

Fact Finding Mission to the Philippines on Extra-judicial Killings 16-22 Oct 2007

During the 7-day fact finding mission, the *Asian Center for the Progress of Peoples (ACPP)* joined with 8 organizations in interviewing families of victims and the Philippines government agencies in understanding the situation of extrajudicial killings in the country. Visitations were also made to urban poor and Southville Relocation site where other aspects of human rights violations were exposed.

Media coverage on the mission included TV and radio interviews. A press conference was held on the last day of the mission, where journalists from the *Inquirer*, *UCA News* and the *Philippine Times* were present.

ACPP's involvement includes conversing with families of the victims to understand cases of extra-judicial killings; participating in the panel of press conference; and writing parts of the final report for the fact finding mission.

PART I SITUATION OF EXTRA-JUDICIAL KILLINGS IN THE COUNTRY

Different interviews suggest various notable developments. Several interviewees observed that the frequency of extra-judicial killings seems to have slowed down. However, there is a rise in the frequency of forced disappearance. Involuntary detainees, such as Pastor Berlin Guerrero and "Tagatay 5," suggested that the government has recently adopted a tactic: charge involuntary detainees with non-bailable charges and instead of hiding them with the military, they are transferred to "official" prisons or police camps.

Wide sectors of the society were also affected. During meetings with NGO representatives, it was observed that labour activists, women's rights workers, peasants, religious persons, and even government lawyers taking up cases for the victims, were harassed. Children of these killed victims often experience too much pain and became activists themselves. During a visit to Tondo, the urban poor community, local people observed the trend of urban militarization. Earlier in September, a group of teenage girls were illegally detained and tortured by military men. These cases suggest that even the absence of political involvement does not prevent one from harassment.

Despite the rampant situation, it is observed that the government not only failed to protect its citizens, it could also be the organ committing the horrendous crimes. From interviews with various government departments, government reaction showed a lack of sincerity in conducting investigation for the cases, such as the reluctance to use forensic evidence. (Although European Commission has offered technical assistance, a forensic expert who talked to the members of the fact-finding mission, observed no concrete outcome in the workplace.) Various government departments have the tendency to play the numbers game: categorizing cases of killings under different criteria to avoid cases to come under their jurisdiction. Cases are also labeled as "legitimate encounters" which legitimate casualty caused by military encounter between the Communist New People's Army (NPA) and the government.

The government obviously played a major role in violating its' people's right. However, the situation was no doubt further complicated by the existence of New People's Army (NPA). During an interview with the NPA office of the Joint Monitoring Committee, the NPA personnel were unable to rule out chances that extra-judicial killings were carried out, which they termed as "revolutionary justice" on spies. This gives a convenient scapegoat for the government to pass the blame to NPA or make related excuses.

Given such a situation where the head of the legal aid department herself received threats and encouraged her staff to carry guns, the Supreme Court seems to fight the war alone. The people seem to put their only hope on Chief Justice Puno of the Supreme Court who keeps introducing new measures, such as habeas corpus, and reviewing their effectiveness. One of the latest measures is the “Writ of Amparo”.

The writ came into effect in late October 2007. Upon receiving complaints from families, the court can issue orders directing a public official from violating or threatening the life, liberty and security of another. These orders can be in form of temporary protection orders, inspection orders, production orders or witness protection orders. After the writ took effect, some victims of forcible abduction and disappearances and persons who were detained illegally were released from the custody of the security forces.

A possible pitfall noted by families of the victims was that the government has responded with Administrative Order 107 which states that the government officials cannot be forced to produce any documents for investigation. The Department of Justice, based on the Order, is supposed to draft a bill which may be introduced to the Senate and pass the Order as law.

Jail visit to Pastor Berlin Guerrero

A member of the United Church of Christ in the Philippines (UCCP), Pastor Berlin Guerrero is also a former General Secretary of Bagong Alyansang Makabayan (BAYAN). According to his wife, Merlinda, Pastor Berlin has little involvement in social activism since he started his study as a seminarian in 2001.

At about 5:30pm of 27 May 2007, Pastor Berlin, together with his wife and 3 children were on board a tricycle, when a white Ford Fierra type van suddenly blocked their path in Brgy Malaban, Binan, Laguna. About 6 men, allegedly from Armed Forces of the Philippines (AFP) or Naval Special Force Intelligence, forcibly took the Pastor without showing him the warrant. During his capture, he was tortured and was forced to admit he is the present leader of BAYAN’s provincial committee of Cavite.

Soon after the interrogation, at about 11:00am on the following day, he was turned over to the Philippine National Police (PNP) Provincial Headquarters in Cavite in Camp Pantaleon Garcia. Only at this point, he saw his warrant and was notified of his non-bailable charges - a sedition case in 1988 and a 1993 murder case which he had little direct or indirect link as outlined in the case file. That evening, he was allowed to see his family and lawyer. Cuts and bruises were noticeable all over his body.

