degree of consanguinity or affinity.¹⁵⁸

The petition may be filed with the Regional Trial Court where the petitioner resides or that which has jurisdiction over the place where the data or information is gathered collected or stored.¹⁵⁹ The petition may likewise be filed with the Court of Appeals or the Supreme Court when the action concerns public data files of government offices.¹⁶⁰ Just like the writ of *amparo*, the writ of *habeas data* shall issue upon proper filing by the petitioner.¹⁶¹ The respondent will likewise be required file a return interposing all lawful defenses to the petition.¹⁶²

Just like the proceedings for the issuance of a writ of *amparo*, dilatory and unnecessary pleadings or motions are prohibited.¹⁶³ After a summary hearing¹⁶⁴ on the merits of the petition for *habeas data*, judgment will be rendered granting the petition and the relief prayed for if the allegations are supported by substantial evidence.¹⁶⁵ In addition, the court can order the deletion, destruction, or rectification of the erroneous data or information as the case may be.¹⁶⁶ Appeal may be taken to the Supreme Court on questions of fact and law pursuant to Rule 45 of the Rules of Court within five (5) days from notice of adverse judgment.¹⁶⁷

¹⁵⁷ Rule on the Writ of Habeas Data, §2.

¹⁵⁸ Rule on the Writ of Habeas Data, §2.

¹⁵⁹ Rule on the Writ of Habeas Data, §3.

¹⁶⁰ Rule on the Writ of Habeas Data, §3.

¹⁶¹ Rule on the Writ of Habeas Data, §§7.8.

¹⁶² Rule on the Writ of Habeas Data, §10.

¹⁶³ Rule on the Writ of Habeas Data, §13.

¹⁶⁴ Rule on the Writ of Habeas Data, §15.

¹⁶⁵ Rule on the Writ of Habeas Data, §16.

¹⁶⁶ Rule on the Writ of Habeas Data, §16.

¹⁶⁷ Rule on the Writ of Habeas Data, §19.

ANNEX “G-2” WRIT OF HABEAS DATA (A.M. 08-1-16-SC)
(FULL TEXT)

Republic of the Philippines
SUPREME COURT
Manila

EN BANC

A. M. No. 08-1-16-SC
January 22, 2008

THE RULE ON THE WRIT OF HABEAS DATA
RESOLUTION

Acting on the recommendation of the Chairperson of the Committee on Revision of the Rules of Court submitting for this Courts consideration and approval the proposed Rule on the Writ of Habeas Data, the Court Resolved to APPROVE the same.

This Resolution shall take effect on February 2, 2008, following its publication in three (3) newspapers of general circulation.

January 22, 2008.

(Sgd.)
RENATO S. PUNO
Chief Justice

(Sgd.)
MA. ALICIA AUSTRIA-MARTINEZ
Associate Justice

(Sgd.)

LEONARO A. QUISUMBING
Associate Justice

(Sgd.)

CANCIO C. GARCIA
Associate Justice

(Sgd.)

LEONARO A. QUISUMBING
Associate Justice

(Sgd.)

RENATO C. CORONA
Associate Justice

(Sgd.)

CONSUELO YNARES-SANTIAGO
Associate Justice

(Sgd.)

CONCHITA CARPIO MORALES
Associate Justice

(Sgd.)

ANGELINA SANDOVAL-GUTIERREZ
Associate Justice

(Sgd.)

ADOLFO S. AZCUNA
Associate Justice

(Sgd.)

ANTONIO T. CARPIO
Associate Justice

(Sgd.)

PRESBITERO J. VELASCO, JR.
Associate Justice

(Sgd.)

DANTE O. TINGA
Associate Justice

(Sgd.)

ANTONIO EDUARDO B. NACHURA
Associate Justice

(ON OFFICIAL LEAVE)

MINITA V. CHICO-NAZARIO
Associate Justice

(Sgd.)

RUBEN T. REYES
Associate Justice

THE RULE ON THE WRIT OF HABEAS DATA

Section 1. Habeas Data. - The writ of habeas data is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting or storing of data or information regarding the person, family, home and correspondence of the aggrieved party.

Sec. 2. Who May File. - Any aggrieved party may file a petition for the writ of habeas data. However, in cases of extralegal killings and enforced disappearances, the petition may be filed by:

- (a) Any member of the immediate family of the aggrieved party, namely: the spouse, children and parents; or
- (b) Any ascendant, descendant or collateral relative of the aggrieved party within the fourth civil degree of consanguinity or affinity, in default of those mentioned in the preceding paragraph; or

Sec. 3. Where to File. - The petition may be filed with the Regional Trial Court where the petitioner or respondent resides, or that which has jurisdiction over the place where the data or information is gathered, collected or stored, at the option of the petitioner.

The petition may also be filed with the Supreme Court or the Court of Appeals or the Sandiganbayan when the action concerns public data files of government offices.

Sec. 4. Where Returnable; Enforceable. - When the writ is issued by a Regional Trial Court or any judge thereof, it shall be returnable before such court or judge.

When issued by the Court of Appeals or the Sandiganbayan or any of its justices, it may be returnable before such court or any justice thereof, or to any Regional Trial Court of the place where the petitioner or respondent resides, or that which has jurisdiction over the place where the data or information is gathered, collected or stored.

When issued by the Supreme Court or any of its justices, it may be returnable before such Court or any justice thereof, or before the Court of Appeals or the Sandiganbayan or any of its justices, or to any Regional Trial Court of the place where the petitioner or respondent resides, or that which has jurisdiction over the place where the data or information is gathered, collected or stored.

The writ of habeas data shall be enforceable anywhere in the Philippines.

Sec. 5. Docket Fees. - No docket and other lawful fees shall be required from an indigent petitioner. The petition of the indigent shall be docketed and acted upon immediately, without prejudice to subsequent submission of proof of indigency not later than fifteen (15) days from the filing of the petition.

Sec. 6. Petition. - A verified written petition for a writ of habeas data should contain:

- (a) The personal circumstances of the petitioner and the respondent;
- (b) The manner the right to privacy is violated or threatened and how it affects the right to life, liberty or security of the aggrieved party;
- (c) The actions and recourses taken by the petitioner to secure the data or information;
- (d) The location of the files, registers or databases, the government office, and the person in charge, in possession or in control of the data or information, if known;
- (e) The reliefs prayed for, which may include the updating, rectification, suppression or destruction of the database or information or files kept by the respondent. In case of threats, the relief may include a prayer for an order enjoining the act complained of; and
- (f) Such other relevant reliefs as are just and equitable.

Sec. 7. Issuance of the Writ. - Upon the filing of the petition, the court, justice or judge shall immediately order the issuance of the writ if on its face it ought to issue. The clerk of court shall issue the writ under the seal of the court and cause it to be served within three (3) days from the issuance; or, in case of urgent necessity, the justice or judge may issue the writ under his or her own hand, and may deputize any officer or person serve it.

The writ shall also set the date and time for summary hearing of the petition which shall not be later than ten (10) work days from the date of its issuance.

Sec. 8. Penalty for Refusing to Issue or Serve the Writ. - A clerk of court who refuses to issue the writ after its allowance, or a deputized person who refuses to serve the same, shall be punished by the court, justice or judge for contempt without prejudice to other disciplinary actions.

Sec. 9. How the Writ is Served. - The writ shall be served upon the respondent by a judicial officer or by a person deputized by the court, justice or judge who shall retain a copy on which to make a return of service. In case the writ cannot be served personally on the respondent, the rules on substituted service shall apply.

Sec. 10. Return; Contents. - The respondent shall file a verified written return together with supporting affidavits within five (5) working days from service of the writ, which period may be reasonably extended by the Court for justifiable reasons. The return shall, among other things, contain the following:

- (a) The lawful defenses such as national security, state secrets, privileged communications, confidentiality of the source of information of media and others;
- (b) In case of respondent in charge, in possession or in control of the data or information subject of the petition;
 - (i) a disclosure of the data or information about the petitioner, the nature of such data or information, and the purpose for its collection;

(ii) the steps or actions taken by the respondent to ensure the security and confidentiality of the data or information; and

(iii) the currency and accuracy of the data or information held; and,

(c) Other allegations relevant to the resolution of the proceeding.

