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Alternative report to the United Nations Committee Against Torture

The situation of torture in the Philippines

For the Committee's consideration of the report of the government of the Philippines during its 42nd Session (April 27 to May 15, 2009).

Submitted by the Asian Legal Resource Centre, an NGO with general consultative ECOSOC status

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Introduction

The use of torture and ill-treatment continues to be a significant problem in the Philippines despite such treatment being prohibited in the country's Constitution and the country being a State Party to the Convention Against Torture (CAT). The lack of a law criminalizing torture is amongst the key factors that are enabling this practice to continue being used in a widespread manner. The lack of investigations by the authorities, the lack of an effective complaints mechanism and of witness protection all contribute to the impunity that is enjoyed by the perpetrators of torture and ill-treatment, whether from the police, the military or other State agencies. Effective redress and reparation are therefore not being provided by the State. Furthermore, torture is practiced in particular in relation to the State's counter-terrorism efforts.

Given the many cases of torture that the Asian Legal Resource Centre (ALRC) and its sister-organisation, the Asian Human Rights Commission (AHRC), have documented, as well as the glaring lack of domestic legislation and other provisions to ensure that any allegations of torture are investigated, prosecuted and reparation is provided, the ALRC deems that the government of the Philippines is not complying adequately with the most basic provisions of the CAT and urges the Committee Against Torture (the Committee) to intervene strongly with the government in order to ensure that the government takes all appropriate measures without delay or equivocation.

The following report will present the ALRC's findings and analysis concerning the government of the Philippines compliance with the relevant CAT articles and will include evidence from documented cases as well as supplementary detailed case information in the annexure at the end of this document.

Alternative report on the Philippines' compliance with the CAT

1. **Article 1:** *For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.*
- 1.1. Of prime importance when assessing the government of the Philippines compliance with the CAT is the fact that there is no law criminalizing torture. As such there is no legally and criminally applicable definition of torture. The Constitution does prohibit torture. Section 12 of the 1987 Philippine Constitution stipulates that '(2) No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited'; and '(3) any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.'
- 1.2. Furthermore, the Philippines has much delayed legislation pending that includes definitions of torture. Sections 3 of the House Bill 5709 and Senate Bill 1978 are as follows:
- 1.3. Senate Bill 1978, section 3: "Torture" shall be deemed '*committed when an act by which severe pain or suffering, whether physical, psychological, mental or pharmacological, is intentionally inflicted on a person for such purposes as: obtaining from him/her or a third person information or a confession; punishing him/her for an act he/she or a third person has committed or is suspected of having committed; intimidating or coercing him/her or a third person; or for any reason based on discrimination of any kind. And that such pain or suffering is inflicted by or is made at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from inherent or incidental to lawful sanctions.*'
- 1.4. House Bill 5709, section 3: '(a) "Torture" refers to an act by which severe pain or suffering, whether physical or mental is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession; punishing him or her for an act he/she or a third person information or a confession; punishing him/her for an act he/she or a third person has committed or is suspected of having committed; or intimidating or coercing him/her or a third person; or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or within the consent or acquiescence of a person in authority public official

or agent of a person in authority. It does not include pain or suffering arising only from inherent in or incidental to lawful sanctions.'

- 1.5. *(b) "Other cruel, inhuman and degrading treatment or punishment" refers to a deliberate and aggravated treatment or punishment not enumerated under Section 4 of this Act, inflicted by a person in authority or agent of a person in authority against a person under his/her custody, which attains a level of severity causing suffering, gross humiliation or debasement to the latter.'*
- 1.6. However, until these Bills have been passed into law and are implemented, the above remains academic and the State cannot be said to be in compliance with the CAT.

2. **Article 2:**

1. *Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.*
2. *No exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture.*
3. *An order from a superior officer or a public authority may not be invoked as a justification of torture.*

- 2.1. **Lack of domestic remedies:** As mentioned above, amongst the most serious obstacles to the prevention of acts of torture is the lack of domestic legislation criminalizing such acts. This engenders impunity and also acts to tacitly encourage State agents to make use of torture, safe in the knowledge that they will not face criminal prosecution if they use torture. Despite the Constitution prohibiting torture, the lack of domestic legislation in conformity with CAT prevents the justiciability of the right to be free of torture, should victims seek legal remedies in court. Since the proposed law criminalizing torture was first introduced in 1998, during the 11th Philippine Congress, numerous versions have been filed and reintroduced one after the other without the law being enacted. Once a Congress fails to enact proposed legislation, those promoting it have to start again and the process is arduous.
- 2.2. The government's failure to enact a domestic law on torture is a grave of concern and illustrates the lack of urgency and priority on the part of the government to eradicate torture and give meaning to the Convention to which it is party. In the absence of a law, torture victims have to seek remedies from the avenues available, despite these not responding adequately to their needs.
- 2.3. **Available avenues not sufficient, effective or in compliance with CAT:** under available legislation, torture victims have the following legal options, which remain inadequate as they do not address the severity, nature and State-responsibility concerning the practice of torture. Under the Revised Penal Code (RPC), Article 266 concerns: "slight physical injuries and maltreatment, the crime of slight physical injuries shall be punished." Article 235 concerns: "Maltreatment of prisoners, the penalty of *arresto mayor* in its medium

period to *prision correccional* in its minimum period, in addition to the liability for the physical injuries or damage caused, shall be imposed upon any public officer or employee who shall overdo himself in the correction or handling of a prisoner or detention prisoner under his charge, by the imposition of punishment not authorized by the regulations, or by inflicting such punishment in a cruel and humiliating manner.” Article 247 concerns: “Death or physical injuries inflicted under exceptional circumstances.”

- 2.4. **Complaints not recorded or acted upon effectively:** the above acts are ascribed jail terms and fines, however, when torture victims seek legal remedies by filing complaints concerning such acts under these legal provisions, their complaints either suffer excessive delays or are refused by the investigating agencies, who invoke the doctrine of ‘*sub judice*.’
- 2.5. **Example - the case of the ‘Abadilla Five’:** after the Commission on Human Rights (CHR) concluded in its investigation in July 1996 that there was a *prima facie* evidence to prosecute the perpetrators of torture involved in this case,¹ the Department of Justice (DoJ) investigating the complaint had it dismissed in August 2001, not on the merits of the case but on the ground of ‘*sub judice*’. At the time, the complainants also had charges against them that the police had filed pending in court. It was only in January 2003 that the complaint the victims filed for violation of Articles 263, 286, 124 and 125 of the Revised Penal Code (RPC) and the Rights of Persons Arrested, Detained or under Custodial Investigation (Republic Act RA 7438) were endorsed by the Office of the Ombudsman for the Military and Other Law Enforcement Offices (MOLEO) for their appropriate action.
- 2.6. **Excessive delays:** beyond the lack of legal avenues, significant and avoidable delays also form part of the serious obstacles that face victims of torture seeking redress. Again concerning the case of the “Abadilla Five,” after the CHR first filed the complaint, it took seven years to determine whether or not there was a case for the perpetrators to answer in court, and six years later the MOLEO has not filed any charges against the perpetrators in court. The most recent information that the victims' legal counsel has received was on July 16, 2007, at which time the case was labelled as being “still pending for preliminary investigation.” Amongst other things, this is in contravention to the authorities’ obligations under section 13 of the Ombudsman Act of 1989 (Republic Act 6770), in which it is stipulated that the investigating authorities “shall act promptly on complaints filed in any form or manner against officers.”
- 2.7. On April 21, 2008, the UN Human Rights Committee held that the Philippine government had violated article 14, paragraph 3 (c) of the ICCPR for unduly delaying the conclusion of the accused persons’ appellate review in the case of the “Abadilla Five.”² Despite the Committee’s ruling, the Supreme Court (SC) has yet to resolve the complainants’ Petition of Certiorari that was filed in May 2008 questioning the legality of these five persons’ convictions.

¹ Please see further case details in Annex I, Case No. 24

² (CCPR/C/92/D/1466/2006)

- 2.8. Section 6 of the Speedy Trial Act (Republic Act 8493) stipulates that the “entire trial period not exceed one hundred eighty (180) days from the first day of trial.” However, this is rarely the case, due to a range of reasons causing excessive delays. Furthermore, the exemption clause under the Speedy Trial Act has made the law ineffective in practice.
- 2.9. **Examples of trial delays:** In the case of torture victims Jehon Macalinsal, Aron Salah and Abubakar Amilhasan in General Santos City,³ the trial of their case has been repeatedly postponed due to: the prosecutors’ failure to ensure that their witnesses appear in court by failing to notify them to do so; the absence of court stenographers and the absence of court judges and prosecutors due to their attendance of seminars elsewhere. Also, in another case, it took the court over three years to decide whether or not there was a case for five torture victims, namely Tohamie Ulong (minor), Ting Idar (minor), Jimmy Balulao, To Akmad and Esmael Mamalankas,⁴ to answer in court after the security forces had them arrested in Cotabato City on April 8, 2002, over allegations that they were involved in a bomb blast in Davao City. The case of Pegie Boquecosa,⁵ further exemplifies this problem. He was arrested by the police on September 11, 2002, in Maasim, Sarangani, but it was only in October 2005, three years after his arrest and subsequent detention, that he was charged in court. The prosecutor, Alfredo Barcelona Jr., attached to the Office of the Provincial Prosecutor in Alabel, Sarangani, had failed to resolve whether there was probable cause to charge Boquecosa in court. It was another prosecutor who finally resolved the case, but Mr. Barcelona has reportedly not been held to account for his neglect.
- 2.10. **Delays prevent torture complaints:** In the first two of the three cases in the paragraph above, the victims have not been able to file complaints in court concerning the torture to which they were allegedly subjected while in police custody, because the case the police filed against them has not yet concluded.
- 2.11. **The ‘Presumption of Regularity’ used to justify torture and provide impunity:** with regard to the justification of torture by superior officers, pre-emptive impunity is being granted to members of security forces accused of torturing and/or illegally detaining torture victims. Such perpetrators are protected from prosecution even before allegations against them can be investigated, because government agencies tasked with investigating complaints, such as the MOLEO and public prosecutors, are able to invoke the ‘presumption of regularity’ to exonerate such persons before investigations are conducted and concluded. This presumption is meant to apply only when the performance of the officers’ duties has been regular, but it is being misused to unjustifiably cover all acts by members of the security forces. Even in cases in which serious allegations have been made concerning irregularities in the performance of officers’ duties, this doctrine has still been invoked.

³ Please see further case details in Annex I, Case No. 21

⁴ Please see further case details in Annex I, Case No. 23

⁵ AHRC-UAU-064-2008: A man is continuously held for six years without trial

- 2.12. **An example of pre-emptive impunity:** Gemma Lape,⁶ a labour activist, was threatened with death by a police officer in Rosario, Cavite after having been arbitrarily arrested and detained on September 28, 2006. The court later ordered that she and her colleagues be released after charges against them were dropped. On January 8, 2008, the MOLEO resolved to "close and terminate" the investigation they were conducting ruling that the police could not be held accountable by invoking the principle of "presumption of regularity," which appears to claim that the policemen were performing their duties in an acceptable fashion.
- 2.13. The lack of clear legal basis which indicates that on what basis an act performed by a State agent can be considered as being 'regular' has meant that the interpretation of the "presumption of regularity" is heavily dependent upon individuals, such as special Ombudsman investigators or prosecutors, and is therefore being applied in an arbitrary, unpredictable way. An associate justice of the Supreme Court has held that 'the Presumption of Regularity cannot apply where the performance of duty is tainted with irregularity.'⁷
- 2.14. **Judicial inspections and prevention efforts failing:** the Philippines is not part to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). However, regular visit to places of detention have been a requirement for court judges under Section 25, Rule 113 of the Revised Rules of Criminal Procedure (RRCP). This provision obliges them to "*exercise supervision over all persons in custody for the purpose of eliminating unnecessary detention*" by conducting personal monthly visits to places of detention, and inventories of detainees. Under this system, judges have been required to keep records of detainees and assessments of their conditions inside jail, to be submitted to the Court Administrator every month. However, the application of this law has not been consistent in all places where jails and detention facilities are located. There is a lack of monitoring of court judges concerning these duties and a lack in the imposition of sanctions should they fail to complete their duties.
- 2.15. There are some examples where such measures are being carried out effectively. In the city of Davao, a court judge and the local chapter of the Integrated Bar of the Philippines (IBP) conduct joint visits, which have led to the discovery of detainees, for example. However, in the majority of cases that the ALRC has documented, detainees are not aware of court judges conducting regular visits to see them and claim not to have ever been interviewed to evaluate the conditions of their detention. The evaluation of jail conditions and the inventories of detainees are left to the jail administrators.
- 2.16. To ensure that torture victims, in particular female and minors, are held in separate detention facilities to adult males, and that their needs are addressed, non-governmental organizations (NGOs) or the victims' relatives and legal counsel, take the lead in

⁶ AHRC Urgent Appeals; UP-195-2006: Arrested eight workers released; false charges remain

⁷ Supreme Court, G.R. No. 181747; September 8, 2008

petitioning the courts to ensure their protection. Wenifreda Marigondon,⁸ was held for eight months after her arrest in November 2005 in a military camp before being transferred to the Quezon Provincial Jail in Lucena City. Frencess Ann Bernal, is one of 11 teenagers who were held together with adult males after being tortured following their arrest in February 2006 in Buguias, Benguet. NGOs and relatives of the victims discovered their plight, prompting the authorities to take action.

- 2.17. **The lack of an effective register of detainees:** the prison system is poorly organised, with no central, well organised register of detainees, which feeds the problem of torture and impunity for this practice. The Bureau of Corrections (BuCor), which is under the Department of Justice (DoJ), is responsible for those “sentenced to serve a term of imprisonment of more than three (3) years.”⁹ The Bureau of Jail Management and Penology (BJMP), which is under the Department of Interior and Local Government (DILG), is responsible for “persons detained awaiting investigation or trial and/or transfer to the national penitentiary.”¹⁰ Further to detention facilities under the (DoJ), the BJMP or the Jail Bureau, “exercise supervision and control over all city and municipal jails” and the respective provincial governments where the provincial jails are located also exercise ‘supervision and control’ and operate autonomously from the DoJ. The operation of city jails, municipal jails and provincial jails, are directly under the supervision and control of the respective local governments. The operation of provincial jails depends solely on the availability of fund of the province. Should a particular province suffer from a lack of budget or resources, resulting in deteriorated detention conditions, the Department of Justice (DoJ) could not intervene as it lacks jurisdiction.
- 2.18. Torture victims Rundren Lao and Jefferson,¹¹ who were then detained at the Benguet Provincial Jail, suffered attempts on their lives in August 2006. The Philippine National Police and the DoJ could not intervene to investigate the incident as they had no jurisdiction over the detainees and the jail. The victims accused the provincial jail officer of placing a person who was plotting to kill them in the same cell as them. The jail authorities also reportedly allowed the entry into the detention facilities of persons who had links with the policemen that they had accused of torturing them.
- 2.19. Activist Joselito Tobi,¹² died under suspicious circumstances while being detained in Leyte Provincial Jail on 12 July 2006. He and his fellow detainee, Arniel Dizon, had been receiving threats for a week prior to his death. However, there had not been any thorough investigation as to the cause of his death. His family was only told that he died of food poisoning.