In his statement dated 30 May 2007, the Pastor probed the intention of using court cases against him. “Making of court cases which involves suspected personalities of the left, no matter how weak, these cases may be served and used to make the arrest legitimate..... to bring me to court by means of the arrest warrants is secondary. Their primary objective is to extract information from me by means of torture.”

During the interview on 18 October, he mentioned that while other inmates in the Cavite Provincial Camp may not share the political nature of the arrest, but they shared similar experience in being tortured by the police, as well as the slow justice system. Asked about his opinion on the witness protection program offered by the government, he expressed concern that it is the same as giving away the family’s security and whereabouts to the alleged perpetrators.

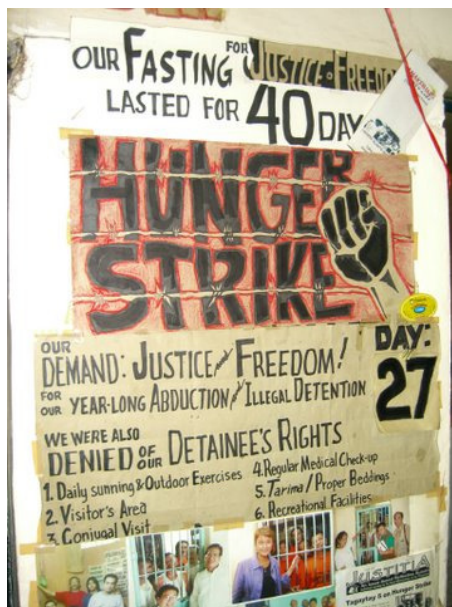
Visit “Tagaytay 5” – detainees at a police camp

Riel Custodio, a 30-year-old community organizer of the Katipunan ng mga Magsasaka sa Kabite (KAMAGSASAKA KA or Alliance of Workers in Cavite), Axel Pinpin, a 35-year-old information officer and researcher of KAMAGSASAKA KA and Aristedes Sarmiento, a 49-year-old consultant of several organizations, including the Philippine Coconut Authority, together with Enrico Ybanez and Michael Masayes, all residents of Tagaytay City, were abducted by 40 military and police members on 28 April 2007 in Ligaya Drive, Barangay Sungay, Tagaytay City.

Without any arrest warrant, the 5 were arbitrary detained and legal charges came only days after. On 1 May 2007, they re-surfaced briefly when they were presented to the media in a press conference called by the Philippine National Police (PNP) Chief Arturo Lomibao, who tagged these 5 farmers as member of New People’s Army (NPA). They were charged on 3 May 2007 with a non-bailable act – rebellion - which can be sentenced with 12 years imprisonment.

Amid other gross human rights violations, the group is challenging the legality of the arrest altogether. They have filed a petition with the Supreme Court to review the legality of arrest. The 5 were denied right to due process, such as preliminary investigation for the charge against them. They reported that there was a lack of proper documentation of personal belongings during the arrest. An expensive watch and money were reportedly confiscated.

Despite the fact of being detained for over 5 months, the Tagaytay 5 are still being detained in Provincial Police Camp in Laguna (as of October 2007). They have complained about the lack of visitors’ area and beds to sleep on, among others and had made request to be transferred to provincial jails, which provides better facilities. Their requests were declined. They staged a 40-day hunger strike during their detention in the police camp to earn 3 hours of outdoor activities per week.



Banner of their hunger strike and posters of support. Pictures taken in the cell of Tagaytay 5 (Provincial Police Camp, Laguna.)

PART II OTHER FORMS OF HUMAN RIGHTS VIOLATIONS IN THE PHILIPPINES

ACPP staff appreciates that members of the fact-finding mission had a chance be exposed to the other aspects of human rights violations. In the Southville Relocation Site, housing rights and right to adequate standard of living were infringed. In Tondo, urban militarization has showcased that the military, instead of protecting the people, dangers the people.

Southville Relocation Site is a project under Project CALABARZON, a development project financed by Japan in southern Luzon. The site is located right next to a dumping site. Families suffered from economic hardship due to lack of job opportunity in the vicinity. To make matters worse, the government, contrary to its promise, failed to provide basic amenities, such as electricity, potable water and adequate drainage system for the community.

Urban militarization is a growing concern of local groups. It is reported by local NGOs that there are military men living among them in Tondo, who colluded with local village officials. While ACPP staff was not able to observe a systematic manner in similar kind of violations yet, the tortured girls who were abducted in September 2007 in Tondo, witnessed gross violations committed by the military, whose job should be protecting the people.

Exposure at Southville Relocation Site, Laguna

Home to 9,000 people, Southville Relocation Site is a living example of rights violation in economic and social front committed by the Philippine government.

In late 2005, people who were affected by the urbanization in Metro Manila were relocated to the Southville Relocation Site under Project CALABARZON, a development project being financed by Japan in southern Luzon. Among the 9,000 people, 6,000 plus were originally from Metro Manila. The site was originally a dumping site. Now, it is located right next to it.