A general denial of the allegations in the petition shall not be allowed.

Sec. 11. Contempt. - The court, justice or judge may punish with imprisonment or fine a respondent who commits contempt by making a false return, or refusing to make a return; or any person who otherwise disobeys or resist a lawful process or order of the court.

Sec. 12. When Defenses May be Heard in Chambers. - A hearing in chambers may be conducted where the respondent invokes the defense that the release of the data or information in question shall compromise national security or state secrets, or when the data or information cannot be divulged to the public due to its nature or privileged character.

Sec. 13. Prohibited Pleadings and Motions. - The following pleadings and motions are prohibited:

- (a) Motion to dismiss;
- (b) Motion for extension of time to file return, opposition, affidavit, position paper and other pleadings;
- (c) Dilatory motion for postponement;
- (d) Motion for a bill of particulars;
- (e) Counterclaim or cross-claim;
- (f) Third-party complaint;
- (g) Reply;
- (h) Motion to declare respondent in default;

- (i) Intervention;
- (j) Memorandum;
- (k) Motion for reconsideration of interlocutory orders or interim relief orders; and
- (l) Petition for certiorari, mandamus or prohibition against any interlocutory order.

Sec. 14. Return; Filing. - In case the respondent fails to file a return, the court, justice or judge shall proceed to hear the petition *ex parte*, granting the petitioner such relief as the petition may warrant unless the court in its discretion requires the petitioner to submit evidence.

Sec. 15. Summary Hearing. - The hearing on the petition shall be summary. However, the court, justice or judge may call for a preliminary conference to simplify the issues and determine the possibility of obtaining stipulations and admissions from the parties.

Sec. 16. Judgment. - The court shall render judgment within ten (10) days from the time the petition is submitted for decision. If the allegations in the petition are proven by substantial evidence, the court shall enjoin the act complained of, or order the deletion, destruction, or rectification of the erroneous data or information and grant other relevant reliefs as may be just and equitable; otherwise, the privilege of the writ shall be denied.

Upon its finality, the judgment shall be enforced by the sheriff or any lawful officers as may be designated by the court, justice or judge within five (5) working days.

Sec. 17. Return of Service. - The officer who executed the final judgment shall, within three (3) days from its enforcement, make a verified return to the court. The return shall contain a full statement of the proceedings under the writ and a complete inventory of the database or information, or documents and articles inspected, updated, rectified, or deleted, with copies served on the petitioner and the respondent.

The officer shall state in the return how the judgment was enforced and

complied with by the respondent, as well as all objections of the parties regarding the manner and regularity of the service of the writ.

Sec. 18. Hearing on Officer's Return. - The court shall set the return for hearing with due notice to the parties and act accordingly.

Sec. 19. Appeal. - Any party may appeal from the final judgment or order to the Supreme Court under Rule 45. The appeal may raise questions of fact or law or both.

The period of appeal shall be five (5) working days from the date of notice of the judgment or final order.

The appeal shall be given the same priority as in habeas corpus and amparo cases.

Sec. 20. Institution of Separate Actions. - The filing of a petition for the writ of habeas data shall not preclude the filing of separate criminal, civil or administrative actions.

Sec. 21. Consolidation. - When a criminal action is filed subsequent to the filing of a petition for the writ, the latter shall be consolidated with the criminal action.

When a criminal action and a separate civil action are filed subsequent to a petition for a writ of habeas data, the petition shall be consolidated with the criminal action.

After consolidation, the procedure under this Rule shall continue to govern the disposition of the reliefs in the petition.

Sec. 22. Effect of Filing of a Criminal Action. - When a criminal action has been commenced, no separate petition for the writ shall be filed. The relief under the writ shall be available to an aggrieved party by motion in the criminal case.

The procedure under this Rule shall govern the disposition of the reliefs available under the writ of habeas data.

Sec. 23. Substantive Rights. - This Rule shall not diminish, increase or modify substantive rights.

Sec. 24. Suppletory Application of the Rules of Court. - The Rules of Court shall apply suppletorily insofar as it is not inconsistent with this Rule.

Sec. 25. Effectivity. - This Rule shall take effect on February 2, 2008, following its publication in three (3) newspapers of general circulation.

ANNEX “H” ADMINISTRATIVE ORDER 25-2007 (FULL TEXT)

Republic of the Philippines
SUPREME COURT
Manila

March 1, 2007

SUPREME COURT ADMINISTRATIVE ORDER NO. 25-07

RE: DESIGNATION OF SPECIAL COURTS TO HEAR, TRY AND DECIDE CASES INVOLVING KILLINGS OF POLITICAL ACTIVISTS AND MEMBERS OF MEDIA

- (1) WHEREAS, the preservation of the Rule of Law rests upon the Judiciary;
- (2) WHEREAS, the extrajudicial killings of political activists and members of the media have been confirmed by the Report dated January 22, 2007 submitted by the Independent Commission to Address Media and Activists Killings, created by President Gloria Macapagal-Arroyo through the issuance of Administrative Order No. 157;
- (3) WHEREAS, in a letter addressed to the Chief Justice, dated January 31, 2007, President Gloria Macapagal-Arroyo viewed with “alarm and concern the unabated killings of political activists and members of media” and recommended the designation of Special Courts throughout the country that will hear and try these criminal cases;
- (4) WHEREAS, the speedy and expeditious resolution of these criminal cases deserve the highest concern by the judiciary, involving as they do, the most brazen violations of human rights;

NOW, THEREFORE, pursuant to Section 23 of B.P. Blg. 129, in the interest of a speedy and efficient administration of justice and subject to the guidelines herein set forth, the following branches of the Regional Trial Courts are hereby designated to specially and preferentially hear, try and decide cases involving killings of political activists and members of the media

NATIONAL CAPITAL JUDICIAL REGION
STATION/NAME OF JUDGE
BRANCH

MANILA

- 26 JUDGE SILVINO T. PAMPILO, JR.
- 39 JUDGE NOLI C. DIAZ
- 50 JUDGE WILLIAM SIMON P. PERALTA

QUEZON CITY

- 95 JUDGE HENRI JEAN PAUL B. INTING
- 97 JUDGE BERNELITO R. FERNANDEZ
- 219 JUDGE BAYANI V. VARGAS

PASAY CITY

- 114 JUDGE EDWIN B. RAMIZO
- 118 JUDGE PEDRO B. CORALES

KALOOKAN CITY

- 129 JUDGE THELMA CANLAS T. PE-AGUIRRE
- 131 JUDGE MA. TERESA ESTEPA DE GUZMAN-ALVAREZ

MAKATI CITY

- 133 JUDGE NAPOLEON E. INOTURAN
- 148 JUDGE OSCAR B. PIMENTEL
- 150 JUDGE ELMO M. ALAMEDA

PASIG CITY

- 157 JUDGE ESPERANZA F. VICTORINO
- 265 JUDGE EDWIN A. VILLASOR

TAGUIG CITY *

271 JUDGE PAZ ESPERANZA M. CORTEZ

SAN JUAN *

160 JUDGE AMELIA ADAO FABROS

MALABON CITY

73 ACTING PRESIDING JUDGE BENJAMIN M. AQUINO, JR.

MARIKINA CITY

263 JUDGE DAVID L. MIRANDO, JR.

MANDALUYONG CITY

212 JUDGE RIZALINA CAPCO-UMALI

PARAÑAQUE CITY

260 JUDGE JAIME M. GURAY

LAS PIÑAS CITY

255 JUDGE RAUL B. VILLANUEVA

MUNTINLUPA CITY

204 JUDGE PATRIA MANALASTAS DE LEON

FIRST JUDICIAL REGION

BAGUIO CITY

5 JUDGE ANTONIO M. ESTEVES

LA TRINIDAD, BENGUET

62 JUDGE DANILO P. CAMACHO

LAOAG CITY

14 JUDGE FRANCISCO ROBERTO D. QUILALA

SAN FERNANDO CITY, LA UNION

28 JUDGE VICTOR M. VILORIA

LINGAYEN, PANGASINAN
37 JUDGE EMMA P. BAUZON

DAGUPAN CITY
41 JUDGE EMMA MANUEL TORIO

URDANETA CITY
46 JUDGE TITA RODRIGUEZ VILLARIN

TUGUEGARAO CITY
3 JUDGE JEZARENE C. AQUINO

APARRI, CAGAYAN
6 JUDGE ROLANDO R. VELASCO

ILAGAN, ISABELA
17 JUDGE RENATO P. PINE

SANTIAGO CITY
35 JUDGE EFREN M. CACATIAN

BAYOMBONG, NUEVA VIZCAYA
28 JUDGE FERNANDO F. FLOR, JR.