⁸ Please see further case details in Annex I, Case No. 14

⁹ Bureau of Corrections (BuCor) mandate and functions

¹⁰ Section 63, Chapter V, Department of the Interior and Local Government Act of 1990 (RA 6975)

¹¹ Please see further case details in Annex I, Case No. 12

¹² AHRC Urgent Appeals; UP-151-2006: Ombudsman's failure to resolve cases of murder, extra-judicial killings and torture, prevents police and military from being charged

- 2.20. There have also been suspicious deaths in city jails under the BJMP. In December 2005, three inmates, Mary Jane Mancera, Vicente Abella¹³ and Arthur Esquelona,¹⁴ died under suspicious circumstances at the General Santos City Reformatory Centre (GSCRC). The BJMP conducted their own investigation into these incidents and concluded that the deaths were the result of diseases, even though the victims' dead bodies had injury marks. The local police station, Makar Police Station, under the General Santos City Police Office (GSCPO), whose area of operation includes the jail, has refused to investigate the incident invoking lack of jurisdiction over the jail.
- 2.21. The lack of centralized and organized system for recording the list detainees, for instance, between the DoJ and the BJMP also results in problems, such as the former not knowing that detainees in the custody of the latter are being held without formal charges filed in court or for years without trial. Pegie Boquecosa,¹⁵ was held for six years at the Sarangani Provincial Jail without trial. Zosimo C. Mariado,¹⁶ was held for months at the Quezon Provincial Jail without charges having been filed against him in court. In such a state of chaos, torture and the possibility of covering it up becomes far easier.
- 2.22. **No adequate compensation for torture:** Should torture victims decide to seek compensation, they can make compensation claims through the Board of claims for victims of unjust imprisonment or detention and victims of violent crimes (RA 7309). Although the law can provide monetary compensation, including to victims of torture, it does not address the other special needs of victims of torture, such as treatment and rehabilitation. However, the maximum amount of compensation the Board can award, should an application be approved, "shall not exceed ten thousand pesos 10,000.00 pesos (USD 207)" and this amount has not been increased since the law was enacted in March 1992. Furthermore, applications need to be filed by victims "within six (6) months after being released from imprisonment or detention, or from the date the victim suffered damage or injury" otherwise, the victim would be considered to have waived his/her right. This requirement can be impractical for victims of torture who remain in detention and either have no access to this mechanism or are not informed about it. Even if they are able to avail themselves of this mechanism, the compensation that victims of torture can receive from a system that is not tailored to take into account the gravity of torture and the specific requirements that it engenders can at best only receive relatively derisory compensation from it.
- 2.23. It should be noted that vulnerable sectors of society, are even less likely to be informed or be able to avail themselves of such compensations. There is no legal assistance or sufficient information readily available for them about how to apply, in particular when the victims are not literate, or when it took place in remote and areas, for example and in particular concerning indigenous peoples. Furthermore, the fear of reprisals by soldiers and

¹³ AHRC Urgent Appeals; UP-01-2006: Two more inmates died at the General Santos City Reformatory Centre in Mindanao

¹⁴ AHRC Urgent Appeals; UA-242-2005: PHILIPPINES: Suspicious death of an 18-year-old inmate in General Santos City, Mindanao

¹⁵ AHRC-UAU-064-2008: A man is continuously held for six years without trial

¹⁶ Please see further case details in Annex I, Case No. 3

the police frequently dissuades victims from pursuing any legal remedies and claims for compensation.

3. **Article 4:**

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

3.1. As has been repeatedly stated above already, the ALRC is of the view that the lack of a law criminalizing torture is a major contributing factor that is permitting the practice of torture to be used widely and with impunity in the Philippines. Until torture is criminalized there will be no effective deterrent to prevent State agents, notably the police and military, from using torture as a routine method of interrogation, investigation or punishment. The lack of the criminalisation of torture also means that victims cannot seek justice or adequate reparation. The criminalisation of torture is the most important measure that the Committee must ensure that the government of the Philippines takes without further delay.

3.2. In order to show the grave nature of the torture used in some of the cases documented by the ALRC, please see the following table (further detailed examples are included in the annexure to this report):

Example A: Deprived of food, sleep

Name of victims:

Johnny Tugan, 51 years old; Malik Guinaludin; alias Espaik; alias Said; Salik Ameril, 27 years old; alias Dats; alias Patutin

Date of incident: From March 1 to 2, 2009

Place of incident: Midsayap, North Cotabato

These seven construction workers were working for the expansion of a school in Midsayap, Cotabato, when heavily armed soldiers, who had come on board a helicopter, began firing them as they hovered around their aircraft over them. After touching down, the soldiers took them towards a room where they had them questioned. While beating them, they were forced to admit they were constructing a house for a fugitive MILF leader. For 18 hours while they were in soldiers' custody, they were beaten, exposed to heavy downpour, fed with spoiled food, deprived of sleep and water to drink.

Example B: Use of electric shocks to torture

Name of victim: Edgar Candule, 23 years old; he belongs to an indigenous tribe Aeta. He is presently detained at the Provincial Jail in Iba, Zambales

Alleged perpetrators: About 20 policemen attached to the Botolan Municipal Police Station (BMPS) of the Philippine National Police (PNP)

Place of incident: In Sitio (sub-section of the village) Alamac, Barangay (village) Carael, Botolan, Zambales

Date of his arrest: On 21 March 2008

Following his arrest, the police took Edgar Candule, to their camp. The persons taking him in custody, who did not introduce their names and identity to him, subjected him to questioning without the presence of his legal counsel. Those questioning him also threatened to kill him should he deny his membership with the New People's Army (NPA). He was placed in a room where he was beaten to the chest, electrocuted his abdomen and forced him to admit that he owns a pistol, a magazine assembly for a caliber .45 and several live ammunitions, which the police had found from a house from where he was taken.

Example C: Soldiers, police illegally detains a person

Name of the victim: Zosimo C. Mariado, he is presently detained at the Quezon Provincial Jail, Lucena City

Date and place of incident: On 29 November 2007 in Barangay (village) Pagsangahan, General Nakar, Quezon

Alleged perpetrators: Several soldiers attached to the 16th Infantry Battalion (IB), Philippine Army (PA). One of them was identified as Corporal Solomon Balla Velderama

Soldiers had Zosimo Mariado beaten and investigated in their custody in absence of a legal counsel before turning him over to a local police. The soldiers forced him to admit he is a member of the New Peoples' Army (NPA), a communist rebel group; and that the firearms they had also recovered from the house where he was staying, are his. It was only five days later that the police had been able to file charges against him in court before the prosecutor's office, which was in contravention to the DoJ Circular 16 on New Rules on Inquest, which stipulates that a person could not be held beyond 36 hours without charged, on cases punishable by afflictive or capital penalties if detention, if the person is not subjected to inquest proceedings.

Example D: Soldiers arrests, detains without legal grounds

Name of victim: Ruel Munasque, 33 years old, married with three children, leader of the Christian Youth Fellowship-United Church of Christ of the Philippines (CYF-UCCP), community development worker for Consortium of Christian Organizations in Urban Development (CONCORD-UCCP).

Alleged perpetrators: Elements of the 53rd Infantry Battalion, Philippine Army (IBPA) under the Tabak Division based in Labangan, Zamboanga del Sur

Place of incident: At the soldier's check point in Dumalinao, Zamboanga del Sur

Date of incident: At around 9pm on 24 October 2007

Soldiers arrested Ruel Munasque and his colleague, Roger Morales, at a checkpoint over suspicions that they could have been involved in an armed encounter between rebels and soldiers merely because of Roger's injury to his knee. After their arrest, the soldiers had them handcuffed and blindfolded. They also took them to a nearby place where they were subjected to questioning. Roger recalled hearing music being played in the background in the place where they are being held. The soldiers threatened to kill them if they refused to cooperate with them by clicking their guns as if making them ready to fire. They were made to choose whether they wanted to be freed, jailed or killed.

While the soldiers had Roger freed by leaving him in a place with his blindfold on, they had Ruel held in their custody for 15 days. Neither Roger nor Ruel's relatives knew or had been properly informed of Ruel's whereabouts. Only in November 7 that the soldiers presented Ruel in court when his family filed a petition for 'writ of amparo' which led to his release.

Example E: Soldiers deliberately hid a detainee

Name of the victim: Luicito Bustamante (a.k.a. Yongyong), 21 years old, farmer, single, a resident of Sitio Quarry, Barangay (village) Malabog, Paquibato District, Davao City

Alleged perpetrators: A paramilitary group under the 73rd Infantry Battalion Philippine Army led by Noli Obat

Place of incident: At a checkpoint by elements of a paramilitary group under the 73rd Infantry Battalion Philippine Army in Sitio Quarry, Barangay Malabog, Paquibato District, Davao City

Date of incident: At 2pm on 27 October 2007. He was released on November 14 after being held in custody by the soldiers and paramilitary.

Soldiers also detained Luicito Bustamante for 19 days after a militiaman had him arrested on mere suspicions he was an NPA member. The militiaman, Noli Obat, took Luicito to their camp where they had deliberately hidden him from his relatives who are looking for him. For ten days Luicito's whereabouts could not be ascertain; and it was only then that his relatives had been able to confirm that he was indeed in soldiers' custody. The soldiers at first denied having him in their custody, but when his family filed a petition for 'writ of amparo', they had Luicito presented before the court. It only after the court granted the petition which Luicito's relatives had filed that he had been released from soldiers' custody.

Example F: Police simulates drowning, suffocation to torture

Name of the victim: Mr. Oting Mariano (21), a resident of Barangay (village) Kadiis, Carmen, North Cotabato

Alleged perpetrators:

1. Several policemen attached to the Philippine National Police' (PNP)'s regional office of the Autonomous Region of Muslim Mindanao (ARMM)
2. A senior police officer named Sanchez. He was the one who took the victim to the provincial detention facility on January 19 in Amas, Kidapawan City

Date of incident: On 13 January 2007

Place of incident: Carmen, North Cotabato

The policemen had Oting Mariano arrested over suspicions that a commander of the MILF wanted for murder and him are the same person. Soon after the police seized him, they had him handcuffed and blindfolded with a piece of cloth while his mouth was bound with an adhesive tape. They had him punched several times on his chest and back. Among the investigators they had his blindfold replaced with a rubberize material. They had his head wrapped with cellophane; they dipped his head into bucket of water removing only when he nearly loses consciousness. He was also deprived of regular food for few days. They also threatened that they would throw him into a shallow grave.

It was only on September 20, eight months after his arrest and subsequent detention, when the prosecutor's office themselves moved to have the charges the police filed against Oting be dismissed for lack of evidence, that Oting was released from jail. A group helping him tried to file charges against the perpetrators in court; however, the victim's failure to identify the perpetrators and the question which court has jurisdiction over the case since the place where the incident took place has not been ascertained prevented the case from making any progress in court.

Example G: Soldiers suffocates detainees accused as rebels, 'terrorists'

Name of the victims: Thos Ulimpain; Nasser Mendo, Both are residents of Barangay (village) Malingaw, Midsayap, North Cotabato.

Alleged perpetrators: Several military men attached to the 6th Infantry Battalion (ID), Philippine Army (PA) located in Cotabato City

Place of incident: At the victims' place

Date of incident: At around 5:00am on 3 May 2007

Soldiers arrested Thos Ulimpain and his cousin, Nasser Mendo, over suspicions they were members of the MILF. When soldiers entered the house where they were staying, neither did they present search nor arrest orders; or they properly explained to them what charges are they being held. The soldiers had them handcuffed and blindfolded before taking them to their headquarters. While in soldier's custody, they were taken to separate rooms where they were subjected to questioning.

Mendo recalled having forced to admit he was an MILF member; that he knew of the leaders; and those engaged in bomb blast in Central Mindanao. Once he refused, they had him suffocated with a plastic bag, beaten with hard object to different parts of his body. His cousin, Nasser, meanwhile, was dragged along and made to sit on the cement floor, still handcuffed and blindfolded. Everytime he denies any involvement with the MILF and the Jemaah Islamiyah (JI) the soldiers are accusing him, repeatedly kicked and hit him on his chest and back. He frequently lost consciousness during the ordeal.

Example H: Soldiers deprived detainees of sleep, food and medicines

Name of victim: Fernando Tawagon, resident of Barangay (village) Biga, Gumaca, Quezon

Alleged perpetrators: Members of 76th Infantry Battalion in Barangay (village) Villa Principe, Gumaca, Quezon

Period of incident: from 4 April 2006

Place of his detention: Quezon Provincial Jail

Soldiers had Fernando Tawagon arrested over suspicions he was an NPA. Soon after arresting him, the soldiers had him punched and kicked him in different parts of his body. When the soldiers got exhausted of assaulting him, they had his wrists tied behind his back with a rope, and blindfolded him with a worn out sock and handkerchief. The soldiers then took him to their headquarters in Gumaca, Quezon.

When Fernando was taken to the Bureau of Jail Management and Penology (BJMP) in Gumaca,

Quezon, they had him tortured further. They had him blindfolded, had his wrists tied from his back and head covered with cloth. He had asked to untie the rope on his wrists, but instead a police officer approached beating him and throwing a handcuff on him. He was also taken back to soldiers' headquarters where he was held days before he was taken to court. While in soldier's custody, he was deprived of sleep, food and medicines.

Example I: Police threatens to electrocute, kill detainees

Names of victims: Riel Custodio, peasant organiser of the organization "Kalipunan ng mga Magsasaka sa Kabite (Kamagsasaka-Ka or Farmers' Federation in Cavite)" in Cavite province; Axel Pinpin, peasant organiser and works at the same organisation as Riel; Enrico Ybanez, Michael Mesias and Aristides Sarmiento

Date of incident: 28 April 2006 at 7pm

Police had the five had been seized over mere suspicions that they were involved in a plot to topple the government in April 2006. For seven days following their arrest, their respective families were not properly informed of their whereabouts or that they were being held in police custody. From 28 April to 2 May of 2006, they were kept blindfolded and their hands were tied behind their backs. They were also questioned without their legal counsel, as well as physically harmed and threatened with electrocution and death. They were also taken to various military and police camps and safe houses. One of them, Aristides, suffered a second degree burn to his right leg that healed only four months later.

There was also no preliminary investigation in their case. In this case, since the filing of charges exceeds the prescribed period under the inquest rules, they should have been afforded a preliminary investigation, which means that they should have been released within 36 hours from the time they were taken into custody. However in their case, neither a real inquest nor a preliminary investigation was conducted, yet the accused have had to endure the trial of their case despite the questions of legality in the filing of it.

On 20 August 2008, the court has ruled it could allow the prosecution of the victims for Rebellion by using the alleged subversive documents as their evidence. Subversion is no longer a criminal offense in the Philippines; thus, the detainees cannot be prosecuted for Rebellion by using the evidence of possessing subversive documents. They were freed from detention eight days later.

Example J: Police beats victims' genitals

Name of victims: Rundren Berloize Lao of Gerona, Tarlac; Anderson Alonzo of Calinan, Davao City; Aldo Christian Manosa of Sampaloc St., Santolan, Pasig City; Ron Pandino of Barangay Mayatba, Siniloan, Laguna; Ray Lester Mendoza of Barangay Rizal, Makati City; Jethro Villagrancia of Calinan, Davao City; Neil Russel Balajadia of Santolan, Pasig City; Darwin Alagar of Urdaneta City, Pangasinan; Arvie Nunez Barangay Silangang Mayao, Lucena City; Jefferson dela Rosa of Santolan, Pasig City; Frencess Ann Bernal of Calumpang, Marikina City
Name of alleged perpetrators: Elements of the 1604th Police Provincial Mobile Group (PPMG) headed by Police Superintendent Brent Madjaco, elements of the 3rd Company of Police Regional Mobile Group (PRMG) headed by Police Senior Inspector Joseph Paolo Bayungasan

and unidentified military agents

Date of incident: 14 to 16 February 2006

Place of incident: Abatan, Buguias, Benguet

The 11 victims were arrested over suspicion of having been involved over a raid of a military camp which killed a soldier in Cabiten, Mankayan, Benguet on 10 February 2006. The teenagers were on their way to a trip when the police arrested them at a police check point while hitch hiking a ride.

The policemen were heavily armed and wearing complete battle suits. They ordered the victims to get down from the dump truck. They were then ordered to kneel down and their backs and were kicked with such force that they all fell face-first to the ground. The policemen started severely beating them one after the other and threatened to kill them. The police confiscated all their belongings. Every time the police noticed any movement from the victims, they were punched, kicked and hit. One of the victims was forced to kiss the mouth of a policemen's dog.