Lack of basic amenities

Contradicting to the government's promise, the government housing merely provided concrete structures without basic amenities. More than a year after they moved in, there is still no electricity supply and drinkable water supply. Non-drinkable water comes only twice a day i.e. in the morning and the evening.

Economic hardship

Due to the lack of job opportunity in the region, families were no longer able to earn 2 incomes by both parents, which is something they could do when they were in Metro Manila. According to the residents, their income can hardly cover the necessary expenses. They earn about PhP 350 per month, while they need to pay the government loan for the land and the housing, which costs PhP 750 each month. Potable water has to be purchased which adds further financial burden to the families. Many shared that they only take 1 or 2 meals a day as a result.

Families separated from the breadwinners, usually husbands / fathers of the house, is a common phenomenon: breadwinners stay in Manila to earn a living and travels back home only weekly.

Lack of health and education service

Health and education facilities were neither adequate. There is only 1 health center at the Site. Residents need to travel far to a hospital, where they can find unaffordable medical service. There is a primary school and a secondary school at the site, but each class is cramped with 100 students.

During rainy season, serious flood occurs as the drainage system was poorly designed. According to the residents, flood water could reach 4 feet high and act as breeding ground for mosquitoes.

Coupled with inadequate health facilities, the problem could easily accelerate and cause further havoc. In 2006, 10 children died of Dengue fever in 6 months' time.

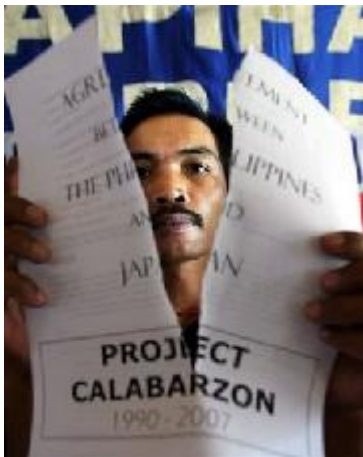
According to a local representative of Bayanmuna, a political party, the community health center reported about 100 new cases of lung disease daily. They attributed it to the site's proximity to the dumping site, where rubbish is burnt. According to the locals, the smell of the dumping is worst once the sun sets.

Local Struggles

Local groups, such as Society of Neighbour in Railways' Side (SMTR) have been trying different ways to work on the issue. On the day of the fact-finding, SMTR originally had an appointment with the local mayor to discuss the supply of basic amenities to the site. However, he was out of office due to some emergency. In the evening, SMTR together with other local groups would hold a vigil and discuss how they can produce a unified voice to the congressmen, namely those of the party-list.

Their effort, however, was met with cold shoulder. The SMTR representative was enquired by the police as to why they make such complaints which causes troubles. Other groups were warned by the National Housing Authority (NHA) that they may be "disqualified" for the housing if they intend to conduct similar dialogue with NHA.

Indeed, NHA is organizing its own group to counter the effectiveness of other local groups. According to a representative of SMTR, people who would like to join the NHA group are required to pay 5 Pesos each week to be eligible for the group.



A protester tears a mock agreement between the Philippines and Japan during a press conference Saturday, 13 October 2007, in Quezon City, north of Manila, Philippines.

(Source: Asian Journal Online
<http://www.asianjournal.com/?c=136&a=23628>)

PART III CONCLUSION

During the time of the fact-finding mission, the corruption case of the Presidential Palace was on the headlines of the local newspapers. It was an excellent mirror of the lack of accountability of the government towards its people. The corruption culture seems to be deep-rooted in the country: from provincial level to the central level, government officials lack initiative to address the people's needs. From trivial matters in providing electricity supply at the Southville Relocation Site to the widespread extrajudicial killings, the government is apathetic and ignores the voice of the people. Much applaud is owed to the enthusiastic few who fight with full force to try to help the people in need, but there is much concern whether the effort of these few is sustainable and whether it can bring long-lasting positive change to the country.

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Appendix:**News Update on Extra-judicial killings / forced disappearances in the Philippines after the fact-finding mission 2007 (as of November 2007)**

Date	Summary
24 Oct '07	On this very first day that the rules governing the writ of amparo took effect, mothers of Sherlyn Cadapan and Karen Empeño, two missing students of the University of the Philippines, sought a writ of amparo from the Supreme Court to order the military to free their daughters and the latter's companion.
25 Oct '07	3 Activists killed in an August & October incident - Rodrigo Siacor, Antonio Mercado and Alano Clerigo
30 Oct '07	Farmer Arturo Tolentino and another activistsit Another activist, Pedro Calilung missing
30 Oct '07	Professor Philip Alston, the Commission of Human Rights' Special Rapporteur blamed the Philippine government's counterinsurgency strategy, and a distorted criminal justice system, for the continuing spate of extrajudicial killings in the country.
9 Nov '07	Muñasque, the first detainee to be released from military custody under the writ of amparo