THIRD JUDICIAL REGION
BALANGA CITY
3 JUDGE REMEGIO M. ESCALADA, JR.

MALOLOS CITY
14 JUDGE PETRITA B. DIME

CABANATUAN CITY
24 JUDGE RODRIGO S. CASPILLO

GUIMBA, NUEVA ECIJA
33 JUDGED ISMAEL P. CASABAR

GAPAN CITY

35 JUDGE DORENTINO Z. FLORESTA

STO. DOMINGO, NUEVA ECIJA

37 JUDGE NELSON A. TRIBIANA

CITY OF SAN FERNANDO, PAMPANGA

46 JUDGE JOSELITO S. SALVADOR

GUAGUA, PAMPANGA

51 JUDGE PAMELA ANN A. MAXINO

ANGELES CITY

61 JUDGE BERNARDITA G. ERUM

TARLAC CITY

65 JUDGE BITTY G. VILIRAN

IBA, ZAMBALES

70 JUDGE CLODUALDO M. MONTA

OLONGAPO CITY

73 ACTING PRESIDING JUDGE JOSEFINA D. FARRALES

FOURTH JUDICIAL REGION

BATANGAS CITY

3 JUDGE RUBEN A. GALVEZ

BALAYAN, BATANGAS

10 JUDGE CRISTINO E. JUDIT

LIPA CITY

85 ACTING PRESIDING JUDGE FLORENCIO S. ARELLANO

CAVITE CITY

88 JUDGE AGAPITO S. LU

IMUS, CAVITE

26 JUDGE FERNANDO L. FELICEN

STA. CRUZ, LAGUNA

28 JUDGE MARY ANN ENRILE CORPUS-MAÑALAC

SAN PABLO CITY

28 ACTING PRESIDING JUDGE ROMULO S.G. VILLANUEVA

CALAMBA CITY

35 JUDGE ROMEO C. DE LEON

PUERTO PRINCESA CITY

51 JUDGE JOCELYN SUNDIANG-DILIG

LUCENA CITY

56 JUDGE NORMA CHIONGLO SIA

BINANGONAN, RIZAL

69 JUDGE NARMO P. NOBLEJAS

ANTIPOLO CITY

73 JUDGE RONALDO B. MARTIN

MORONG, RIZAL

79 JUDGE CANDIDO O. DE LOS SANTOS

FIFTH JUDICIAL REGION

LEGASPI CITY

6 JUDGE VLADIMIR B. BRUSOLA

LIGAO CITY

14 JUDGE EDWIN R. MA-ALAT

TABACO CITY

18 JUDGE MAMERTO M. BUBAN, JR.

DAET, CAMARINES NORTE

40 JUDGE ROLANDO M. PANGANIBAN

NAGA CITY

25 JUDGE JAIME E. CONTRERAS

LIBMANAN, CAMARINES SUR

29 JUDGE CECILIA B. SOLER

PILI, CAMARINES SUR

31 JUDGE JOSE C. SARCILLA

IRIGA CITY

36 JUDGE MILAGROS GERONA QUIJANO

MASBATE CITY

45 JUDGE MANUEL L. SESE

SORSOGON CITY

53 JUDGE BOANERGES C. CANDOLEA

SIXTH JUDICIAL REGION

KALIBO, AKLAN

9 JUDGE DEAN R. TELAN

SAN JOSE, ANTIQUE

11 JUDGE NERY G. DUREMDES

ROXAS CITY

18 JUDGE CHARLITO F. FANTILANAN

ILOILO CITY

26 JUDGE ANTONIO M. NATINO

31 JUDGE RENE S. HORTILLO

38 JUDGE ROGER B. PATRICIO

BACOLOD CITY

48 JUDGE GORGONIO J. YBAÑEZ

SEVENTH JUDICIAL REGION

TAGBILARAN CITY

49 JUDGE FERNANDO G. FUENTES III

CEBU CITY

7 JUDGE SIMEON P. DUMDUM, JR.

21 JUDGE ERIC FILAMOR MENCHAVEZ

LAPU-LAPU CITY

53 JUDGE BENEDICTO G. COBARDE

MANDAUE CITY

28 JUDGE MARILYN YAP-LAGURA

DUMAGUETE CITY

34 JUDGE ROSENTO B. BANDAL, JR.

38 JUDGE TERESITA ABARQUEZ GALANIDA

EIGHTH JUDICIAL REGION

TACLOBAN CITY

9 JUDGE ROGELIO C. SESCON

CATBALOGAN, SAMAR

29 JUDGE AGERICO A. AVILA

NINTH JUDICIAL REGION

DIPOLOG CITY

8 JUDGE PORFERIO E. MAH

ZAMBOANGA CITY

16 JUDGE JESUS C. CARBON, JR.

PAGADIAN CITY

21 JUDGE ROLANDO L. GOAN

TENTH JUDICIAL REGION

BUTUAN CITY

5 JUDGE AUGUSTUS L. CALO

MALAYBALAY CITY

10 JUDGE JOSEFINA GENTILE S. BACAL

OROQUIETA CITY

12 JUDGE BERNADETTE PAREDES-ENCINAREAL

CAGAYAN DE ORO CITY

18 JUDGE EDGARDO T. LLOREN

ELEVENTH JUDICIAL REGION

TAGUM CITY

1 JUDGE DANILO C. BELO

DAVAO CITY

11 JUDGE VIRGINIA H. EUROPA

DIGOS CITY

18 JUDGE ALBERT S. AXALAN

GENERAL SANTOS CITY

35 JUDGE OSCAR P. NOEL, JR.

TWELFTH JUDICIAL REGION

ILIGAN CITY

3 JUDGE ALBERT B. ABRAGAN

MARAWI CITY

10 ACTING PRESIDING JUDGE MOSLEMEN T.
MACARAMBON

In determining whether the crime is a “political killing”, the following factors, among others, shall be considered: (1) political affiliation of the victim; (2) method of attack; and (3) reports that state agents are involved in the commission of the crime or have acquiesced in them.

For purposes of this Administrative Order, all single-sala courts are considered special courts for the cases involving killings of political ideologists and members of media and for this reason shall give priority to these cases in their trial calendars. In stations where there are no Special Courts designated for the purpose, the branches where them said cases are raffled shall observe the herein guidelines.

The cases referred to herein shall undergo mandatory continuous trial and shall be terminated within sixty, (60) days from commencement of trial. Judgment thereon shall be rendered within thirty (30) days from submission for decision unless a shorter period is provided by law or otherwise directed by this Court.

Where trial has already begun, the same shall continue to be heard by the respective branches to which they have been originally assigned. For purposes hereof, a criminal case is considered begun when the accused or any of them had already been arraigned. The periods mentioned in paragraph 2 above shall be followed.

The Special Courts here designated shall continue to be included in the raffle of cases, criminal and civil, provided that the Executive Judges of the RTCs concerned shall exclude the designated Special Courts from such raffle whenever in their judgment the caseload of these courts shall prevent them from conducting the continuous trial of the special cases herein specified.