They were later taken to the camp of the 1604th Police Provincial Mobile Group (PPMG) where they were allegedly severely tortured further. They were beaten on different parts of their body, exposed under the heat of the sun and had their hands tied behind their backs. They were also blindfolded, beaten in the genitals and threatened with death. Some of the victims were thrown into a pit and had soil, garbage and other matter dumped over their heads. They were electrocuted, stepped on and their fingers were squeezed with bullets inserted between them. Others were suffocated with plastic bags or had their heads forced into pails of water. Buckets were also hung on their heads and water was poured into them. They were also forced to strip naked, at which point they had freezing water sprayed on them.

Example K: Police beats man with a stone

Name of the victim: Haron Abubakar Buisan (25), living in Purok Darusalam, Barangay Bawing, General Santos City. He works as a motorcycle driver. He is presently detained at the General Santos City Reformatory Center (GSCRC).

Alleged perpetrators: Special Weapons and Tactics (Swat) team and several policemen attached to the General Santos City Police Office (GSCPO)

Date and place of incident: 12 December 2005 along the highway in Barangay (village) Bawing, General Santos City

Police arrested Haron Abubakar Buisan over allegations that he and a certain Ariel Bansalao, who is responsible for robbing a passenger bus, were one. The policemen, some in plain clothes while others wearing black jackets with prints of SWAT (Special Weapons and Army Tactics) on it, took the four men to their headquarters on their service vehicle. At the time of arrest, the police did not present any warrant of arrest to Buisan and his companions. They were likewise not informed of the charges against them.

Soon after his arrest at a police checkpoint, while in police custody, they had him repeatedly kicked, beaten all over his body with stone before detaining him at the General Santos City Police Office (GSCPO) headquarters for three days without charges.

Example L: Soldiers strips a farmer naked of his underpants

Victims: Flory Balilid; Rogelio Balilid, Flory's elder brother; Rosita, Rogelio's wife, all are residents of Barangay Sinapulan, Columbia, Sultan, Kudarat

Alleged perpetrators: elements of 66th Infantry Battalion (IB) under the 6th Infantry Division (ID) based in Awang, Cotabato City, of the Philippine Army (PA)

Date of incident: 12 February 2004 at 7:00 a.m.

Soldiers arrested and detained Flory Balilid over mere suspicions he was an NPA member. At the time of his arrest, he was on his way to a village to haul corn when soldiers had him stopped on his way. When he reasoned out he was hauling corn, the soldiers insisted he was working for the rebels as their couriers.

One of the soldiers suddenly covered Flory's face with a cloth and started mauling him. The soldier was quoted as saying "Ikaw ang isa ka kumander nga NPA! (You are an NPA commander)" while mauling him. The soldiers hit him with armalite butts on his chest, underarm and punched his neck. Several soldiers assaulted him one after the other.

The soldiers kept forcing Flory to admit that he was an NPA commander. He was then told to remove his T-shirt and stretched both arms side by side. One of the soldiers then pulled down Flory's briefs to his knee. He heard one of them saying in mockery on him, "I thought you were uncircumcised." They then removed the cloth tightly covering his face. He noticed that five soldiers were aiming their M-14s and M-203 at him. He said he could identify two of the soldiers. Flory, however, managed to escape from the soldiers' custody which prompted him to report the incident to the police.

Example M: Soldiers electrocutes, strip naked a detainee

Name of victims: Hadji Omar Ramalan; and his wife Bairon, both residents of Poblacion Bacolod, Parang, Maguindanao.

Alleged perpetrators: Elements of 64th Infantry Battalion based in Barangay Sarmiento, Matanog, Maguindanao, 3rd Infantry Battalion based in Bliss Nituan, Parang, Maguindanao and the Military Police of the 6th Infantry Division Philippine Army based in Camp Siongco, Awang, Cotabato City.

Places of incident: Barangay Langkong and Sarmiento in Matanog and Bliss Nituan, Parang, all in Maguindanao.

Dates of incident: January 9 to 26, 2004

Soldiers arrested Hadji Omar Ramalan and his wife, Bairon, at a checkpoint over suspicions the former was involved in a bomb blast in Parang, Maguindanao. When the soldiers began questioning him, Omar reasoned out knowing nothing about the allegations, but the soldiers nevertheless took him and his wife to their headquarters where they had them blindfolded. While the soldiers had his wife released, Omar was taken to another place where they had him subjected to torture and questioning.

While in their custody, they had him kicked, beaten with a hard object on the different parts of

his body. They had him electrocuted, his fingers squeezed with bullets placed in between them and was forced to drink rum that taste and smells of urine. They likewise threatened him to be dumped into a canal and/or his sex organ fed to a dog. Omar said all he felt for four days was pain.

Omar was not given chance to take a bath and do personal hygiene, sleep well, eat good meal and take a rest while in custodial investigation. He was placed inside a secluded room naked and severely tortured several times. He only heard voices of his investigators. For four successive days, Omar's relatives did not know his whereabouts as they keep looking for him. It was only when Omar was turned over to jail that they found him.

It was only on January 12 that he was taken to the Bureau of Corrections (BuCor) that his blindfold was removed. Omar filed charges against the soldiers; however, when the court resolved he should be tried for the charges the soldier had filed on him, he had decided to have gone into hiding—which also renders the complaints he had filed against those who responsible of torturing him not to progress in court.

Example N: Police verbally sexually humiliate a detainee

Names of the victims: Jehon Macalinsal; Aron Salah; Abubakar Amilhasan; all are Muslims and affiliate members of party list Bayan Muna in Soccksargen (Provinces of South Cotabato, Sarangani, Sultan Kudarat and General Santos City)

Place and date of arrest: at 3:00am on 24 April 2002, Barangay Calumpang, General Santos City

Arresting officers: General Santos City Police Office

Courts handling the case: Municipal Trial Court (MTC), Branch 3, Regional Trial Court Branch (RTC), Branch 35, all in General Santos City, Mindanao

Police arrested Jehon Macalinsal, Aron Salah and Abubakar Amilhasan, over suspicions there were involved in a bomb blast in General Santos City. When police arrested them neither an arrest order nor were they properly informed of the nature of charges on them. While in their custody, the police had Jehon, verbally sexually humiliated for being gay. He also said that the police forced him to admit his responsibility to the Fitmart Mall bombing and to point out Aron Salah and Abubakar Amilhasan as masterminds, which he repeatedly refused to do. It is also alleged that the three men were maltreated and tortured by the police during their arrest and detention.

It was only on 5 June 2006, that the Commission on Human Rights (CHR) had informed torture victims Jehon Macalinsal and two companions that it would take up their four-year-old complaint of torture against the police if they decide to pursue it. The victims had informed the CHR of their interest in pursuing the case; however, the charges to which the police had laid on them had suffered delays due to the repeated postponed of court hearings. The CHR's investigation into the victims' complaint against the police has also not had substantial progress. The victims are presently temporarily out on bail.

Example O: Denied legal remedies

Name of the victims: Tohamie Ulong (minor), Ting Idar (minor), Jimmy Balulao, To Akmad and Esmael Mamalankas, presently detained at the Bureau of Jail Management and Penology (BJMP) Maa, Davao City

Place and date of arrest: 8 April 2002, at Poblacion Dos, Cotabato City

Security forces arrested them in separate incidents from their place over suspicions they were involved in a bomb blast that took place in Davao City. Soon after their arrest, they were all taken to the headquarters of the military's 6th Infantry Division (ID) in Awang, Cotabato where they were subjected to torture forcing them to admit to responsibility to the bomb blasts.

In his statement, Jimmy Balulao, who was 15 years at the time, said the arresting officers mauled him to force him into coming with them. Inside the L-300 van he was blindfolded with a cloth and masking tape. While at the soldiers' camp, he was repeatedly mauled and placed his own belt to his neck pulling it upwards to strangle. He had difficulty of breathing but then he was dragged near a dog pen and I was threatened to be fed to the dogs every time he denies any involvement. One of the investigators also kept on hitting his elbow with hard object until it numbed. He was made to lie on the cement floor. They had his hand pressed hard after putting three bullets in between his three left fingers which cause immense pain. Then they placed an object to his lap twice telling him it was a bomb.

Another minor victim, Ting Idar, they punched and kicked him to forced to go with them when arrested. They also had him blindfolded inside the van with a face towel and his head wrapped with an adhesive tape. He was placed in a room where he was tortured. One of his abductors placed an object on his lap telling him it was a bomb and it would explode once he dropped it so he should hold it tightly, to frighten him. They repeatedly beat him and tied his neck around with a rope around which they pulled up every now and then until they could see him finding difficulty to breath. They repeatedly punched his head and other parts of his body.

For Esmael Mamalankas, he was punched and kicked to his different parts of my body while on blindfold with a cloth and a masking tape. He was tortured to force him into admitting participation in the bomb blast. He was repeatedly mauled. Even though he had complained of immense pain in his body they did not was not allow him to be examined by doctor not until his visible injuries disappeared.

After their ordeal at the military's custody, they were taken to the headquarters of the defunct Presidential Anti-Crime Emergency Response (PACER), a special presidential task force, in Davao City. They were held at the PACER before they were taken to the headquarters of Criminal Investigation and Detection Group (CIDG XI) in Davao City, where they were also held for several months before they were turned over to the Davao City jail.

While they were held at the CIDG's custody, when a staff of a local human rights non-governmental organization (NGO) was visiting them to secure signatures from them to the sworn statement they had earlier made, a police officer on duty had refused to let the victims sign the documents; and had them confiscated in the presence of the victims' legal counsel who was also visiting at the time. When the complaint was made against the police, he was only reprimanded

but the signed affidavits he had confiscated were never returned.

When the victims filed a complaint with the Commission on Human Rights (CHR) in Davao City, the regional director, Alberto Sipaco, refused to investigate and accept the complaint invoking that they could be cited for contempt of court. He argued that they could not investigate because charges have already been filed against the victims.

Example P: Torture complaint not filed in court 12 years on

Name of victims: Lenido Lumanog, a kidney transplant patient requiring adequate medicines and medical attention; Augusto Santos; Senior Police Officer 2 (SPO2); Cesar Fortuna; Rameses de Jesus; Joel de Jesus

Place of detention: New Bilibid Prisons, Muntinlupa City

Names of policemen involved in arresting and torturing the accused: Police Senior Superintendents (Pol. Sr. Supt.) Romulo Sales; Sr. Supt. Bartolome Baluyot ; Several of police officers who are then members of the "Task Force Rolly"

While they were in police custody, they were electrocuted, suffocated with plastic bags, brutally beaten and assaulted, amongst others, forcing them to admit responsibility to the murder and to disclose their supposed accomplices. The medical records of the accused were also falsified by the police who conducted the medical examination to make it appear that they were not tortured. They declared the wounds were "self-inflicted" and "no evidence of any external physical injury" was seen from their bodies.

The Commission on Human Rights (CHR) had already proven in their investigation that the accused rights had been violated and there were 'prima facie' evidence to file charges against the perpetrators in June 1996, the Office of the Chief State Prosecutor (OCSP) have failed to act on their recommendation promptly. The prosecutor assigned to handle the case, State Prosecutor Marilyn Campomanes, has failed to resolve the preliminary investigation of the complaint for a period of five years. But when the OCSP finally resolve the complaint on 21 August 2001, it ruled to dismiss the complaint invoking the ground of 'sub judice rule'.

The OCSP resolution argued that since the accused' murder case is still pending for review by Supreme Court they find it appropriate not to "unduly influence or bend the mind of the Supreme Court on deciding the murder case". It in effect resolved to refrain from conducting the preliminary investigation of the victim's complaint of torture and human rights violations against the policemen. It took the OCSP five years to decide that the preliminary investigation of the case could not be acted upon.

But on 8 January 2003, the preliminary investigation of the complaint was ordered to be reopened by former acting Justice Department Secretary Ma. Merceditas Gutierrez. The offences mentioned that could be charged against the policemen involved however did not include allegations of torture. The said charges include only for violations of Articles 263, 286, 124 and 125 of the Revised Penal Code (RPC) and the Republic Act RA 7438. These articles constitute violations for grave coercion, physical injuries, arbitrary detention, delay in the delivery of detained persons, rights of persons arrested and detained under custodial investigation.

The complaint, however, though had been resolved when a subsequent order to review the complaint. It remains pending before the MOLEO.

4. **Article 10:**

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

- 4.1. **Training not specific on the ‘prohibition against torture’:** Under the Republic Act No. 6975 and its Implementing Rules and Regulations, Rule VI section 16 (a), requires the National Police Commission (NAPOLCOM) to exercise ‘administrative control’ over the Philippine National Police (PNP) in terms of “promulgation of policies, standards, plans and programs.” Rule X, section 71 (a) authorizes the Philippine Public Safety College (PPSC) to “formulate and implement training programs for personnel of the PNP, Fire and Jail bureaus.”
- 4.2. NAPOLCOM and the PPSC have the primary role in developing programmes relating to education and training of the PNP, but have thus far failed to include specific training modules on the prevention of torture. Separately, in February 2009, the PNP announced in a press release of entering into a Memorandum of Understanding (MOU) with the Hans Seidel Foundation (HSF), non-government organization based in Munich, Germany, for the implementation of various PNP Human Rights programs. The PNP’s Human Rights Affairs Office (HRAO) have also claimed that “a total of 424 of police personnel have undergone four (4) Human Rights Deepening Seminars and 141 police personnel were trained as trainers on Human Rights.” The ALRC urges the Committee to request that the government provide information on whether this covered the issue of torture and ill-treatment and what impact this training is having.
- 4.3. Of the seven individuals who are to compose the “panel of reactor” in the Program Review Analysis (PRA) process - that includes the regional directors of the NAPOLCOM, the DILG, the Civil Service Commission (CSC), the chairman of the Regional Peace and Order Council (RPOC) - the three others are supposed to represent “the private sector/NGOs particularly the Church, academe and youth sector.” However, there is no public information regarding how these people would be able to get involved, or what the qualifications and criteria are that members of NGOs, the church, academia or the youth sector should have before they are permitted to become members of this panel.

5. **Article 11:**

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

- 5.1. **Arbitrary interrogation rules:** Section 3 and Section 5 (c) of Rule 113 of the Revised Rules of Criminal Procedure respectively stipulate that it is “the duty of the officer executing the warrant to arrest the accused and deliver him to the nearest police station or jail without unnecessary delay” and that those arrested in the absence of a warrant “shall be forthwith delivered to the nearest police station or jail.”
- 5.2. These rules have been repeatedly, deliberately ignored, in particular when the arrested persons are alleged to have been involved in a rebel group, terrorist activities or syndicated and organized crimes. In such cases, these persons are subjected to arbitrary and illegal practices of interrogation and detention, and the investigators employ a range of methods of torture techniques as mentioned in cases studies included in this report. There is no strict compliance to these rules and no guarantees that an arrested person, whether by virtue of an arrest warrant or not, would be turned over to nearest police stations promptly where he would be held.
- 5.3. One significant problem is that, although the police have primary jurisdiction in cases of arrested persons and have the sole legal jurisdiction concerning conducting investigations and the questioning of the person, they nevertheless allow others to conduct interrogations of persons in their custody, upon request. They have allowed soldiers and other investigating agencies, like the Armed Forces of the Philippines’s (AFP) Military Intelligence Group (MIG); the National Intelligence and Coordinating Agency (NICA); the defunct Presidential Anti-Organized Crime Task Force (PAOCTF); and the Philippine National Police’s intelligence unit, the Regional Intelligence and Investigation Division (RIID), to interrogate persons despite these agencies not having the jurisdiction to do so. These other agencies are known to torture during interrogation.
- 5.4. The police does not question or challenge arresting officers who are not from the police, for example soldiers, who have held persons in detention for days prior to turning them over to the police station, but simply receive the person into their custody. They do not question where the person had been held, what he has been through and why they failed to turned him over ‘promptly’ to them. They just simply record and accept the person. The police officers receiving this person do not inquire whether this person has been tortured. This practice is in direct contravention of the existing rules on arrest, but remains common.
- 5.5. **Soldiers usurp police powers:** The manner in which members of the military carry out arrests, investigate and subsequently detain persons, usurps the power of the police. Only the police and some other investigating agencies, have the power to investigate a person suspected of committing crimes. The military does not have this power, in theory. Soldiers may carry out arrests, but such arrested persons should be turned over to the “proper

judicial authorities” under specific provisions found in Article 125 of the Revised Penal Code.

- 5.6. While arrests without a warrant can also be carried out under certain circumstances (under Rule 113, section 5 of the Revised rules of Criminal Procedure), such as if a person was about to commit, was in the act of committing or had just committed a crime. Members of the military, however, conduct warrant-less arrests without meeting such criteria and detain and subject persons to investigations. Furthermore, they deliberately do not inform the victims of their right to legal counsel. Such circumstances often result in torture or ill-treatment, with impunity.
- 5.7. Such practices are common in conflict areas controlled by the military or in instances where operations are headed by the military. Under the law, once a person is arrested other than by the police, the officials arresting them should turn them over immediately to the nearest police station. However, soldiers ignore this, especially in remote areas. The failure to turn over the arrested person, for instance those who are captured following an encounter, or those arrested from areas controlled by the military on suspicion of having been involved in a rebel activities, or villagers who simply happen to be where the soldiers are operating, face a high risk of being tortured. They are typically detained incommunicado and their whereabouts are not initially divulged to their families or even the police in such cases.

6. **Article 12:**

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

- 6.1. It is vital to note that one of the great barriers to the prevention and eradication of torture is the lack of investigations into the practice. This results in part from the fact that there is no law criminalizing torture on the one hand, but also because the police and other State agencies and institutions are not independent enough or willing to investigate violations of human rights committed by State agents. This has been seen in the case of the numerous extra-judicial killings that have been well publicised in the country in recent years. Even though there is a law criminalizing murder, there remains a lack of investigations into these killings which are widely accepted as having been committed by State agents or the proxies. To date, no State agent has been brought to justice for the hundreds of extra-judicial killings committed in the country. Similarly, torture allegations and complaints of torture are typically not investigated by the police. The lack of investigations leads to a lack of prosecutions and convictions.
- 6.2. **Poor ‘chain of evidence’ and evidence storage in investigations:** police investigators and prosecutors have the obligation to strictly observe the ‘chain of evidence,’ which requires the proper collection and storage of physical evidence they have obtained either from the crime scene or in the course of their investigations. However, the lack of proper storage rooms and the poor observance by police investigators of these procedures has

undermined and put at risk the quality and safety of the evidence for use in court, including cases concerning allegations of torture.

- 6.3. For instance, Department of Justice (DoJ) Department Circular No. 61, on the Rules on Inquest, sections 5 and 16, oblige prosecutors to require that the police “submit the required evidence” when the documents they presented are not complete. Furthermore, the prosecutor’s presence is required at the crime scene “wherever a dead body is found and there is reason to believe that the death resulted from foul play, or from the unlawful acts.” However, in the exercise of their duties, neither the police nor prosecutors strictly observe these rules.
- 6.4. For instance, prosecutors depend heavily on the documents and evidence that police investigators providing to them in evaluating the merits of a case. Although they have the authority to require the police to submit further evidence to them, this is rarely done. Therefore, if the manner in which the police investigates the case is poor, it is likely to be dismissed.
- 6.5. Furthermore, most local police stations do not have secure and proper storage rooms where evidence collected during investigations can be safely keep and stored. Evidence such as illegal drugs and marked money used during entrapment operations, have been stolen following a break-in. Police investigators do not take the ‘chain of evidence’ requirement and proper evidence storage seriously, because the penalty for failing in this regard tends to be low - either a reprimand or a suspension, depending on the gravity of the case.
- 6.6. Prosecutors are also required to be present during on-site investigations in cases involving suspicious deaths. However, in practice, only police investigators who have jurisdiction where the dead body is either found and investigators from the Scene of the Crime Operatives (SOCO) are typically present at the scene. Prosecutors are not complying with their supervisory role concerning cases that are subject to inquest proceedings. This failure reduces the possibility of having cases of suspicious deaths resulting from torture, in particularly those attributed to the security forces, independently investigated. In such cases, police investigators would have had the opportunities to destroy and tamper evidence to prevent the prosecution of the members of the military.
- 6.7. **Commission on Human Rights undermined by lack of authority:** The Commission on Human Rights (CHR) of the Philippines is one of the agencies to which any allegations of torture and other human rights violations can be lodged. Although the CHR has the power under Executive Order 163 to: “investigate, on its own or complaint by any party all forms of human rights violations involving civil and political rights,” it is the public prosecutors of the National Prosecution Service (NPS) that have the jurisdiction to review and evaluate their findings before complaints can be filed in court. The public prosecutors also then have the power to subsequently recommend the case to other authorities, for example to the MOLEO, which has jurisdiction if the accused are public officials and employees.

- 6.8. The CHR does not have prosecutorial powers. Its authority is limited to making recommendations to the prosecution service and other concerned authorities. The lack of such authority by the CHR makes it dependent upon the other agencies. As these agencies often do not wish to see human rights violation complaints succeed, the recommendations of the CHR are often ignored, rendering it toothless to anything more than document cases.
- 6.9. For example, for cases against the security forces and public officials, before a complaint can be filed in court, the DoJ is required to submit its findings for review and appropriate recommendation of the MOLEO, before the case can be taken for prosecution, as required under section 21 of the Ombudsman Act of 1989. The Ombudsman has “disciplinary authority over all elective and appointive officials of the Government and its subdivisions, instrumentalities and agencies”. However, the CHR and the DoJ cannot compel the MOLEO to concluding its review to the findings in a speedy way. While Section 13 of the Ombudsman Act also requires it to “act promptly on complaints filed in any form or manner against officers or employees of the government,” there is no clear performance pledge or sanctions that can be imposed on the investigating Ombudsman officer, should the review and evaluation process suffer delays. For this reason, significant delays are encountered, as seen concerning the complaint in the case of the ‘Abadilla Five.’
- 6.10. **Lack of independence of investigating agencies:** other agencies receive complaints involving violations of rights against security forces, but these lack independence and are therefore not effective concerning grave violations such as torture. For example, if an offence is committed by police officers, complaints can be lodged with the PNP Internal Affairs Service (IAS), the PNP Human Rights Office (HRO); and the local offices of the National Police Commissions (NAPOLCOM) and the citizen’s complaint mechanism, the Peoples Law Enforcement Board (PLEB), where the police officers are detailed. All these agencies have the authority to accept and hear cases against any members of the police and other security forces, but lacks independence.
- 6.11. In most cases filed before the IAS, HRO and the NAPOLCOM, the burden of proof resides heavily and unjustly with the civilian making the complaint. Those hearing and investigating the complaints are often either subordinates or know the persons being accused of torture, and typically do not act in the interest of those making complaints. The officers from the IAS are under the supervision and control of their respective regional commanders. The HRO and its desk officers in police stations are under the supervision and control of the Head of the PNP and local police commanders respectively.
- 6.12. The citizen’s complaint mechanism, though largely composed of civilians, is crippled by a lack of resources and is undermined due to political interference. Under the PLEB’s guidelines, the board’s composition includes members of the City or Municipal Council, the Association of Barangay (village) Council and three people chosen by the Peace and Order Council (POC). The three representatives from the POC, as required by law, should be a person respected in the community, a member of the Philippine Bar and a school principal. However, in practice, most members from the POC are the appointees of a local chief executive, thus creating the possibility of political influence by the local chief

executive in deciding cases, especially since representatives from the POC comprise a majority of the PLEB. For instance, in the cities of General Santos and Davao, none of those who have been chosen by the POC are school principals. The chief executive also determines who is a "person respected in the community," which typically leads to a person being selected that suits the interests of the chief executive.

- 6.13. It can therefore be stated without equivocation that there are no independent State agencies able to effectively investigate allegations and complaints of torture in the Philippines at present. In case a law criminalizing torture is passed, as required under the CAT, in the near future, it will also be imperative to address this lacuna without delay, in order to give the law the chance of being implemented effectively. The current structures and compositions of the agencies and bodies that have the authority to receive complaints and investigate cases are clearly not sufficient and their decisions are inevitable influenced, politically or otherwise, to prevent the case from progressing through effective investigation to the prosecution phase in court.

7. **Article 13:**

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to and to have his case promptly and impartially examined by its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

- 7.1. As can be seen from the explanations given under Article 12 above, complaints concerning torture are not promptly and impartially examined by the authorities and investigations are not conducted effectively, with impunity being enjoyed by the perpetrators of torture as a result.
- 7.2. **No adequate protection to complainants and witnesses:** Under section 3 of RA 6981, a person can only be admitted into the Witness Protection Programme if the person has "witnessed or has knowledge or information on the commission of a crime and has testified or is testifying or about to testify before any judicial or quasi-judicial body, or before any investigating authority." However, there is no provision for the interim protection of persons making complaints prior to the filing of the complaint in court and pending endorsement by the prosecutors to the court. Given the delays in this system, a complainant can be exposed for lengthy periods of time to reprisals, which is a serious deterrent for victims of torture wishing to register complaints and seek justice. The investigating agencies have been exploiting the resulting lack of witnesses under Witness Protection, Security and benefit Act (RA 6981) as an excuse to explain the lack of progress in their investigations and the prosecution of cases. There have been proposals to amend RA 6981, but these have not yet been realized.
- 7.3. Under section 1 of the Memorandum Circular No. 2000-008 of the National Police Commission (NAPOLCOM), the police, in particular the heads of police, can decide for themselves and make available protection for any person who "is under actual threat/s of

death." This could be used as an interim protection mechanism for individuals who are experiencing threats while seeking to make complaints about torture, but this system is not being used and few if any victims are aware of it.

8. **Article 14:**

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation.

2. Nothing in this article shall affect any right of the victim or other person to compensation which may exist under national law.

- 8.1. As has been seen in previous sections of this report, the legal system of the Philippines is missing key components that obstruct attempts by victims to gain adequate reparation for torture. The lack of a law criminalizing torture and the lack of independent investigating bodies means that victims find it difficult to register complaints and have them investigated, leading to the perpetrators being brought to justice, which is a component of redress. Furthermore, the lack of a law criminalizing torture means that there is no legally-defined compensation, so that which is available to victims of torture is, at present, not sufficient given the gravity of the treatment to which they were subjected and does not address the particular needs of torture victims, including full rehabilitation.
- 8.2. **Compensation not adequate:** The compensation clause under the planned legislations which is not yet in force, namely under section 18 of House Bill 5709 and section 14 of the Senate Bill 1978, provides a ceiling of 10,000 pesos as the compensation to be given for torture victims as provided for by RA 7309. This is inadequate and should be reviewed, as provided by section 21 of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, because the existing law on compensation is incongruent to the “bodily injury or impairment of physical or mental health as a result of serious crimes” they have suffered. Furthermore, the calculation of the cost of compensation was computed 17 years ago.
- 8.3. Furthermore, the time requirement and documents which the Department of Justice (DoJ), the implementing agency of this law, stipulate as a requirement for torture victims are difficult to comply with. Section 5 of RA 7309 strictly requires that applicants for compensation must file their claims “within six (6) months after being released from imprisonment or detention, or from the date the victim suffered damage or injury,... otherwise, he is deemed to have waived the same.” The authorities have been seen to act arbitrarily concerning victims of different violent acts – the DoJ actively provides compensation to victims of heinous acts, such as bomb blast, by searching and finding the victims and their families to process their claims for compensation. However, in cases of torture and illegal detention, the victims are left to process this themselves and are strictly governed by the time limit and documentary requirements which cause them ‘inconvenience’ in contravention of the UN Declaration. The victims are not adequately

“informed of their role and the scope, timing and progress of the proceedings” and no “proper assistance to victims throughout the legal process” is made available.

- 8.4. **Arbitrary refusals and delays concerning compensation:** Section 3 of RA No. 7309 generally provides compensations for persons “unjustly accused, convicted and imprisoned but subsequently released by virtue of a judgment of acquittal; unjustly detained and released without being charged; victims of arbitrary or illegal detention; victims of violent crimes, or committed with torture, cruelly or barbarity,” but the procedures and burden of proof and documentary requirements discourages applicants.
- 8.5. For example, in the case of murder of siblings Francisco Bulane, Padilla Bulane and Prumencio Bulane and the wounding of Richard and Rogelio by soldiers in Matanao, Davao del Sur in February 8, 2005,¹⁷ the DoJ’s board of claims were requiring from the victims’ families that belong to an indigenous tribe, marriage certificates from their respective wives before it could process the claims for compensation. This requirement discouraged the claimants from pursuing the claim, as indigenous marriages have had no marriage certificates. The Commission on Human Rights (CHR) in Davao City, which had conducted investigations into the incident recommended that compensation be provided to the victims’ families. However, no compensation has so far been given to date.
- 8.6. In another case, a man who had been released from detention after having been arrested and subsequently detained by the security forces in Compostela Valley in 1999 has also had his application for compensation refused. In a letter from the DoJ’s Board of Claims the group helping him was informed that he could only qualify for compensation had he been released from a detention center as a result of the court’s order exonerating him from the charges concerning which he had been convicted and detained. In his case, however, although he had been detained for months his release was due to the dismissal of his case at the prosecutor’s level.
- 8.7. In most cases, the Board of Claims has not been able to resolve the application for claims, either due to stringent requirements and refusal, “within thirty (30) working days after the filing of the application” as required under section 7 of RA No. 7309, even though they have claimed that they “shall adopt an expeditious and inexpensive procedure for the claimants to follow in order to secure their claims under this Act”.
9. **Article 15:**
Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.
- 9.1. **Arrested persons are forced or misled into signing waivers:** Under section 2 (d, e) of the RA 7438, it is clearly stipulated that:

¹⁷ AHRC Urgent Appeals: FA-06-2005: Three people killed and three others wounded by military forces in Matanao, Davao del Sur, Mindanao

(d) Any extrajudicial confession made by a person arrested, detained or under custodial investigation shall be in writing and signed by such person in the presence of his counsel or in the latter's absence, upon a valid waiver, and in the presence of any of the parents, elder brothers and sisters, his spouse, the municipal mayor, the municipal judge, district school supervisor, or priest or minister of the gospel as chosen by him; otherwise, such extrajudicial confession shall be inadmissible as evidence in any proceeding.

(e) Any waiver by a person arrested or detained under the provisions of Article 125 of the Revised Penal Code, or under custodial investigation, shall be in writing and signed by such person in the presence of his counsel; otherwise the waiver shall be null and void and of no effect.

9.2. The police, soldiers and other officers involved in investigations routinely force an arrested person into signing a blank document without properly explaining to them either its content or the purpose of its use. Later they come to know that it was used as a 'waiver' to legitimise testimonies they made under duress. Once this waiver document is submitted in court as evidence or proof of an 'extra judicial confession,' the burden of proof rests with the victims and their legal counsel to show that the document was improperly obtained, which is difficult to do. This is the case despite the absence of the arrested person's legal counsel at the time of the signing of the document, which should be necessary for it to be considered admissible in court.

9.3. In many cases, investigating officers make stopping the torture conditional on the victim agreeing to cooperate, for example by signing such a waiver document. They also employ other means of misinforming an arrested person about the document's use once he/she signs it. The officers subjecting a person to a custodial investigation do not routinely use interpreters for those who cannot understand the language used in the questioning, for example.

10. **Article 16:**

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture or references to other forms of cruel, inhuman or degrading treatment or punishment.