The Branches thus designated as Special Courts shall continue to perform their functions as such within the purview of this Administrative Order even after the resignation, retirement, death, dismissal from the judicial service, transfer, detail or promotion of the incumbent judges appointed/ designated to preside over them. Their successors, whether permanent or temporary, shall act as Presiding Judges of these Special Courts unless the Supreme Court otherwise directs.

No postponement or continuance shall be allowed except for clearly meritorious reasons. Pleadings or motions found to have been filed for dilatory purposes shall constitute direct contempt and shall be punished accordingly.

In the event of inhibition of the judge of a designated Special Court, the following guidelines shall be observed: (a) where there is only one Special Court in the station, the pairing system for multiple-branch stations subject of Circular No. 7 dated September 23, 1974, as amended, shall apply; (b) where there are two Special Courts in the station, the Executive Judge shall immediately assign the case by raffle to the other or another Special Court of the same nature. In case the Presiding Judge of the other Special Court is also disqualified or inhibits himself/herself, the case shall be forwarded to the pairing judge of the special court which originally handled the said case. If the pairing judge is also disqualified or inhibits himself/herself, the case shall be raffled to the other regular courts. At the next raffle, an additional case shall be assigned to the disqualified or inhibiting judge/s to replace the case so removed from his/her/their court; and (c) where a judge in a single-branch voluntary inhibits himself/herself, the Order of Inhibition shall be transmitted to the pairing judge who shall then hear and decide the case. The determination of the pairing judge shall be in accordance with Annex "A" of A.M. No. 03-8-02-SC dated January 27, 2004 (Guidelines on the Selection and Appointment of Executive Judges and Defining their Powers, Prerogatives and Duties).

A report on the status of these cases shall be attached to the Monthly Report of Cases submitted every 10th day of the succeeding month to the Statistical Reports Division, Court Management Office, Office of the Court Administrator. Failure to submit such report shall be a ground for withholding of the salaries and allowances of the judge/s and clerk/s of court, branch clerk/s of court/officer/s-in-charge concerned without prejudice to whatever administrative sanction the Supreme Court may impose on them.

This Administrative Order shall take effect immediately.

March 1, 2007.

(SGD.)
REYNATO S. PUNO
Chief Justice

(SGD.)
LEONARDO A. QUISUMBING
Associate Justice
Chairperson, Second Division

(SGD.)
CONSUELO YNARES-SANTIAGO
Associate Justice
Chairperson, Third Division

Footnotes

- * Pasig RTC holding office and court sessions at Taguig City.
- * Pasig RTC holding office and court sessions at San Juan, MM

ANNEX “I” STAGES IN PHILIPPINE CRIMINAL PROCEDURE

Police Investigation

All incidents are generally referred to the Philippine National Police (PNP) for investigation and possible resolution. The PNP is vested with the solemn duty of enforcing the laws of the land and maintaining peace and order to ensure public safety. In order to discharge such functions, the PNP is mandated by law to investigate and prevent crimes through the exercise of the power to make arrest and search and seizure in accordance with the Constitution and pertinent laws.¹⁶⁸ The PNP is the frontline agency in Philippine law enforcement.

In the realm of law enforcement, the PNP is assisted by the National Bureau of Investigation (NBI), an attached agency of the Department of Justice (DOJ) which acts as the country’s investigative service. The NBI was created by legislative fiat in 1947 with the enactment Republic Act No. 157 which provided it with broad investigatory and law enforcement powers. Under it, the NBI was commissioned as a civilian organization tasked with the investigations of crimes and violations of Philippine law.¹⁶⁹ It is the central government agency primarily tasked to render assistance, technical or otherwise in the investigation and detection of crimes to all law enforcement and prosecutorial officers and entities of the Government as well as the courts.¹⁷⁰ To this end, members of the NBI are considered as peace officers under the law like police officers and are empowered to make arrests, searches, and seizures in accordance with the law and the Constitution, to elicit truthful statements from persons under investigation, even by way of *subpoena* or *subpoena duces tecum* and to carry firearms as demanded by circumstances.¹⁷¹

168 Rep. Act No. 6975, §24 (1990). This is also known as the “Department of Interior and Local Government Act of 1990”.

169 Rep. Act No. 157, §1(a).

170 Rep. Act No. 157, §1.

171 Rep. Act No. 157, §5.

The Commission on Human Rights (CHR) is an entity created by the Constitution vested with investigative and recommendatory powers on matters and cases involving the abuse of human rights or the protection thereof.¹⁷² In addition, the powers and functions of the Commission include the provision of legal measures for the protection of human rights of all persons within the Philippines, exercise of visitorial powers over detention facilities, and the grant of immunity from prosecution to any person who possesses testimony or evidence necessary to determine the truth in any investigation conducted by it.¹⁷³ While the Commission is empowered to conduct investigations, it has however no prosecutorial powers except for concurrent prosecutorial jurisdiction with respect to the prosecution of public officials and law enforcers who may have violated the civil and political rights suspected, accused, or detained for the crime of terrorism.¹⁷⁴ Lastly, the CHR has a role as advisor-monitor of the government with respect to matters concerning human rights. For this purpose, the CHR issues Human Rights Advisories. Considering that extrajudicial killings involve the violation of one of the most basic human rights, the right to life, the CHR indubitably is an essential cog in the investigation machinery to address the chronic problem of extrajudicial killings in the country.

Preliminary Investigation

When an act or omission punishable by law has been committed, any aggrieved party may file a complaint before the local prosecutor's office having territorial jurisdiction over the place where the said act or omission took place.¹⁷⁵ For criminal offenses where the prescribed penalty under the law is at least four years, two months and one day, a preliminary investigation is necessary¹⁷⁶ to be conducted by prosecutors of the National Prosecution

172 CONST., Art. XIII, §§17,18.

173 CONST., Art. XIII, §18.

174 Rep. Act No. 9372, §55.

175 RULES OF COURT, Rule 110, §1.

176 RULES OF COURT, Rule 112, §1.

Service of the DOJ.¹⁷⁷ However, in cases where the accused is a state agent such as a public officer or employee, the investigation shall be conducted by the Office of the Ombudsman pursuant to its constitutional and statutory mandate.¹⁷⁸

The procedure for preliminary investigation is outlined in Section 3, Rule 112 of the Rules of Court. The overall aim of a preliminary investigation is the determination of probable cause that is the existence of such facts and circumstances as would excite the belief in a reasonable mind, acting on the facts within the knowledge of the prosecutor, that the person charged was guilty of the crime for which he was prosecuted.¹⁷⁹

Arraignment

Upon filing of the information and after custody of person of the accused is secured, he is brought before the court whereby he enters his plea of guilty or not guilty after which trial can forthwith proceed. The procedure for arraignment is provided for by Section 1 of Rule 116 of the Rules of Court. The arraignment shall be conducted in open court whereby the accused shall be provided with a copy of the complaint or information which is read to him in a dialect or language known to the accused.¹⁸⁰ After the information or complaint is read to the accused, he will be asked whether he pleads guilty or not guilty.¹⁸¹ The plea shall be made of record by the court. The accused must be present at arraignment and personally enter his plea.¹⁸² If the accused refuses to plead or enters a conditional plea, a plea of not guilty shall be entered for him.¹⁸³ If the offense charged is a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and shall require the prosecution to prove his guilt and the precise degree of culpability.¹⁸⁴

177 RULES OF COURT, Rule 110, §2.

178 CONST., Art. XI, §13. Rep. Act No. 6770, §15 (1989). This is also known as the "Ombudsman Act of 1989".

179 Metropolitan Bank & Trust Company v. Secretary of Justice, G.R. No. 180165, April 7, 2009.

180 RULES OF COURT, Rule 116, §1(a).

181 RULES OF COURT, Rule 116, §1(a).

182 RULES OF COURT, Rule 116, §1(b).

183 RULES OF COURT, Rule 116, §1(c).

184 RULES OF COURT, Rule 116, §3.

Pre-trial

Pre-trial involves different processes to facilitate the expeditious resolution of the case. After the accused is arraigned, the trial court can order a pre-trial conference to consider: (1) plea bargaining; (2) stipulation of facts; (3) marking for identification of evidence of the parties; (4) waiver to objections of admissibility of evidence; (5) modification of the order of trial if the accused admits the charge but interposes a lawful defense; and (6) such matters as will promote a fair and expeditious trial of the criminal and civil aspects of the case. In essence the aim of pre-trial is to abbreviate the criminal proceedings by settling beforehand preliminary matters between the prosecution and the defense. Upon conclusion of the pre-trial conference, a pre-trial agreement is executed embodying the agreements entered into by both parties. However, in order for a pre-trial agreement and any admissions made herein can prejudice a party, the pre-trial agreement must be reduced in writing and signed by counsel.¹⁸⁵ Once the pre-trial conference has been concluded, trial can now proceed.