10.1. Section 19 (1,2) of the Bill of Rights of the 1987 Constitution stipulates that "cruel, degrading or inhuman punishment inflicted" shall not be used, and that the "employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law." However, as with acts of torture, there is no effective mechanism to prevent or punish such acts by the State.

- 10.2. Concerning ill-treatment, places of detention in the Philippines are overcrowded and in many cases the conditions therein amount to ill-treatment. Furthermore, acts by the authorities, such as the violent dispersal of demonstrators, due not amount to torture specifically under the definition of this practice, but can include severe pain and injuries as the result of excessive and arbitrary use of force on the part of riot police and other law-enforcement or security forces. The police regularly employ excessive force in dispersing protests and demonstrations, in particular those that has been unable to obtain permits under Section 4 of the Batas Pambansa (BP 880), which states that a “written permit shall be required for any person or persons to organize and hold a public assembly in a public place.”
- 10.3. It is near-impossible for victims of such excessive force to be able to register complaints and have the perpetrators of such violent ill-treatment prosecuted as the police invoke the lack of necessary permits and the like, meaning that they can get away with any violent acts that they may wish to perpetrate, which increases the likelihood that such violence will be used.
- 10.4. For example, when workers at the Chong Won Fashion Inc.¹⁸ and Phils Jeon Garments went on strike in September 2006, the police attached to the Philippine Economic Zone Authority (PEZA) police and the Rosario Municipal Police Station (RMPS), violently dispersed them causing serious injuries. When the workers tried to lodge a complaint, they end up having no choice but to file the complaint with the RMPS, whose unit was involved in the dispersal, since they had sole jurisdiction to investigate the case. When the workers registered the complaint, the RMPS refused to take action, claiming that they had no jurisdiction over the place where the incident took place, inside the PEZA compound. Those who conducted the “investigation” were members of the same unit who had violently dispersed the workers. Furthermore, while the workers’ complaint was refused, the policemen were able to file charges against the workers. Thirty two workers and organizers were charged in court and were subject to arrest on charges of direct assault and grave coercion.
- 10.5. Please see several other cases of violent dispersals in Annex II to this document.
- 10.6. **Violence and ill-treatment – the Calibrated Pre-emptive Response:** The executive branch of government has in the past unilaterally implemented rules, for example, the ‘Calibrated Pre-emptive Response’ on September 21, 2005, giving powers to the security forces in dealing with protest. When this rule came into force, persons and groups holding peaceful demonstrations were violently attacked. The police justified their actions under the new rules. The Supreme Court (SC) declared the “Calibrated Preemptive Response” rule “null and void” on April 25, 2006.¹⁹

¹⁸ Please see further details in Annex II, violent dispersals, Case No. 6

¹⁹ Supreme Court, G.R. No. 169848; April 25, 2006

10.7. **A ‘justifiable degree of force’ not defined:** the CPR was only possible due to a lack of clarity on the definitions of torture, ill-treatment, and the types of suffering allowed as part of lawful actions, including through the use of force and justifications for its use. A police colonel in General Santos City, Senior Superintendent Alfredo Toroctocon, has defended his men accused of torturing Haron Abubakar Buisan²⁰ in December 2005, stating that they were using a ‘justifiable degree of force’ in explaining the injuries Haron had suffered while in police custody even though he didn’t resist arrest or pose a threat to the arresting policemen. Toroctocon added that this type of ‘force’ could be applied as part of the Standard Operating Procedure (SOP). There is an obvious need for legislation that clearly distinguish under what circumstances can the use of force be considered just and necessary.

11. **Further issues - systematic torture of persons suspected of being rebels or terrorists:**

11.1. Any persons accused of being part of or having links with armed rebel groups or terrorist organisations are systematically tortured in the Philippines. Torture is used to force them into admitting any offence they are accused of having committed and to divulge the identities of their accomplices. This occurs to persons accused of being members of the New People’s Army (NPA), the Moro National Liberation Front (MNLF), the Moro Islamic Liberation Front (MILF) and other such groups.

11.2. The police and military prevent any persons accused of being rebels and terrorists from obtaining legal counsel. The law, the Rights of Persons Arrested, Detained or under Custodial Investigation (RA 7438), clearly stipulated the rights of persons under custodial investigation. However, these provisions are systematically and deliberately ignored particularly when the person arrested is accused to have been involved in high profile rebellion cases or acts of terrorism. For these type of persons, it is extremely difficult to have a private conversation with their legal counsel on the case or for their families to visit them at detention centers, to provide them with food and clothes.

²⁰ Please see further case details in Annex I, Case No. 13

Recommendations

1. The Government must immediately enact domestic legislation criminalizing torture that is in full conformity with the Convention Against Torture.
2. The Congress and the Senate must ensure that the pending bills, House Bill 5709 and Senate Bill 1978, are enacted and signed into law with amendments to the provisions to ensure that they are in line with international law and standards, before their present term of office expires.
3. Amendments should be made to existing domestic laws, including:
 - a. Section 2 (e) of RA 7438, to ensure stricter guidelines to evaluate the validity of waivers obtained from a person under duress;
 - b. Concerning Section 13 of the Ombudsman Act of 1989, in order to avoid lengthy delays, there should be implementing rules and guidelines concerning the definition of the need to 'act promptly on complaints.' Furthermore, there should be sanctions or punishments if the involved Ombudsman officers fail to comply with this time requirements;
 - c. Concerning Section 3, 4, and 5 of Republic Act 7309, those who file claims should not necessarily be persons convicted and subsequently exonerated from charges. Claimants should be allowed to also include person released from detention after their case has been dismissed at the prosecutor's level. The monetary compensation should be increased and the period in which claims can be filed should be extended. The documentary requirements should also be considered on a case to case basis, with a degree of flexibility being included where reasonable circumstances exist to explain the lack of certain documents, for example marriage certificates from relatives of victims who are indigenous people;
 - d. Concerning section 3 of the Witness Protection, Security and Benefit Act (RA 6981), potential witnesses or those facing threats in pursuing complaints, should be provided with interim protection, even before their cases are filed in respective courts or investigating bodies. Memorandum Circular No. 2000-008 of the National Police Commission (NAPOLCOM) should also be effectively implemented;
3. The Government is encouraged to ratify the Optional Protocol on the Convention against Torture (CAT). It should also strictly implement and set forth effective monitoring mechanisms regarding the implementation of Section 25, Rule 114 of the Revised Rules of Criminal Procedures and RA 7438.
4. There should a more transparent and democratic process in the conduct of periodic review of the Philippine National Police's (PNP) plans and programs, as provided by Memorandum Circular 2004-004 of the NAPOLCOM. The NAPOLCOM should also make public the result of this policy review to ensure transparency and accountability, as well as the public's involvement.

There should also be a review of the education and training materials used by the Philippine Public Safety College (PPSC) and the PNP Academy to ensure it includes lessons on the prohibition of torture.

5. An effective and centralized register of detainees must be developed and maintained, including those persons detained by the various national or local authorities (the Department of Justice (DOJ), which has jurisdiction over jails under the Bureau of Corrections (BuCor); the Department of Interior and Local Government (DILG), which has supervisory power over the Bureau of Jail Management and Penology (BJMP), which has jurisdiction over city and municipal detention facilities; and the provincial governments, which have supervisory jurisdiction over the provincial jails in their respective provinces, even though they are also under BJMP);
6. The Commission on Human Rights (CHR) and its regional offices should ensure that they document cases and provide assistance to torture victims, as provided for in Executive Order 163, section 3, which calls on the CHR to investigate complaints by any party concerning all forms of human rights violations. The CHR should not cite the excuse of ‘contempt of court’ and refuse to document and investigate victims’ complaints.
7. The NAPOLCOM, which has the jurisdiction to promulgate, review and amend the existing operation policies of the PNP, should conduct a thorough review to ensure that the Standard Operating Procedure (SOP), does not justify the excessive use of force by the police.
8. The NAPOLCOM should also review the PNP’s facilities to ensure that they can support an effective investigation and the storage of physical evidence relating to complaints of torture, including dead bodies from cases of suspicious death.
9. There should be more forensic pathologists, psychiatrists and other experts as well as public institutions with expertise in responding to the needs for treatment and rehabilitation of torture victims.

ANNEX I – Examples of torture cases

Case summaries

Case No. 1:

Name of victims:

Johnny Tugan, 51 years old; Malik Guinaludin; alias Espaik; alias Said; Salik Ameril, 27 years old; alias Dats; alias Patutin

Alleged perpetrators: Members of the 40th Infantry Battalion of the Philippine Army and Scout Rangers

Date of incident: From March 1 to 2, 2009

Place of incident: Barangay (village) Lomopog, Midsayap, North Cotabato

These seven construction workers had been illegally arrested and held by soldiers over allegations that they were constructing a house for a rebel leader. The workers, however, were neither working for a rebel leader nor involve in any rebel group. They are heads of families from nearby municipalities who had to work in the construction industry to earn money to support their respective families.

The soldiers arrested them on 1 March 2009 at their worksite in Barangay (village) Lomopog, Midsayap, North Cotabato. The group, all of whom are Muslims, were working for a local engineer for the expansion of an elementary school. The soldiers, who came onboard their helicopters, rounded them up towards a classroom where they were held. The soldiers had their hands handcuffed with plastic wires as they were lying down facing the ground with their hands on their backs. They were also blindfolded with adhesive tapes. While in that position, the soldiers repeatedly kicked and punched them.

One of the victims, Tugan, was kicked and hit to his left chest and back. The soldiers, questioned them to force them into admitting that they were members of a rebel group, the Moro Islamic Liberation Front (MILF), under Kumander Umbra Kato. They were not allowed to leave and were subsequently taken to a solar drier where they were drenched to a heavy downpour for about two hours. When they asked the soldiers food to eat, they were given leftovers and spoiled rice. The victims also had to eat the food on a table with their handcuffs on. They also could not sleep because the clothes they were wet and that their wrists were in pain because of the tight handcuffs.

The following day, March 2, the soldiers had their handcuffs removed, told them to eat their leftovers, once again, and later told them they could leave and go home. For about 18 hours they were not given water to drink.

Case No. 2:

Name of victim: Edgar Candule, 23 years old; he belongs to an indigenous tribe Aeta. He is presently detained at the Provincial Jail in Iba, Zambales

Alleged perpetrators: About 20 policemen attached to the Botolan Municipal Police Station (BMPS) of the Philippine National Police (PNP))

Place of incident: In Sitio (sub-section of the village) Alamac, Barangay (village) Carael, Botolan, Zambales

Date of his arrest: On 21 March 2008

On 21 March 2008, Edgar de la Cruz Candule, who belong to an indigenous tribe Aeta, was at his friend's house in Barangay (village) Carael, Botolan, Zambales, when the policemen, attached to the Botolan Municipal Police of the Philippine National Police (PNP), arrived. They were carrying long firearms and wearing full battle uniforms. Edgar's friends, who were frightened by the police's arrival, had to run in different directions leaving him behind. Edgar was also caught by surprise.

About three to five policemen collared Edgar and handcuffed him while two others were punching him on the chest one after the other. He was forced to admit he is a member of the New People's Army (NPA), an illegal armed group. After his arrest, Edgar was first taken to Municipal Police of Botolan before he was transferred to the Camp Conrado S. Yap in Iba, Zambales where he was held for three days.

While Edgar was in the police camp, the persons taking him in custody, who did not introduce their names and identity, had him subjected to questioning without the presence of his legal counsel. He was placed in a room where he was punched twice on the chest. They electrocuted his abdomen and forced him to admit that he owns a caliber .45 pistol, a magazine assembly for a caliber .45 and several live ammunitions they had seized from the house from where he was taken. Those questioning him also threatened to kill him should he deny his membership with the New People's Amy (NPA).

It was only on March 24 that Edgar was transferred to Provincial Jail in Iba, Zambales. It is learned later that he had already been charged for illegal possession of firearms, for supposedly possessing the firearms which the policemen had recovered from the house; the same firearms that the persons questioning him had forced him to admit he had owned before the prosecutor's office. However, on 1 April prosecutor Esteban Mulon Jr., had the charge against him amended from illegal possession of firearms into violation of Section 3 (b) Article 134 for Rebellion or Insurrection and Section 6 for Accessory of the Human Security Act of 2007 (Republic Act 9372).

In amending the charge against Edgar, the prosecutor handling the case, Esteban A. Mulon, Jr. resolves that;

"On 21 March 2008, said accused [Edgar Candule] conspiring with persons whose identities are unknown, did then and there, willfully and openly professing himself as a member of the New People's Army (NPA) and advocating the overthrow of the legitimate government by force of

arms using unlicensed firearms and ammunitions and by inciting others to commit acts of rebellion thereby sowing and creating a condition of widespread and extraordinary fear and panic among the populace in order to coerce the government to give in to their demands"

Case No. 3:

Name of the victim: Zosimo C. Mariado, he is presently detained at the Quezon Provincial Jail, Lucena City

Date and place of incident: On 29 November 2007 in Barangay (village) Pagsangahan, General Nakar, Quezon

Alleged perpetrators: Several soldiers attached to the 16th Infantry Battalion (IB), Philippine Army (PA). One of them was identified as Corporal Solomon Balla Velderama

Zosimo C. Mariado has been in jail for six months without having been charged in court after the soldiers had him illegally arrested and detained in 29 November 2007. He is detained at a provincial jail but there has not been a case filed against him in court. The police detaining him prior to his turn over to jail also did not release him promptly even though the charges they filed against him with the prosecutor's office should have been done in ordinary not inquest procedures.

It was on 29 November 2007 that several soldiers, attached to the 16th Infantry Battalion (IB) of the Philippine Army (PA), had Zosimo illegally arrested in Barangay Pagsangahan, General Nakar in Quezon province. One of them was identified as Corporal Solomon Valderama. Zosimo said it was around 11am that day he was at the house of his employer couple. The soldiers, wearing camouflage uniforms, were carrying long firearms, when they arrived. While they were inside the house, requested to use the kitchen to cook food for their lunch. Zosimo said that he saw two soldiers preparing for their food while the others were outside the house. They looked as if they are waiting for someone or appearing to be looking for something.

Zosimo said the soldiers had already begun questioning him, one after the other, of his personal details and his relationship with the employer couple. Later, the soldiers then started forcing him to admit he is a member of a rebel group, the New People's Army (NPA). He had also overheard from outside the room that soldiers were speaking to his employer. The couple, however, later admitted to the soldiers they had no relation with Zosimo. Upon learning this, one of the soldiers had approached Zosimo by going inside a room where he was staying and pointed his gun at him. The soldiers, who positioned themselves close to Zosimo, began hitting him to his chest and stomach with the rifle butt. This, time Zosimo was forced to admit his membership with Rebolusyonyong Hukbong Bayan (RHB), another rebel group. At the time Valderama and other soldiers had began torturing him.

Later that afternoon, the soldiers left taking only Zosimo with them. They had his hands handcuff and his eyes blindfolded while they were walking. They had walked several kilometers before reaching a place where he had sensed that a passenger jeep was waiting. Then the soldiers took him towards their detachment in Barangay Magsaysay in the municipality of Infanta of the same province. While inside the said military detachment, Zosimo recalled having been once

again subjected to questioning and torture. He was never given opportunity to seek for a legal counsel.

On the same day, Zosimo was then taken to a police station of the Philippine National Police (PNP) in General Nakar, Quezon.

From the day the police took him into custody, it is only in early December 2008 that they were able to file criminal charges of illegal possession of firearm, ammunition and explosives against him before the Office of the Assistant Provincial Prosecutor in Infanta, Quezon. It is Senior Police Officer (SPO2) Cipriano Juniosa Pujeda who had filed the charges with the Office of the Prosecutor and booked as IS Number 2007-267-I. The police' reasoning as to why they find Zosimo held accountable for possession of illegal firearms and explosives could not be immediately known. As mentioned earlier, the circumstances as to how those firearm and explosive were recovered and who owned them was never clarified. The prosecutor too has not been able to resolved and file the case in court.