Trial

Trial is the most crucial part of any case of extrajudicial killing. It is only after a rigorous and fair trial can the extent of guilt or culpability of an accused perpetrator of an extrajudicial killing be determined thus holding him accountable for such act or in the absence of such, be acquitted by an impartial tribunal following Constitutional and statutory safeguards. Under our Constitution, every person has a right to due process of law¹⁸⁶ and the right to be presumed innocent until proven guilty beyond reasonable doubt.¹⁸⁷ It is of the essence of the criminal justice system that the foregoing rights be accorded the utmost importance and respect before an individual is convicted

¹⁸⁵ RULES OF COURT, Rule 118, §4.

¹⁸⁶ CONST., Art. III, §§1, 14(a).

¹⁸⁷ CONST., Art. III, §14(b).

and deprived of life, liberty and property by the State. Trial proceeds with the prosecution adducing evidence proving the guilt of the accused beyond reasonable doubt.¹⁸⁸ In March of 2007, former Supreme Court Chief Justice Reynato Puno issued Administrative Order 25-2007 which designated 99 trial courts to speed up the trial of cases of extrajudicial killings. Extrajudicial killings are prioritized in the court calendars. The order also directs the courts to continuously try the cases and limited the duration of extrajudicial killings to 60 days after commencement of trial and to issue the judgment 30 days after the close of the trial.

Judgment and Appeal

After both the prosecution and the defense have submitted their arguments, evidence as well as any rebuttal thereon, the case shall be submitted for decision.¹⁸⁹ Thereafter, the judge shall render judgment either by acquitting the accused or rendering a judgment of conviction. Judgment is the determination by the court that the accused is either guilty or not guilty of the offense charged based on the evidence presented and the imposition on him of the proper penalty and civil liability, if any.¹⁹⁰ A judgment of acquittal will bar any further prosecution for the same offense based on the same act pursuant to the constitutional right of the accused against double jeopardy.¹⁹¹ Further, any dismissal of the case without the express consent of the accused is tantamount to an acquittal.¹⁹² From a judgment of conviction, the accused may file a motion for new trial or a motion for reconsideration or an appeal to a higher court.¹⁹³ If the appeal is denied at the appellate court, further appeal proceedings may be taken until the case is decided by the Supreme Court. A judgment by the Supreme Court shall be final on the issue and can no longer be appealed even if the judgment is rendered by a Division of the Supreme Court.

188 RULES OF COURT, Rule 119, §11(a).

189 RULES OF COURT, Rule 119, §11(d).

190 RULES OF COURT, Rule 120, §1.

191 CONST., Art. III, §21.

192 *People v. Laguio*, G.R. No. 128587, March 16, 2007, 518 SCRA 402.

193 RULES OF COURT, Rule 121, §1.

ANNEX “J” LIST OF ALL CASES INCLUDED

Region	Province	Name of Victim/s	I.S. No./Criminal Case No.	Venue of I.S./Criminal Case (where trial or investigation of the case is on-going or pending)
CAR	Ifugao	Romeo Caccam Sanchez	I.S. No. 05-1135 Criminal Case No. 24751-R	RTC Branch 60, Baguio City
CAR	Abra	Bersamin, James y Burgos	Criminal Case No. C-75696	RTC Branch 105, Quezon City
CAR	Ifugao	Unidentified victims	Information not available	Lamut Police Station
NCR	Metro Manila	Paglinawan, Rodolfo y Dueñas	Criminal Case No. 34549-MN	RTC Branch 92, Quezon City
NCR	Metro Manila	Orsolino, Alberto y Nungay	Criminal Case No. Q-06-142554	RTC Branch 128, Caloocan City
NCR	Metro Manila	Ruñez, Ralph y Revita	Criminal Case No. C-76059	RTC Branch 128, Caloocan City
NCR	Metro Manila	Hurjae A. Amaneo James Ulysses F. Morota	I.S. No. 07-09-01214 Criminal Case No. 137333-34	Office of the City Prosecutor, Taguig City RTC, Branch 69, Taguig City
NCR	Metro Manila	Ibabao, Reagan Sibayan	I.S. No. 07B-00536 Criminal Case No. 08-168	Office of the City Prosecutor, Muntinlupa City RTC, Branch 207, Muntinlupa City
NCR	Metro Manila	Mariano Roger	Criminal Case No. 5021 Criminal Case No. 11554 – 15	RTC, San Nicolas, Ilocos Norte RTC, Branch 54, Manila (on-going trial)
NCR	Metro Manila	Dacer, Salvador Corbito, Emmanuel	I.S. No. 2001-247 I.S. No. 2001-311 I.S. No. 2001-347 Crim. Case No. 01191969	Department of Justice, and RTC, Branch 32, Manila
NCR	Metro Manila	Agustin, Philip Corsino	I.S. No. 2005-413 Criminal Case No. 3545 Criminal Case No. 06-245624	Department of Justice RTC, Branch 66, Aurora RTC, Branch 6, Manila (on-going trial)
NCR	Metro Manila	Jimenez, Eduardo Albano	I.S. No. 97-692 Crim Case No. 00-245	Department of Justice RTC, Branch 275, Las Pinas City
NCR	Metro Manila	Napoles, Edilberto Landicho, Ruel Teodoro	Criminal Case No. 2006-126 (RTC Branch 1, Abra) Criminal Case No. Q-07-148579 (Quezon City)	Department of Justice RTC, Branch 26, Manila (on-going Trial)
NCR	Metro Manila	Cervantes, Baron Alexander R.	I.S. No. 2002-481 Criminal Case No. 02-0791	Department of Justice and RTC, Branch 275, Las Pinas City
NCR	Metro Manila	Endrinal, Rowell	I.S. No. 04-0099 Criminal Case No. 10336	City Prosecution Office, Legazpi City RTC, Legazpi City RTC, Branch 204, Muntinlupa City (on-going trial)
Region I	Pangasinan	Judge Estrellita Mariano-Paas	Criminal Case Nos. T-4236 and T-4237	RTC, Tayug, Pangasinan
Region I	Pangasinan	Resuello, Julian y Valerio Martinez, Eulogio a.k.a. “Jojo” Atty. Carlo Magno Uminga y Romero	Criminal Case No. 4887	RTC Branch 57, San Carlos City, Pangasinan
Region I	Pangasinan	Rosa Isabel (frustrated murder)	Criminal Case Nos. 5110 and 5111-R	RTC Branch 53 of Rosales, Pangasinan
Region I	Pangasinan	Jose Doton Diosdado Doton	Criminal Case Nos. 4414 and 4415	RTC Branch 51, Tayug, Pangasinan
Region I	Ilocos Norte	Andres Acosta y Eugenio	I.S. No. 2006-621/Criminal Case No. 4535-18	RTC Branch 18, Batac City, Ilocos Norte
Region I	Pangasinan	Albert Sibayan y Hidalgo	I.S. No. T-08-196	Provincial Prosecutor’s Office, Tayug, Pangasinan
Region I	Ilocos Sur	Jose “Pepe” Manegdeg	I.S. No. 06-088	Provincial Prosecutor Office, Vigan City
Region I	Pangasinan	Mayor Arthur Salvatus Cabantac	Information not available	PNP Lingayen, Pangasinan
Region I	Pangasinan	Igmedio Lariosa y Angala	Information not available	PNP Binalonan, Pangasinan
Region I	Pangasinan	Dario Tabugan y Martin	I.S. No. R-08-132	Office of the Provincial Prosecutor
Region I	Ilocos Norte	Renato Balisacan y Villa	Information not available	Branch 65 Laoag City
Region II	Isabela	Elena Mendiola Ricardo Balauag	I.S. No. 2006E-635	RTC Branch 24, Echague, Isabela