Case No. 4:

Name of disappeared activist: Ruel Munasque, 33 years old, married with three children, leader of the Christian Youth Fellowship-United Church of Christ of the Philippines (CYF-UCCP), community development worker for Consortium of Christian Organizations in Urban Development (CONCORD-UCCP), organizer for political party Bayan Muna (People First) in Western Mindanao

Name of the victim released: Roger Morales, 32 years old, farmer, married with four children, a resident of Barangay (village) Mati, San Miguel, Zamboanga del Sur

Alleged perpetrators: Elements of the 53rd Infantry Battalion, Philippine Army (IBPA) under the Tabak Division based in Labangan, Zamboanga del Sur

Place of incident: At the soldier's check point in Barangay Poblacion, Dumalinao, Zamboanga del Sur

Date of incident: At around 9pm on 24 October 2007

Ruel Munasque was forcibly taken by soldiers on 24 October 2007 and disappeared while in their custody. Ruel was together with Roger Morales, a farmer, when they were taken by soldiers at a checkpoint in Dumalinao, Zamboanga del Sur. Ruel Munasque was with a colleague, Roger Morales, on their way to Tigbao town in Zamboanga del Sur on board a passenger van. At around 9pm, as they were approaching Pagadian City, the van they were riding in was stopped by soldiers manning a checkpoint in Barangay Poblacion, Dumalinao of the same province. The soldiers are attached to the 53rd Infantry Battalion of the Philippine Army. A jeep and a blue pickup truck were also seen parked close to them.

The soldiers ordered all the passengers to alight for a routine inspection. Ruel and Roger alighted and were also subjected to a body search. After the search, they were ordered to return to their van. But when Ruel was about to enter the van, one of the soldiers for some reasons squeezed hard his knee which has wounds on it. When the soldier noticed he was bleeding, they again

ordered Ruel and Roger to alight and once again searched them. This time, the soldiers took their wallets, mobile phones and other personal belongings.

The soldiers then handcuffed and blindfolded them. They also took them to a nearby place where they were subjected to questioning. The soldiers later took them onboard their jeep and traveled for about an hour. Roger recalled that he could hear music being played at the background in the place where he and Ruel were taken. While inside the jeep, the soldiers threatened to kill them if they refused to cooperate with them by clicking their guns as if making them ready to fire. They were made to choose whether they wanted to be freed, jailed or killed.

At the time, the soldiers also took with them persons in front of the victims they claimed to be rebel returnees. The victims were forced to disclose the names of their supposed rebel comrades, their connections and those who are giving them orders. At around 2am on October 25, the soldiers took Ruel to the hospital for treatment of his now profusely bleeding knee. His treatment, however, was said to be in exchange for his cooperation with the soldier. Ruel boarded a pickup truck that went in an unknown direction while Roger was left behind in the jeep. Roger was later taken somewhere with his blindfold still on where he was later released. They traveled for about an hour before stopping.

At around 4am, Roger was ordered to alight soon after the jeep stopped. But before leaving, the soldiers instructed him not to remove his blindfold until he could no longer hear the sound of their jeep's engine. Roger found himself abandoned in an intersection going to the direction of Pagadian City Integrated Bus Terminal soon after removing his blindfold. Only his mobile phone was given back to him while his other belongings were taken by the soldiers. His phone though no longer had SIM card on it.

However, when Ruel's relatives nevertheless filed petitions for writ of amparo before the Regional Trial Court (RTC) in Pagadian City, the petition was granted and Ruel produced in court on 7 November 2007. The judge, in granting Ruel's relatives' petition seeking judicial protection, also ordered his release from soldier's custody.

Case No. 5:

Name of the victim:

Luicito Bustamante (a.k.a. Yongyong), 21 years old, farmer, single, a resident of Sitio Quarry, Barangay (village) Malabog, Paquibato District, Davao City

Alleged perpetrators: A paramilitary group under the 73rd Infantry Battalion Philippine Army led by Noli Obat

Place of incident: At a checkpoint by elements of a paramilitary group under the 73rd Infantry Battalion Philippine Army in Sitio Quarry, Barangay Malabog, Paquibato District, Davao City

Date of incident: At 2pm on 27 October 2007. He was released on November 14 after being held in custody by the soldiers and paramilitary.

Luicito Bustamante (a.k.a. Yongyong) was together with two of his friends, Salazar Amad and Avelino Lorenzana, distributing election handbills on 27 October 2007 in Barangay Malabog, District of Paquibato, Davao City. At 6pm, they proceeded to Sitio Quarry of the same village where they were stopped at a checkpoint manned by a group of nine paramilitary men led by a Noli Obat.

The paramilitary men, who were in military uniform and armed with rifles, ordered them to alight from their motorcycle. Noli then questioned Lucito and his friends, demanding from each of them their names, addresses and where were heading to, to which they replied. Soon, after obtaining their names, Noli told Salazar and Avelino to go ahead leaving Luicito with them as they wanted to question him further. Noli claimed they have received reports that Luicito is a member of an illegal armed group, New People's Army (NPA).

Luicito, who was frightened at the time, begged Noli to let him go and promised him he would report to their headquarters in Sitio (sub section of a village) Balogo, Barangay Malabog. Noli however did not heed his plea and instead told him that he need not worry because nothing bad would happen to him. Noli also told him that he would be released the following day. Salazar and Avelino then offered to accompany Luicito because they feared for his safety at the paramilitary's Task Force headquarter, but Noli angrily told them that their presence is not necessary because they are not involved. However, he gave them his mobile phone number.

At about 7pm, Salazar and Avelino walked towards the center of Sitio Quarry to seek assistance from a community leader, Hilario Etole. Hilario accompanied them when they went back to the checkpoint. There they saw Luicito being held by Noli and other members of the paramilitary. When Hilario asked the Noli reason why they are arresting Luicito, Noli arrogantly told him: "Don't meddle in this, or you'll be implicated!" Hilario nevertheless did not insist because he knew Noli had a record of committing abuses in their community. He also often harassed villagers that he suspected of being members and sympathizers of the NPA.

Then Luicito's elder sister arrived. She tearfully begged Noli to release her brother. She also told him that she had already informed the police about the incident but Noli bragged he was not afraid of them. They later took Luicito towards Sitio Balogo where their detachment is located. Later that night, a witness saw the paramilitary groups inside the detachment covering Luicito's head with a balaclava. He was then taken by a black motorcycle together with two other persons. Three other men riding on another motorcycle were also seen escorting them. Luicito would only be seen ten days later.

At around 8pm, Salazar and Avelino went to the Philippine National Police (PNP) station in Barangay Malabog to report the incident.

On October 28, Luicito's relatives and neighbors formed a group to locate him. They went to the headquarters of the 73rd Infantry Battalion, Philippine Army in Paquibato District. When they arrived at the headquarters, they were prevented by a soldier from entering the premises of the camp. They were also told that Luicito was not in their custody or inside.

On November 8, when the petition for writ of amparo the victim's family was heard at the Regional Trial Court (RTC), Branch 11, in Davao City, RTC Judge Isaac Robillo, Jr. granted to hear the petition for the writ of amparo and issued a court order which was served by Sheriff Sergio Tupas to Noli Obat at the Task Force detachment. When they arrived at the detachment, there they saw Luicito guarded by five military men.

On November 14, at around 2pm, Judge Robillo conducted a summary hearing at the Regional Trial Court XI Branch 13 for the petition of the writ of amparo filed by the victim's mother Bebelita Bustamante. The petitioner's counsels, requested that the victim be presented before the court. Judge Robillo granted the request despite objections from the representatives of the Office of the Solicitor General arguing that they still had clarificatory questions. The petitioner's counsels however raised the possibility of coercion the victim may have suffered in questioning the veracity of the supposed affidavit he had executed in the custody of the paramilitary and soldiers.

In the presence of the respondents, Luicito at first chose to remain with his captors when asked by Judge Robillo whom does he wanted to take custody of him. But soon after the petitioner's counsels spoke to him privately outside of the courtroom and explained properly to him the nature of the relief for protection granted by the court, Luicito changed his mind and decided to go with his mother.

Only after his release was Luicito able to disclose the nauseous and brutal torture he had experienced while in custody of the soldiers and paramilitary. He was beaten, hogtied, his head was tightly wrapped with plastic bag, he was beaten with a rifle butt and his skin were burned with cigarette butts. In one incident, Luicito had been forced to swallow his own feces after he urinate and defecated in his pants due to severe beatings. They also had his head wrapped with a plastic bag laced with hot pepper which had caused severe burning sensation to his nose, eyes and face, while he was having difficulty of breathing.

Case No. 6:

Name of the victim: Mr. Oting Mariano (21), a resident of Barangay (village) Kadiis, Carmen, North Cotabato

Alleged perpetrators:

1. Several policemen attached to the Philippine National Police' (PNP)'s regional office of the Autonomous Region of Muslim Mindanao (ARMM)
2. A senior police officer named Sanchez. He was the one who took the victim to the provincial detention facility on January 19 in Amas, Kidapawan City

Date of incident: On 13 January 2007

Place of incident: Poblacion (downtown) Carmen, North Cotabato

Oting Mariano is the resident of Barangay Kadiis, Carmen municipality, North Cotabato province. Oting said at around 2 to 3pm on 13 January 2007 he was forcibly taken into a white van by four unidentified men at a public market as he was waiting for public transport. Inside the

vehicle, he was handcuffed and blindfolded with a piece of cloth while his mouth was wrapped with packing tape. He was punched several times on his chest and back.

The van stopped after several hours of travel. Oting's blindfold was replaced with a rubberized material and he was brought inside a secluded room. There Mr. Mariano was interrogated and forced to admit that he was Commander Kule Mamagong of the Moro Islamic Liberation Front (MILF). Whenever he denied the accusation, Oting was electrocuted by means of wires placed on the sides of his head and arms.

Oting's head was wrapped with cellophane or dipped into water and removed only when he was about to faint through suffocation. He was also deprived of regular food and after a few days. Oting said the abductors also threw him into a shallow grave in order to threaten him with death. He was later removed from the grave. After being subjected to illegal detention and brutal torture for seven days, he was taken to the North Cotabato Provincial Detention and Rehabilitation Center at Amas, Kidapawan City by a senior police officer named Sanchez on 19 January 2007.

He was held there until he was ordered released on September 20 following the prosecutor's office decision to dismiss the case against him. Based on the court documents, Oting was allegedly implicated as being Commander Kule Mamagong, who has had pending criminal charges for murder in Kidapawan City.

On March 14, when Mariano was arraigned for the charges filed against him, in open court, he insisted his innocence. This prompted the presiding Judge to order prosecutor to conduct a reinvestigation on the case. For several months past the prosecutor however failed to submit his reinvestigation report promptly. Mariano was a victim of mistaken identity, that he was abducted and subsequently tortured by the arresting police officers to force him into admitting he was Commander Mamagong.

Only in September 20 was Mariano released from detention following the prosecutor's office decision to dismiss the case against him. Mariano was released from the North Cotabato Provincial Detention and Rehabilitation Center at Amas, Kidapawan City where he was detained since January 19. The victim is contemplating to file appropriate charges against the police officers involved in arresting and torturing him.

A local group helping the victim, Task Force Detainees of the Philippines (TFDP), has informed that they did make effort to assist the victim for the prosecution of his case in court. However, when the case was about to be pursued for prosecution, there were issues regarding the jurisdiction of the court on who should hear the case, and also, the burden to identify the perpetrators cast upon the victim before the case could be filed in court; however, since the victim himself was unable to identify them it prevented them from filing any complaints against the perpetrators.

Also, the local group has had to assist Oting into obtaining counseling and other treatment for his recovery.

Case No. 7:

Name of the victim: Gilbert Rey Cardíño (a.k.a. Jing); aged 27; He has one child; National Council Member of a political party Bayan Muna (People First) and its provincial chairperson in South Cotabato, Mindanao

Alleged perpetrators: Five men riding on a white van with no license plate number. One of them wears black long sleeves marked with "POLICE" on the back.

Place of incident: At the intersection in Barangays Sto. Niño and New Pangasinan in Barrio Dos, Koronadal City

Date of incident: From 6 to 8 June 2007

Gilbert Rey Cardíño had been forcibly abducted and disappeared in Koronadal City on 6 June 2007. As he was on his way to his office, a white van suddenly blocked the motorcycle rickshaw he was riding in at an intersection. Five men reportedly emerged from the vehicle and forcibly dragged him into their van. Two witnesses described the perpetrators as having short haircuts similar to that of soldiers while another one was wearing a black, long sleeve jacket marked with "POLICE" on the back. The vehicle, a Mitsubishi L-300 van model, was last seen heading towards direction of nearby General Santos City.

Two days later, at 11:00am on June 8, Cardíño was released near his house in Barangay (village) New Pangasinan in Koronadal City. Cardíño was supposed to appear in public, in particular with the media, but was not able to do so as his condition is still being evaluated and observed at the South Cotabato Provincial Hospital where he is confined. Cardíño was met by his family at the hospital after his release. A local politician and a priest were able to rescue Cardíño reportedly after a negotiation for his release and have placed him under their protective custody.

Cardíño was barefoot, completely exhausted and unable to talk. He was still in a state of shock. The physicians evaluating his health condition ordered him to take a complete rest. Cardíño underwent medical examination and was treated for stress at the hospital. It is also reported that Cardíño appeared to have been deprived of food and sleep during his two days in captivity.

It is later learned that the Provincial Prosecutor Alfredo Odi has already sent subpoena or notices to Gilbert Rey Cardíño and his colleagues to answer charges of Rebellion against them by the CIDG XII. It is alleged that the CIDG's charges stemmed from Cardíño and his colleagues alleged supposed involvement with the Communist Part of Philippines (CPP) and a rebel group, New Peoples' Army (NPA).

Although it is not clear so far whether or not the CIDG XII had any involvement into Cardíño's abduction on June 6, there are serious concerns that the filing of charges could be a result of Cardíño's refusal to spy for his abductors. When Cardíño was abducted and in captivity, his abductors, who are believed to be policemen, had already warned him he would be charged should he refuse to cooperate with them. They also threatened to harm him and his family.

Case No. 8:

Name of the victims: Thos Ulimpain; Nasser Mendo, Both are residents of Barangay (village) Malingaw, Midsayap, North Cotabato.

Alleged perpetrators: Several military men attached to the 6th Infantry Battalion (ID), Philippine Army (PA) located in Cotabato City

Place of incident: At the victims' place

Date of incident: At around 5:00am on 3 May 2007

Thos Ulimpain and his cousin, Nasser Mendo had been arrested by combined elements of the military attached to the 6th Infantry Division (ID), Philippine Army (PA) on 3 May 2007. Thos and Nasser had allegedly been under surveillance by the Armed Forces of the Philippines' (AFP) Military Intelligence Group (MIG). However, their arrest was a result of what could be have been a flawed intelligence report the soldiers had received from their agents.

Ulimpain and Mendo were inside their house in Barangay (village) Malingaw, Midsayap, when several soldiers arrived and surrounded their house. Soon after, they ordered the two men to come out. The soldiers, without offering any explanation to the victims, immediately searched their house. Neither did they produce any warrants. The victims were handcuffed, blindfolded and forced to the ground. The soldiers claimed to have recovered a 105mm howitzer round inside the house, which the victims had no knowledge of. They claimed their innocence and insisted the ammunition recovered had been planted.

The soldiers nevertheless took the two men, at around 8:30a.m., to their headquarters in Awang, Cotabato City. Upon their arrival at the camp, they were separately taken to a secluded room, still handcuffed and blindfolded. While they were being questioned the two men were brutally tortured and subjected to several interrogation techniques. They repeatedly hit on different parts of the body every time they refused to answer a question.