Region II	Isabela	Madonna Lucban Castillo	Crim. Case No. 1338	RTC Branch 24, Echague, Isabela
Region II	Isabela	Jesus T. Sebastian Sr.	I.S. No. 2002-G-215	Provincial Prosecutors Office
Region II	Isabela	Joaquin Soriano	Criminal Case No. JR-2619	Prosecutor's Office
Region II	Isabela	Rodrigo L. Manuel	Information not available	PNP Jones, Isabela
Region III	Pampanga	Rommel Arcilla	I.S. No. 05-K-3143; Criminal Case No. G-07-7517	RTC, Branch 52, Guagua, Pampanga
Region III	Pampanga	Felmo Macatuno, Jr.	I.S. No. 04-C-845; Criminal Case No. 1-6583	RTC, Branch 52, Guagua Pampanga
Region III	Nueva Ecija	Priscilla Esteban y Villaluz	I.S. No. 05-L-4264	RTC, Branch 47, San Fernando Pampanga
Region III	Pampanga	Manuel Nardo	I.S. No. OCPSE-06-H-1793; Criminal Case No. 15501	RTC, Branch 44, San Fernando Pampanga
Region III	Pampanga	Ofelia "Perl" Torno-Rodriguez	I.S. No. 06-H-2967; Criminal Case No. 25387	RTC, Branch 44, San Fernando Pampanga
Region III	Pampanga	Arnel Guevarra	I.S. No. 06-G-2583; Criminal Case No. 15552	RTC, Branch 43, San Fernando Pampanga
Region III	Pampanga	Lorelie Duenas	I.S. No. 06-G-2397; Criminal Case No. 15706	RTC, Branch 43, San Fernando Pampanga
Region III	Pampanga	Antonio Adriaes	I.S. No. 07-B-775; Criminal Case. No. 15551	RTC, Branch 42, San Fernando Pampanga
Region III	Pampanga	Victorina Miranda-Gomez	I.S. No. 06-H-2841-43; Criminal Case. No. 15396	RTC, Branch 41, San Fernando, Pampanga
Region III	Pampanga	Leopoldo Pineda y Velasco	I.S. No. 04-B-479; Criminal Case No. 14358	RTC, Angeles City
Region III	Tarlac	Ramos, Ricardo Salvador	I.S. No. 05-1704; Criminal Case No. 14419	Regional Trial Court of Tarlac, Branch 65
Region III	Nueva Ecija	Supena, Maribel Supena, Alejandro	I.S. No. 051-3031	Provincial Prosecutors Office, Cabanatuan City
Region III	Bataan	Rufino, Edmer Suarez	I.S. No. 05-1067; Criminal Case No. 11027	PNP Orani, Bataan; Regional Trial Court, Branch 3, Bataan
Region III	Pampanga	May Roque Guillas	I.S. No. 06-J-3604	OPP, Pampanga Region III; RTC, Branch 52, Guagua Pampanga
Region III	Pampanga	Rodolfo Balingit	I.S. No. 07-E-1420	OPP, Pampanga Region III
Region III	Pampanga	Joey Javier	I.S. No. 2007 B-54	OPP, Pampanga Region III
Region III	Pampanga	Melquides M. Mariano Honorio Mariano	I.S. Number 05-I-2805 (11-02-2005; Criminal Case No. 7608	OPP Pampanga Region III; RTC, Guagua Pampanga
Region III	Pampanga	Victor C. Concepcion	I.S. No. 08-I-2834; Criminal Case No. 06-2713	OPP Pampanga Region III; RTC, Branch 46, San Fernando, Pampanga
Region III	Pampanga	Dante Diwa Salazar	I.S. No. 04-L-4627 (12-07-04)	OPP Pampanga Region III
Region III	Pampanga	Orlando Sampang y Baul a.k.a. "Bulig"	I.S. No. 05-I-2388	OPP Pampanga Region III
Region III	Pampanga	Conrado Caspillan a.k.a. Ka Igno	I. S. No. 06-C-1195; Criminal Case. 7649	OPP Pampanga Region III
Region III	Pampanga	Jhon Bernal M. Manlansan	I.S. No. 06-B-1217	OPP Pampanga Region III
Region III	Pampanga	Arturo Decena Paras	I.S. No. 06-D-1250; Criminal Case. No. G-07-7479	OPP Pampanga Region III
Region III	Pampanga	Eugenio Manicdao	I.S. No. 07-F-1781; Criminal Case. No. 15871	OPP Pampanga Region III
Region III	Pampanga	Ramil Reyes y Pabustan Nicky Grabillo y Dagoy	I.S. No. 07-J-3254	OPP Pampanga Region III
Region III	Pampanga	Alberto M. Silva	I.S. No. 07-J-3261	OPP Pampanga Region III
Region III	Pampanga	Avelino Bautista	I.S. No. 07-J-3368	OPP Pampanga Region III
Region III	Pampanga	Jasmin Sarmineto	I.S. No. 07-L-4074	OPP Pampanga Region III
Region III	Pampanga	Ismael Dungca Lampa	I.S. No. 06-A-414; Criminal Case. No. 15390	OPP Pampanga Region III
Region III	Pampanga	Bienvenido A. Capuno	I.S. No. 05-J-2760	OPP Pampanga Region III
Region III	Bataan	Alcantara, Irma (Kathy) Orsina	I.S. No. 06-089; Criminal Case No. 10739	Office of the Provincial Prosecutor-Balanga City; Regional Trial Court, Br. I, Balanga City, Bataan