According to Mendo he was sitting on a bench when about ten persons surrounding him, interrogated him. He was forced to admit they owned the 105 howitzer round that was supposedly recovered from their house. They also forced him to disclose names of supposedly Moro Islamic Liberation Front (MILF) rebel group members known to him, and those who are supposedly engaged in plotting bomb attacks within Central Mindanao, in particular in Cotabato provinces.

Every time Mendo resisted and refused to provide information they repeatedly hit him with a hard object on different parts of his body, in particular on his back and chest. They also subjected him to suffocation with a plastic bag. Due to the severe beating and torture inflicted on him, Mendo was forced to admit owning the 105mm howitzer round, supposedly recovered from their house. He was likewise forced to provide fabricated names of MILF members.

On the other hand, Mendo's cousin, Ulimpain said some of his personal belongings were confiscated, including his mobile phone and cash. He was dragged along and made to sit on the cement floor, still handcuffed and blindfolded. While blindfolded, he believes that the person questioning him was reading the incoming SMS messages of his mobile phone. Also, the said

interrogator had asked of the sender's background. They were asked whether they were involved with the MILF and another illegal armed group, Jemaah Islamiyah (JI). Every time Ulimpain denied any knowledge to any information his interrogator was asking, they repeatedly kicked and hit him on his chest and back. He frequently lost conscious during the ordeal.

From May 3 to 5, they are not given any food while in custody at the military headquarters. They were later turned over to Police Precinct No. 1, supposedly in Cotabato City where they were detained. On May 7 they were taken to the North Cotabato Provincial Detention and Rehabilitation Center in Amas, Kidapawan City where they are presently detained.

It is reported that two victims had been facing charges for frustrated murder before the Regional Trial Court (RTC), Branch 22 in Midsayap, North Cotabato.

Case No. 9:

Name of victim: Mr. Fernando Tawagon, resident of Barangay (village) Biga, Gumaca, Quezon
Alleged perpetrators: Members of 76th Infantry Battalion in Barangay (village) Villa Principe, Gumaca, Quezon

Period of incident: from 4 April 2006 to date

Victim currently detained at: Quezon Provincial Jail

Fernando Tawagon had been arrested without warrant by the Army's 76th Infantry Battalion in Barangay (village) Biga, Gumaca, Quezon on 4 April 2006, Fernando was alleged to be a member of New People's Army (NPA) and charged with rebellion. Fernando was with his friend Leody Andal and certain Eduardo. Tawagon was arranging a cart while the soldiers asked him and his friends several questions about the NPA presence in the area. Tagawon then went to the farm to collect coconuts.

At around 1:30p.m., Tawagon came back to the house for another cart to collect the coconuts. The soldiers came back again and asked him whether he saw a compass they lost, a soldier later told him that the compass was found. Tawagon then left the house for work. However, he noticed the same group of soldiers was trailing him after he left the house; they also shouted at him to keep on walking towards the woods. Tawagon finally got closed to an area where another group of soldiers were waiting. The soldiers then ordered him to stop and asked him if he had seen NPA rebels in the area. Tawagon said he knew nothing about the presence of NPA, but the soldiers accused him of covering up the NPA rebels. After interrogation, the soldiers told Tawagon to stay with them.

Another group of soldiers arrived at 5:00p.m., and one of them suddenly pointed his gun at Tawagon, punched and kicked him in different parts of his body. Another three soldiers joined. When the soldiers got tired, they tied his wrists behind his back with a rope, and blindfolded him with a worn out sock and handkerchief. He was then allegedly brought to the Army's 76th IB camp in Barangay Villa Principe, Gumaca, Quezon.

On April 6, Tawagon was brought to the Bureau of Jail Management and Penology (BJMP)-Gumaca, Quezon, where he was further tortured. He was allegedly blindfolded, his wrists were tied behind his back, and his head was covered with cloth. He asked his captors to untie the rope on his wrists, but instead a police officer approached him, threw a handcuff on him and beat him.

On the same day, the 76th IB soldiers allegedly brought Tawagon back to their camp in Barangay (village) Villa Principe in Gumaca, Quezon. Tawagon was then interrogated in a nipa hut with little ventilation, with his hands tied behind his back. Tawagon recalled that during his four months illegal detention in the camp, he was denied of sleep, and deprived of food and medicines.

Days before he was brought to the Regional Trial Court (RTC) Branch 61 in Gumaca, Quezon, Tagawon was allegedly forced to sign on a blank piece of paper purportedly to be used in clearing his records as NPA member when he was submitted to a medical checkup at a nearby hospital. On 7 August 2006, Tawagon was brought to the Quezon Provincial Jail where he is still detained.

Case No. 10:

Name of the victim: Don Bon Diego Ramos (16), a resident of No. 3 Mamerto District, Rosario, Pasig City, Metro Manila

Alleged perpetrator: Cesar Zamora, a member of Barangay (Village) Security Force, a village militia organised by the Barangay government of Maybunga, Pasig City

Place of incident: Barangay Mabunga, Pasig City

Date of incident: 14 August 2006 at past 12mn

Don Bon Diego Ramos was severely beaten by a village militia after arresting him in Barangay Maybunga in Pasig City, Manila on 13 August 2006. Ramos was walking on his way home after watching a concert when the perpetrator, Cesar Zamora, repeatedly hit him with a club and forcibly dragged him towards a truck. Zamora, a member of the Barangay Security Force, and his companions and several policemen were at the time arresting and rounding up persons in the concert for public disturbance.

Zamora started beating Ramos when he resisted arrest and started to question as to why he was being arrested. When Ramos asked Zamora: "Bakit n'yo ako hinuhuli (Why are you arresting me?)" he was repeatedly beaten hard with a wooden club instead of receiving an explanation. Ramos suffered injuries to his chest, right thigh and stomach. Zamora also threatened Ramos by preparing firearm he was carrying if Ramos refused to come. Despite a heavy downpour they hurled Ramos into a truck that had no top cover.

It was not only Ramos that was forcibly arrested and taken towards the Barangay Hall at the time. At least eleven others, some of them are minors, were also taken for custody and questioned. It was reported later that they were arrested and taken for questioning due a complaint by residents because of the loud noise the concert was causing. The village militia said

that the concert Ramos and others had watched to had no permit. They threaten to charged Ramos and others for public alarm and scandal and for violating the village curfew. However, were later released after almost five hours in custody.

Although some of those arrested were minors, the village militia did not properly inform their parents that they were holding them in custody. They also failed to either provide medical treatment or take Ramos anywhere for his injuries. While in their custody, they would not even provide ice cubes or alcohol as first aid treatment for the victims. Not only did the village militias and policemen assault Ramos, but also an unnamed teen that protested about the mishandling of his friends when they were arrested was also slapped hard. The policemen were heavily armed when they arrested the teens.

Ramos and his companions were released at 5:00 a.m. that day and Ramos then proceeded to a public hospital where he had his injuries examined. The next day, August 14, he was accompanied by his mother, Maria Ellenor Magdaraog, to make a complaint at the Barangay (village) Hall. But the village officials instead, in particular Christopher Tillo, who heads the Peace and Order Committee and was supervising the operation of the militias, allegedly attempted to exonerate Zamora of the incident. Tillo defended Zamora claiming that it was the policemen who had beaten Ramos. Zamora is Tillo's subordinate as a member of the security force. They also insisted that it was Ramos who started assaulting his men and among those who made trouble prompting his men to arrest him.

Case No. 11:

Names of the victims: Riel Custodio, peasant organiser of the organization "Kalipunan ng mga Magsasaka sa Kabite (Kamagsasaka-Ka or Farmers' Federation in Cavite)" in Cavite province; Axel Pinpin, peasant organiser and works at the same organisation as Riel; Enrico Ybanez, civilian, resident of Barangay Tolentino, Tagaytay City; Michael Mesias, civilian, resident of Barangay Tolentino; Aristides Sarmiento

Date of incident: 28 April 2006 at 7pm

The five victims were first reported to have been missing on April 2006. However, it was later discovered that the police had actually abducted and kept them in incommunicado detention. Three of them, Riel, Axel and Aristides, were members of the "Kalipunan ng mga Magsasaka sa Kabite (Kamagsasaka-Ka or Farmers' Federation in Cavite)," advocating for the welfare of farmers, while the two others, Enrico and Michael, were ordinary persons.

Those who forcibly took them into custody were members of the Philippine National Police (PNP) attached to the Cavite Provincial Police Office (CPPO), Police Regional Office 4 – Regional Intelligence and investigation Division (PRO4 RIID), Cavite Police Provincial Mobile Group (PPMG-Tagaytay) and the Armed Forces of the Philippines (AFP)-Philippine Navy Intelligence and Security Force (NISF).

For seven days following their arrest, their respective families were not properly informed of their whereabouts or that they were being held in police custody. From 28 April to 2 May of 2006, they were kept blindfolded and their hands were tied behind their backs. They were also questioned without their legal counsel, as well as physically harmed and threatened with electrocution and death. They were also taken to various military and police camps and safe houses. One of them, Aristides, suffered a second degree burn to his right leg that healed only four months later.

They were charged for supposedly having been involved in an illegal armed group, the New Peoples' Army (NPA), and were allegedly deployed to destabilize the government at the height of a massive protest on May 1 of that year. The manner in which the charges were filed, however, was questionable. For instance, the charges of rebellion were filed May 3 beyond the prescribed period, and the prosecutor from Tagaytay City prosecutor's office has neither seen them himself or questioned the accused during the inquest he conducted. Thus, there was actually no real inquest proceeding held.

Not only was the inquest proceeding not proper, there was also no preliminary investigation conducted into their case. In this case, since the filing of charges exceeds the prescribed period under the inquest rules, they should have been afforded a preliminary investigation, which means that they should have been released within 36 hours from the time they were taken into custody. However in their case, neither a real inquest nor a preliminary investigation was conducted, yet the accused have had to endure the trial of their case despite the questions of legality in the filing of it.

Apart from the questionable filing of charges, the PRO4 RIID filed charges of murder at the Batangas Prosecutor's Office in May 2006 against one of the accused, Aristides. The complaint, however, was later dismissed on September 2006 following three hearings at the Prosecutor's Office "for lack of evidence".

When the accused were presented to the public and before the media on 1 May 2006, the policemen arresting them prematurely claimed, even before the filing of a formal case in court and before their case was concluded, that they were members of the illegal armed group. While the accused were in police custody, their custodians also forced and threatened them in an attempt to make them admit their supposed membership with the NPA.

From the time the case was filed, the five accused have not been arraigned until 16 June 2007 because their case suffered repeated delays. For instance, the accused filed a motion to quash the charges against them, which only reached a conclusion on 20 February 2007 denying their petition, nearly a year after the motion was filed.

Even before the five accused were arraigned, there have been repeated postponements to their scheduled arraignment and court hearings-for instance, their scheduled 17 October 2007 arraignment was canceled because the judge had to attend a seminar. The court also canceled the hearing on 25 June 2007 because it needed to give priority to election-related cases. This

happened despite the order given by Judge Larida, Jr. himself to consider the case an “utmost priority”.

Moreover, the accused, in seeking for temporary liberty through a bail application, had to submit themselves for an arraignment procedure even without their pending petition for transfer of the hearing of their case resolved to avoid further delays in their case. They pleaded not guilty.

However, when their application for bail was heard on July 4 of this year, the scheduled afternoon hearing was once again postponed because the judge fell ill. The prosecution panel, too, has not been able to prepare for the said hearing. The next bail hearing, scheduled on July 11, also did not complete after the judge ordered for the suspension of the hearing because the accused legal counsel made an oral argument to, once again, seek the dismissal of the charges after he found them questionable in nature.

On August 20, it was only yesterday afternoon (the 28th) that the detainees were released from police detention. Also, it was only yesterday morning that their relatives were informed of the court's decision. In the court's ruling, Regional Trial Court (RTC) Judge Edwin Larida Jr., rejected the prosecutors argument they should be able to pursue the prosecution of the detainees for a crime of Rebellion for possessing alleged subversive documents when police arrested them on 28 April 2006.

The court ruled it cannot allow the indictment for Rebellion by using the alleged subversive documents as their evidence. Subversion is no longer a criminal offense in the Philippines; thus, the detainees cannot be prosecuted for Rebellion by using the evidence of possessing subversive documents.

Case No. 12:

Name of victims: Rundren Berloize Lao of Gerona, Tarlac; Anderson Alonzo of Calinan, Davao City; Aldo Christian Manosa of Sampaloc St., Santolan, Pasig City; Ron Pandino of Barangay Mayatba, Siniloan, Laguna; Ray Lester Mendoza of Barangay Rizal, Makati City; Jethro Villagrancia of Calinan, Davao City; Neil Russel Balajadia of Santolan, Pasig City; Darwin Alagar of Urdaneta City, Pangasinan; Arvie Nunez Barangay Silangang Mayao, Lucena City; Jefferson dela Rosa of Santolan, Pasig City; Frencess Ann Bernal of Calumpang, Marikina City

Name of alleged perpetrators: Elements of the 1604th Police Provincial Mobile Group (PPMG) headed by Police Superintendent Brent Madjaco, elements of the 3rd Company of Police Regional Mobile Group (PRMG) headed by Police Senior Inspector Joseph Paolo Bayungasan and unidentified military agents

Date of incident: 14 to 16 February 2006

Place of incident: Abatan, Buguias, Benguet

The eleven victims hitched a ride on a dump truck on their way to Sagada, Mountain Province. When they reached Abatan, Buguias, Benguet, they were stopped by policemen allegedly

attached to the Provincial Police Mobile Group (PPMG) and the Regional Mobile Group (RMG) of Benguet who at the time were stationed at the checkpoint.

The policemen were heavily armed and wearing complete battle suits. They ordered the victims to get down from the dump truck. They were then ordered to kneel down and their backs and were kicked with such force that they all fell face-first to the ground. The policemen started severely beating them one after the other and threatened to kill them. The police confiscated all their belongings. Every time the police noticed any movement from the victims, they were punched, kicked and hit. One of the victims was forced to kiss the mouth of a policemen's dog.

They were later taken to the camp of the 1604th Police Provincial Mobile Group (PPMG) where they were allegedly severely tortured further. They were beaten on different parts of their body, exposed under the heat of the sun and had their hands tied behind their backs. They were also blindfolded, beaten in the genitals and threatened with death. Some of the victims were thrown into a pit and had soil, garbage and other matter dumped over their heads. They were electrocuted, stepped on and their fingers were squeezed with bullets inserted between them. Others were suffocated with plastic bags or had their heads forced into pails of water. Buckets were also hung on their heads and water was poured into them. They were also forced to strip naked, at which point they had freezing water sprayed on them.

It is reported that the victims were tortured to force them into admitting responsibility in a raid of a military camp in Cabiten, Mankayan, Benguet on 10 February 2006. A rebel group, however, had already admitted responsibility to the said raid. While in police custody, four of the victims were handcuffed and ordered to sketch the supposed battle area. The police forced them to guide them in locating the supposed hidden firearms. They were forced to trek a mountain where the supposed firearms are hidden. When the police failed to find any, they tortured the victims further.

A day after their ordeal, the victims were turned over to the Benguet Provincial Jail where they are presently detained.

All of the victims are facing alleged fabricated charges of robbery with homicide in connection with the raid of a military camp in Cabiten February 10. The preliminary hearing is scheduled on 21 March 2006.

On May 19, the Regional Trial Court (RTC) in La Trinidad, Benguet ruled the arrest of the 11 victims illegal. In a separate newspaper report, Judge Agapito Laoagan Jr. ruled the "warrantless" arrest by the police as illegal as it did not fall under the principle of a "hot pursuit" operation. Under arrests made by virtue of "hot pursuit" operations, warrants may not be required. Further, the arrests should be made within hours from the commission of the crime. Judge Laoagan also further stated that the arresting police officers were not present and were not the actual eyewitnesses to the crime.

On 20 December 2006, the victims had been released after the court dismissed the criminal charges the police filed against them for lack of evidence. While all the victims have already

been cleared of the false charges against them, the complaint they filed against the police, military and militia forces involved in their arrest, detention and subsequent filing of charges have not been withdrawn.