REPORT ON
THE PHILIPPINE
EXTRAJUDICIAL KILLINGS

Region III	Pampanga	Virgilio O. Recio Renato Hitois	I.S. No. 04-F-1276-77; Criminal Case No. 08-3698	Office of the Provincial Prosecutor, San Fernando, Pampanga; RTC, Guagua, Pampanga
Region III	Bataan	Rieza, Maritess Duran-Cruz	I.S. No. 06-671	Office of the Provincial Prosecutor, Balanga City, Bataan
Region III	Bataan	Annaliza Abanador-Gadian	I.S. No. CP-162-06	Office of the Provincial Prosecutor, Balanga City, Bataan
Region III	Bataan	Ocampo, Feliza Timog	I.S. No. 07-0425; Criminal Case. 11021	Office of the Provincial Prosecutor, Bal- anga City Bataan; Regional Trial Court, Br. 3, Balanga City, Bataan
Region III	Bataan	Pelagio, Luder Abraham, Joey	I.S. No. 05-167; I.S. No 05-167-A	Office of the Provincial Prosecutor of Bataan; PNP Dinalupihan, Bataan
Region III	Zambales	Abelon, Amante Abelon, Agnes Soria Abelon, Earvin John Soria	I.S. No. 07-Jul-674-I, I.S. No. 07-Jul-675-I	Office of the Provincial Prosecutor for Zambales,
Region III	Pampanga	Antipolo Daylas	I.S. No. 06-758-1; Criminal Case No. 66-07	Office of the City Prosecutor, Angeles City; RTC, Branch 58, Angeles City
Region III	Tarlac	Ladera, Abelardo Rosal	I.S. No. 05-609	Department of Justice/Office of the City Prosecutor, Tarlac City
Region III	Tarlac	Cruz, Tirso M.	I.S. No. 06-576	Department of Justice/Office of the City Prosecutor, Tarlac City
Region IV-A	Batangas	Arnel Manalo	Criminal Case No. 14004	RTC, Branch 07 Batangas City
Region IV-A	Batangas	Meynard Abu	Criminal Case No. 13494	RTC, Branch 04 Pallocon West Batangas
Region IV-A	Cavite	Dennis Ramos	Criminal Case No. 01-564; Crimi- nal Case. No. 2002-623	Regional Trial Court Branch 89 Bacoar Cavite
Region IV-A	Quezon	Pobeda, Apolinario y De Los Santos	Criminal Case No. 2003-544	Regional Trial Court Branch 60, Lucena City, Quezon
Region IV-A	Quezon	Katigbak, Conrado	Criminal Case No. 2005-657-MTC Pagbilao; CC # 9889-04/I.S. No. 2004-840	Regional Trial Court Branch 53, Lucena, Quezon
Region IV-A	Quezon	Cabatay, Merle y Baron	CC # 2005-470, MTC Pagbilao; CC # 9912-04/ I.S. No. 2004-841	Regional Trial Court Branch 53, Lucena City
Region IV-A	Cavite	Arnulfo Lim Villanueva	Criminal Case No. NC-2327	Regional Trial Court Branch 15, Naic Cavite
Region IV-A	Laguna	Clarence Benwareen	Criminal Case No. 12501-2004-C	Regional Trial Court Branch 34, Calamba City
Region IV-A	Laguna	Noel Villarante	Criminal Case No. 31832	Regional Trial Court Branch 28, Sta. Cruz, Laguna
Region IV-A	Laguna	Noel "Noli" Capulong	I.S. No. 937-06-C	Department of Justice City Prosecution Office, Calamba
Region IV-A	Laguna	Eduardo Argayoso, Jr.	CHR Case No. IV-06-0672	Commission on Human Rights
Region IV-A	Laguna	Buenaventura Cabuhat	CHR Case No. IV-06-0648	Commission on Human Rights
Region IV-A	Laguna	Diosdado Fortuna y dela Cruz	CHR Case No. IV-05-0585	Commission on Human Rights
Region IV-A	Laguna	PO2 Mauro Dela Cruz	CHR Case No. IV-06-0710	Commission on Human Rights
Region IV-A	Quezon	Roberto Dela Cruz	CHR Case No. IV-06-0681	Commission on Human Rights
Region IV-A	Quezon	Marlon Paray, Carlo Solina Elmer Acejo	CHR Case No. IV-06-0645 and IV-06-0646	Commission on Human Rights
Region IV-A	Laguna	Napoleon Pomasdoro y Liyag	CHR Case No. IV-06-0650	Commission on Human Rights
Region IV-A	Quezon	PS/Supt. Eduardo Pablo Sebastian	CHR Case No. IV-05-0511	Commission on Human Rights
Region IV-A	Quezon	Ronnie Almaote	CHR Case No. IV-05-0510	Commission on Human Rights
Region IV-A	Quezon	Clemente Calatrava Alberto Veleña	CHR Case No. IV-04-0502	Commission on Human Rights
Region IV-A	Batangas	Celso Andronico Dimaculangan a.k.a. Andrew Dimaculangan	CHR Case No. IV-06-0684	Commission on Human Rights
Region IV-A	Batangas	Voltaire Rosales, Armando Lucido Nestor Pamplona	CHR Case No. IV-04-0484; CHR Case No. IV-04-0485	Commission on Human Rights
Region IV-B	Palawan	Fernando "Dong" Batul	Criminal Case No. 21309	RTC Branch 95, Palawan
Region IV-B	Palawan	Petronilo Amorin, Jr.	Criminal Case No. 22267	RTC Branch 51, Palawan
Region IX	Zamboanga Sibugay	Basit O. Abubakar	Criminal Case No. I-1863 (Homicide)	RTC, Branch 24, Ipil, Zamboanga, Sibugay

Region IX	Zamboanga del Norte	Canete, Rolly Cristituta	Criminal Case No. 8167-2k6	RTC, Branch 18, Pagadian City
Region IX	Zamboanga del Norte	Klein Aleta Cantoneros	Criminal Case No. 13510	RTC Branch 6, Dipolog City
Region IX	Zamboanga del Norte	Andang, Ligawan Anduga, Aloy	Criminal Case No. S-3376 and Criminal Case No. S-3377	Pending appeal (Court of Appeals, Manila)
Region V	Camarines Sur	2LT. Nelson S. Pacudan CPL. Juvenal C. Damasco PFC. Bryan B. Pasobillo	Crim. Case No. 2006-0033	RTC, Naga City, Camarines Sur
Region V	Sorsogon	Aliven, S/Sgt. Noel	Information not available	RTC, Branch 55, Irosin, Sorsogon
Region V	Sorsogon	Frivaldo, Maximo Tobianosa	I.S. No. 2006-1182 Criminal Case No. 1920	RTC, Branch 55, Irosin, Sorsogon
Region V	Sorsogon	Hable, Domingo	I.S. No. 2006-1159; Criminal Case. 1918	RTC, Branch 55, Irosin, Sorsogon
Region V	Sorsogon	Fundano, Eugenio Fumera, Dante	I.S. No. 2006-1214; Criminal Case 1922	RTC, Branch 55, Irosin, Sorsogon
Region V	Sorsogon	Pesolio, Armando B. Quilang, Brian Dollentas, Izal Bailon, Roberto Cula, Nelson Joson, Winston	I.S. No. 1177; C.C. No. 1916/1917	RTC, Branch 55, Irosin, Sorsogon
Region V	Sorsogon	Buana, Capt. Patrick Haspela	I.S. No. 1301; C.C. No. 1930	RTC, Branch 55, Irosin, Sorsogon
Region V	Albay	Ortiz, Efren Apoon	Criminal Case No. 5370	RTC, Branch 14, Ligao City
Region V	Albay	Samone, Andy Roble	Crim. Case No. 5535	RTC, Branch 14, Ligao City
Region V	Camarines Norte	Alcantara, Farly III	I.S. No. 2006-13792; Criminal Case No. 13396	Public Prosecutors Office, Hall of Justice, RTC, Branch 41, Daet, Camarines Norte
Region V	Camarines Sur	Mariano Bermundo Belisario, Jr.	I.S. No. 2006-222	Provincial Prosecutors Office, Pili, Camarines Sur, Case on Appeal DOJ-Manila
Region V	Camarines Sur	PCF Alberto Hernandez Y Magno	Crim. Case No. L-4326	Provincial Prosecutors Office, Libmanan Camarines Sur RTC, Libmanan, Camarines Sur
Region V	Camarines Sur	Parumog, Casiano	Information not available	Provincial Prosecutors Office, Libmanan Camarines Sur
Region V	Albay	Basilan, Manolo Bande Briones, Jessie	Information not available	PNP, Ligao City Police
Region V	Albay	Ildefonso Serrano Y Dalit	Information not available	PNP Police, Ligao City Police Station
Region V	Albay	Sapao James Y Sepong	I.S. No. 2008-011-L	Office of the Provincial Prosecutor, Albay
Region V	Albay	Sta. Rosa, Isaias	I.S. No. 07-0213	Office of the Provincial Prosecutor, Albay
Region V	Albay	Atento, Ernesto Lepio	C.C. No. 8694-P; C.C. No. 4652	MCTC Polangui, Libon, Oas
Region V	Albay	Rodolfo "Ompong" Alvarado, Jr.	Information not available	Commission on Human Rights /PNP Legaspi City Police Station
Region V	Albay	Baclao, Joel Barrameda	CHR-V-03-1779	Commission on Human Rights
Region V	Albay	Domingo, Claire Florentes, SPO1 Jose	Information not available	Commission on Human Rights
Region V	Albay	Segui, Teodoro, Jr. Belen	CHR-V-02-1748	Commission on Human Rights
Region V	Albay	Peralta, Lo Salvador "Sonny" Rogero	CHR-V-04-1809	Commission on Human Rights
Region V	Camarines Norte	Joel Toliao Reyes	Information not available	Commission on Human Rights
Region V	Camarines Norte	Jamito, Maximo	Information not available	Commission on Human Rights
Region V	Camarines Sur	SPO2 Placido Morales, Jr.	Crim. Case No. 2006-0590	City Prosecutors Office of Naga City RTC, Naga City, Camarines Sur
Region V	Albay	Cervantes, Noel y Cadag	I.S. No. T-2008-030	City Prosecution Office, Tabaco City, Albay
Region V	Camarines Norte	Lota, Emmanuel	Information not available	Albay Police Provincial Office, Ligao City
Region VI	Negros Occidental	Rodolfo Abayon	Information not available	Victorias City Prosecutors Office

REPORT ON
THE PHILIPPINE
EXTRAJUDICIAL KILLINGS

Region VI	Negros Occidental	Emilio Opinio	I.S. No. 200-1937	Sagay City Prosecutors Office
Region VI	Negros Occidental	Jerry Torreña Diony Dionero	Information not available	RTC Branch 69, Silay City
Region VI	Negros Occidental	Juanito Ignacio	Criminal Case No. 2940	RTC Branch 63, La Carlota
Region VI	Negros Occidental	Porferio Maglasang	Criminal Case No. 064159	RTC Branch 61, Kabankalan City
Region VI	Negros Occidental	Rodolfo Olmedo	Criminal Case No. 3107	RTC Branch 59, San Carlos City, Negros Occ.
Region VI	Negros Occidental	Renante Alesna	Information not available	RTC Branch 59 San Carlos City, Negros Occ.
Region VI	Capiz	Victor Gardose Leonardo Gimeno Antonio Geguillo	Criminal Case Nos. C-07-0771 to 73-12	RTC Branch 20 Mambusao, Capiz
Region VI	Capiz	Martin Delloterio Roxas	Criminal Case No. C-209-08	Regional Trial Court Branch 17, Roxas City
Region VI	Negros Occidental	Benjie Dayao y Pandoy	Information not available	Bacolod City Prosecutor's Office
Region VI	Negros Occidental	Renato de la Viña, et. al.	Information not available	Commission on Human Rights
Region VII	Bohol	Auxillio, Mario M. a.k.a. "Mayong"	I.S. No. 07-3612 Criminal Case No. 07-2061	Regional Trial Court Branch 52 Talibon, Bohol
Region VII	Bohol	Olayvar, Victoriano Quisto a.k.a. "Ka Victor"	I.S. No. 06-2860	Provincial Prosecution Office of Bohol
Region VII	Bohol	PO1 Michael Dagami PO2 Mario Udtohan Aldrin Alcobier Jaime Celeste Gerry Flores	CHRP VIII-08-04-11	Commission on Human Rights, Tacloban
Region VIII	Southern Leyte	Pricillano G. Lacano	Criminal Case No. 1551	RTC Branch 26, San Juan, Southern Leyte
Region VIII	Leyte	Rosila Boldadora	I.S. No. 06-116/ Criminal Case No. 1581	RTC Branch 18, Hilongos, Leyte
Region VIII	Leyte	SSgt. Elmer Rayandayan Sgt. Teodoro Lomocso	Criminal Case No. B-07-09-79	RTC Branch 14, Baybay Leyte
Region VIII	Northern Samar	Roberto Cabueños Alberto Ocenar	Information not available	Regional Trial Court Branch 33, Calbiga Samar
Region VIII	Northern Samar	Jose Maria Buhay Cui a.k.a. Joma	IS No. 2007-132	Office of the Provincial Prosecutor
Region VIII	Leyte	Bernabe Barbosa Burra, Jr. Eric Selda Nogal Roel Lacaba Obejas Richard Tante Gerry Almerino Eufemia Barbosa Burra Alma Bartoline	CHR Case No. VIII-06-04	Commission on Human Rights/ Ombudsman
Region VIII	Leyte	Paquito "Pax" H. Diaz	CHRP-VIII-06-34	Commission on Human Rights, Tacloban
Region VIII	Leyte	Felicisimo/Felomino Catambis	CHRP VIII-2008-0081	Commission on Human Rights, Tacloban
Region VIII	Leyte	Unidentified NPA a.k.a. "Ka Man-ing"/ Bayang/Mike	CHRP VIII-07-57	Commission on Human Rights, Tacloban
Region VIII	Leyte	Atty. Feledito C. Dacut	CHRP VIII-05-19	Commission on Human Rights, Tacloban
Region VIII	Northern Samar	Jericho Suyom Barbas Alrico Cañete Barbas	CHRP-VIII-05-48	Commission on Human Rights Sta. Rita PNP
Region VIII	Northern Samar	Vivencio Del Rosario Fabillar	Information not available	Philippine National Police
Region VIII	Leyte	Charlie Solayao	CHRP-VIII-07-27	Commission on Human Rights, Tacloban
Region VIII	Leyte	Alfredo Davis	CHRP-VIII-08-05-20	Commission on Human Rights, Tacloban
Region VIII	Leyte	Jose A. Ducalang	CHRP VIII-05-02	Commission on Human Rights, Tacloban
Region X	Misamis Oriental	Ladica, Nestor Alias "Gerry"	I.S. No. 2006-J-1857 Criminal Case No. 2007-125	RTC, Branch 39 Cagayan De Oro City, Misamis Oriental
Region XI	Davao del Sur	Jhunry Corpin	CC NO. 56-212-05	Information not available
Region XI	Davao del Norte	Robert Nepa	CC No. 15509	Information not available

Region XI	Davao del Sur	Jesus Paubsanon Allan Butch Ruth Paubsanon	CC No. 56-747-05	Information not available
Region XI	Davao del Sur	Abdulharim Sawabi Arturo Sawabi Abduljadi Sawabi	CC No. 58,156-05; 58,157-05; 58,158-05	Information not available
Region XI	Davao del Norte	Enrico Cabanit	CC No. 333-2007	Information not available
Region XI	Davao del Norte	Fernando Lintuan	IS No. 08-A-546	Information not available
Region XI	Davao del Sur	Armando Pace	I.S. DC-2006-G-296/ C.C. NO. 281-2006	Information not available
Region XI	Davao del Sur	Jhunry Corpin	CC NO. 56-212-05	Information not available
Region XII	Sarangani	Elpidio Binoya	Criminal Case NO. 17965	RTC, Branch 35, Gen. Santos City
Region XII	Cotabato	Martinez, Alberto Molina	Criminal Case No. 07-86	RTC, Branch 22 Kabacan, Cotabato
Region XII	Cotabato	Esperat, Marlene Garcia	I.S. No. 2568	RTC, Branch 20 transfer to Cebu City
Region XII	Cotabato	Vivian Andrade Crisanto Amora Benjaline Hernandez	Criminal Case No. 224-2003 Criminal Case No. 225-2003 Criminal Case No. 226-2003	RTC, Branch 17, Cotabato
Region XII	Cotabato	Sawabi, Abdulrahim Ello	Criminal Case No. 58, 157-05	RTC, Branch 11 Davao City
Region XII	Cotabato	Goerge Vigo Maricel Vigo	I.S. No. 2006f-286	City Prosecutors Office, Kidapawan City
Region XIII	Surigao del Sur	Lobo, Roque Aparta, Edmund	Criminal Case No. I-2127 Criminal Case No. 2126	RTC, Branch 28, Surigao Del Sur
ARMM	Sulu	Gene Boyd Rodriguez Lumawag	Information not available	Information not available
ARMM	Sulu	Tal Padiwan Sidang Padiwan Aldasir Padiwan Salip Faisal	Information not available	Information not available