The Office of the National Police Commission (Napolcom) and the Office of the Ombudsman for the Military and Other Law Enforcement Office (MOLEO) who earlier received the complaints the victims filed against the government security forces involved have yet to decide on the matter.

Also, the result of investigation into the attempt made on the life of one of the inmates, Jefferson dela Rosa, is not yet known. Although the court have had the sworn statement issued by dela Rosa in May 2006 regarding the plot to kill him and his colleague, Rundren Berloize Lao, no concrete results have been seen in the matter. The identities of the persons who tried to kill him and his companions while inside the jail remain unknown. No appropriate action was also taken against dela Rosa's fellow inmate, William Pangan, who allegedly attempted to stab him on 28 July 2006.

Case No. 13:

Name of the victim: Haron Abubakar Buisan (25), living in Purok Darusalam, Barangay Bawing, General Santos City. He works as a motorcycle driver. He is presently detained at the General Santos City Reformatory Center (GSCRC).

Alleged perpetrators: Special Weapons and Tactics (Swat) team and several policemen attached to the General Santos City Police Office (GSCPO)

Date and place of incident: 12 December 2005 along the highway in Barangay (village) Bawing, General Santos City

Haron Abubakar Buisan had been tortured following his arrest over mistaken identity on 12 December 2005 in General Santos City, Mindanao. While in police custody, Buisan was repeatedly kicked, beaten all over his body with stone and detained at the General Santos City Police Office (GSCPO) headquarters for three days without charges.

The police insisted that Buisan and a person named Ariel Bansalao, a person who is wanted for robbery charges, is the same person. This, however, was completely denied by the victim's family. The victim was allegedly tortured into admitting he is Ariel Bansalao. It is also reported that the police' witness against him is not physically fit and could not even speak. There are also attempts by the police authorities to hush-up the allegations of torture.

There is no transparency among the local police authorities and the court. Although the police claimed that Buisan have had his medical examination, the victim's family was refuse a copy of the result. The family's petition before the Regional Trial Court (RTC) Branch 36 in General Santos City to have him examined by a private physician was also denied. The court is also reluctant to provide court documents on the victim's case to his family and the human rights group helping him.

On 12 December 2005, at around 6pm Haron Abubakar Buisan was riding on a motorcycle together with three other persons when policemen attached to the General Santos City Police Office (GSCPO) reportedly intercepted and subsequently arrested them. They were on their way to General Santos City from a nearby town, Maasim, Sarangani when the incident took place.

The policemen, some in plain clothes while others wearing black jackets with prints of SWAT (Special Weapons and Army Tactics) on it, took the four men to their headquarters on their service vehicle. At the time of arrest, the police did not present any warrant of arrest to Buisan and his companions. They were likewise not informed of the charges against them. It is said that Buisan was brutally tortured while on their way to the headquarters. He was repeatedly kicked and severely beaten all over his body and face with a stone.

Upon reaching the police headquarters, the police later released Buisan's three companions without charges while Buisan was retained in custody. He was detained for three days without any charges at the Camp Fermin G. Lira – the police headquarter. He was allegedly tortured to force him into admitting that he is Ariel Bansalao, a man wanted for robbery. Buisan was later transferred to the Pendatun Police Station and later remanded to the General Santos City Reformatory Center (GSCRC) after a petition of habeas corpus was filed in court by his family.

On December 23, the petition for habeas corpus was heard. Judge Isaac Alvero Moran of the Regional Trial Court (RTC) Branch 36 reportedly denied the petition and pushed through with the filing of robbery charges and illegal possession of firearms against Buisan – in connection with a bus robbery in Barangay Katangawan, General Santos City in December 2004. The victim's family, however, completely denied his involvement claiming it is a case of mistaken identity.

According to the source, during the hearing of habeas corpus, GSCPO director Senior Superintendent Alfredo Toroctocon and Judge Moran were seen together with the witness against Buisan. It is said that the court may have acted on filing the charges against Buisan based on the witness' facial gestures, which was unclear whether it implies his involvement to the crime or not. The witness is reported to have previously suffered from a state of coma. He is said to be physically unfit and could not speak.

The victim's family has again filed another petition to have Buisan examined by an independent and private physician before RTC Branch 36 which was denied. Although the police claimed that Buisan have already been examined by physician they have refused to furnish the result to his family. Thus, suspicions are growing that the victim may have not been examined by doctors while in police custody or before he was remanded to the GSCRC. The police authorities also refused to turn over Buisan's motorcycle, bearing license plate number MK 4266, even though the confiscation is not connected with the charges he is facing.

Case No. 14:

Name of the victim: Wenifreda Marigondon (26); presently detained in Quezon Provincial Jail in Lucena City

Alleged perpetrators: Elements of the 76th Infantry Battalion (IB), Philippine Army headed by Lieutenant Juanito Paraso

Date of her arrest: November 25, 2005 in Barangay (village) Plaridel Ilaya, Plaridel, Quezon

When Marigondon was arrested, the military showed no warrant for her arrest. Marigondon was forcibly dragged out of her house. While outside the house, Lt. Juanito Paraso, who headed the military detachment, angrily yelled at her “wag ka nang patanong-tanong kung anong kaso mo, may warrant ka! (No more questions about your case, you have [arrest] warrant).” She was then reportedly transported in a military van by the soldiers to the headquarters of the 76th IB in Barangay Villa Principe, Gumaca, Quezon. When Marigondon confronted the soldiers onboard as to why she was being arrested, she was told that they need to bring her to a hospital since they knew she was pregnant.

Marigondon was held at the military headquarters until 30 November 2005. While in their custody, she was intimidated and interrogated. It is believed that she was threatened with death unless she agreed to join the Civilian Auxillary Force Geographical Unit (CAFGU) – a paramilitary force – and join in counter-insurgency activities for the military. It is alleged that she was repeatedly verbally abused by Lt. Paraso, as well as being deprived of sleep, food and medicines. Although a doctor had given her medical attention and prescriptions for medicine for her pre-natal care, the soldiers only allowed her to take her medicine on condition of disclosing information about her alleged NPA comrades.

Before Marigondon was taken to Southern Luzon (SOLCOM) Command Hospital at Camp General Nakar in Lucena transferred her from Calauag Municipal Jail to Lopez Municipal Jail – both of these towns are in Quezon. Marigondon gave birth at the Solcom Hospital on December 22. Since she gave birth, she has not been provided with adequate medical attention and facilities.

After she had given birth, Lt. Paraso visited her in hospital on several occasions where Marigondon remained under arrest. Marigondon reportedly suffered bleeding when she was interrogated and intimidated by Lt. Paraso in hospital. On 27 January 2006, in spite of her unstable physical condition, she was forcibly taken out of hospital despite continuous pleadings to Lt. Paraso for her to be allowed to stay in hospital until she had recovered. She was taken back to the camp of the 76th IB in Barangay Villa Principe, Gumaca, Quezon.

She was reportedly detained at the military camp in an over crowded cell, with little ventilation, in conditions that amount to ill-treatment. Marigondon was never allowed outside of her cell during her detention and she was not allowed to talk to her relatives.

Throughout this time, she was reportedly being forced under duress to join the Civilian Armed Forces Geographical Unit (CAFGU) and to be a speaker for the counter-insurgency campaign being organised by the military in village assemblies.

After more than eight months in detention, Marigondon was still not aware of the charges against her that were motivating her detention. All that she knew was that she was accused of being a

member of the rebel NPA group, along with two other persons, Ka Roger and Jose Maria Sison. It was only in the first week of April 2006 that she was finally taken to the Regional Trial Court (RTC) Branch 62 in Gumaca, Quezon for the preliminary trial of her case, at which time she found out that she was being charged with rebellion. Furthermore, Marigondon was not provided with access to legal counsel for the first five months of her detention.

On July 17, 2006, the Court ordered the transfer of Marigondon from the military's custody to the Quezon Provincial Jail in Lucena City, where she is presently being detained. Her seven-month old son is living in Lucena City under the care of her aunt. It is reported that Marigondon has been suffering from intermittent cold and fever. Her health condition has been affected by a lack of nutrition and medical facilities and there are concerns for her physical integrity as a result of this.

Case No. 15:

Name of the victims: Michael Bautista (22) and Benjamin Agustines (19), both residents of Dagohoy Paradise, Barangay Dadiangas North, General Santos City, Mindanao. They are laborers at a public terminal.

Date and place of incident: 31 October 2005, at around 2:00 a.m. along the national highway in Barangay Dadiangas North, General Santos City

Alleged perpetrators: Elements of the Joint Task Force GenSan (JTFG) attached to a checkpoint at the national highway in Barangay Apopong.

Michael Bautista (22) and Benjamin Agustines (19), both laborers and residents of Dagohoy Paradise, Barangay Dadiangas North, General Santos City, Mindanao, were severely beaten allegedly by a member of the Joint Task Force GenSan (JTFG), a military contingent assigned in the city. It was reported that one of the victims, Bautista, suffered cuts on the head after he fell onto a cemented road after being repeatedly beaten by the perpetrator.

When the two victims were taken into a military detachment at the National highway in Barangay Apopong, General Santos City purposely for custody, two unnamed companions of the perpetrator did not even intervene to prevent their fellow soldier, who at the time was torturing the victims. The victims were then taken to Makar and San Isidro police stations, both in General Santos City, where they were briefly detained without charge. Although the police authorities are aware of the incident, no investigations have been conducted to identify and prosecute the alleged perpetrator and his accomplices. Also, no legal assistance has been afforded to the two victims although they express interest in pursuing the matter. It was also reported that the no medical assistance was afforded to the victims, in particular to Bautista, who could not even afford to pay P80 (USD 1.5) to claim the result of his medical examination from a public hospital.

Case No. 16:

Name of the victims: Adreano Otida (39), Joseph Otida (24), Malaquias Sampan Jr. (45) and Joshua Bustillo (28), all are residents of Barangay Langtud, Laak, Compostela Valley Province.

Date and place of incident: April 1, 2005, in Sitio Binagyo, Barangay Langtud, Laak, Compostela Valley Province

Alleged perpetrators: About ten members of the 60th Infantry Battalion, Philippine Army, led by Lt. Oscar Blanza stationed in Doña Andrea, Asuncion, Davao del Norte

On 1 April 2005, Adreano Otida, Joseph Otida, Malaquias Sampan Jr. and Joshua Bustillo were arrested in Sitio Binagyo, Barangay Kilagding, Laak, Compostela Valley Province by members of the 60th Infantry Battalion led by Lt. Oscar Blanza.

According to Adreano, he and his three relatives spent the day at a house in the area to help another relative harvest corn the day before the incident. At approximately 7:00 a.m. on April 1 on their way home, they were stopped by about 10 men wearing military uniforms. The soldiers questioned their presence in the area. They ignored the farmer's explanation, however, and falsely accused them of being rebels.

One of the victims, Joseph, was tortured upon their arrest. His face was kicked while he was lying on the ground, his spine was stamped on several times and his arms were twisted behind his back. A gun was also fired near his right ear. The four men were brought to Barangay Kilagding and presented to the people. The military asked the residents of Kilagding if they knew them. Although the people recognised them as local farmers, the soldiers ignored their responses.

At about 2:00 o'clock in the afternoon, they were brought to the 60th IB detachment where they were interrogated. They were forced to admit that they are members of a rebel group -- the New Peoples Army (NPA). They were also coerced to confess the whereabouts of their supposed comrades who they continually denied they knew.

At around 4:00 p.m., they were taken to the 60th IB camp in Doña Andrea, Asuncion, Davao del Norte. After an hour, they were put in a detention cell in the camp and blindfolded and mauled.

Adreano said he was punched on the right side of his body, chest and abdomen several times. Joseph was punched in his abdomen several times as well. Joshua said he was punched in his chest and stomach. Malaquias said he was punched in his chest several times, hit with a rifle butt on his chest and the left side of his body and his legs were hit with a hard object. Malaquias added his feet were also hit with a large stone.

The four victims were tortured for the first four days of their 10-day detention in military custody. Even during an interview with the victims later at the jail, the traces of torture were still visible. In addition, the military denied that they were detained inside the camp when the victims' families were trying to locate their whereabouts.

On April 11, the four men were taken to the Laak district jail. Later, before they were remanded in the provincial jail of Compostela Valley in Tagum City on April 13, they were brought to Laak Municipal Hospital for a medical examination, but the doctor did not examine them. Instead, he signed a medical certificate indicating there were no torture marks on their bodies despite the traces of bruises and the swelling on their chest.

Case No. 17:

Name of the victim: Angelina Bisuña Ipong, 60 years old

Date of incident: 8 March 2005 at 2:00pm.

Place of incident: Anastacia Mission Village, Brgy. Lumbayao, Aloran, Misamis Occidental

Alleged perpetrators: Elements of the 1st Infantry Tabak Division, Philippine Army based in Pulacan, Labangan, Zamboanga del Sur and elements of the Southern Command Headquarters, based in Zamboanga City

Angelina Bisuña, 60 years old, had been tortured and sexually assaulted after having been illegally arrested and detained at a house in Anastacia Mission Village in Brgy. Lumbayao, Aloran, Misamis Occidental at 2:00pm on 8 March 2005. She was arrested on rebellion charges, suffered severe inhumane treatment for several days despite her age and poor health condition while under the military's custody. She was interrogated and forced to confess to the crimes depriving her of her right to remain silent and to have legal counsel to represent her. She was detained in an isolated room, her hands and feet were tied, she was blindfolded, stripped naked and sexually assaulted by investigators. Out of severe depression, she refused to eat in protest of the inhumane treatment. However, her custodian instead forcibly fed her.

The men, wore bonnets covering their faces and fatigue shorts. They also carried armalite rifles, .45 caliber pistols and M203 rifles.

Ipong was in a bamboo house taking her siesta. The armed men stormed inside the room, and told her "We are the police. Sit down and we are looking for someone". Ipong was handcuffed by a certain "Francis" without showing her any warrant for her arrest, nor explaining the charges against her. She was not even allowed to change her clothes before they took her toward a truck. The panel truck immediately left heading towards Ozamis City.

Some members of the raiding team also forcibly took six cellular phones during the arrest. The owners, however, were told they would return them. They introduce themselves as members of the Criminal Investigation and Detention Group (CIDG). The caretaker of Anastacia witnessed the entire incident. A caretaker of the compound saw Ipong boarded on to a truck. Even blindfolded, Ipong kept on asking the people around her where were they taking her and she was asserting that they were violating her rights.

According to Ipong, after about three hours of travel, the vehicle stopped in a place she knew later as a military camp. There were several people there when they arrived. She later realized

that it was the headquarters of the 1st Infantry "Tabak" Division, Philippine Army, situated in Pulacan, Labangan, Zamboanga del Sur.

For the first four days while in military's custody, she claimed she was held in solitary confinement, left in a room, hogtied and blindfolded at all times. On the fifth day, she was airlifted to the Southern Command Headquarters in Zamboanga City.

While in the Southern Command Headquarters custody, Ipong claimed she was tortured and interrogated for seven days. The interrogators forced her to answer their questions. She was slapped with a roll of cardboard and punched on the waist every time she refused to reply. She was stripped naked, sexually assaulted and ridiculed. After an hour she was hogtied, blindfolded and was left naked in a extremely cold room.

She was then forced to confess her connection with the communist movement and to admit all the accusations the military presented to her, including the ambush in in Sapang Dalaga, Misamis Occidental, that killed Lt. Asanji Tumpilan, Executive Officer of Bravo Company of the army's 10th Infantry Battalion and her aide Cpl. Jancilan and wounded two others.

On the eight day of her captivity, March 15, 2005, she was presented to the media. They took pictures of her and asked questions during a press conference. Out of shock and illness she could not even speak. She was later taken back to her detention cell blindfolded. From the day of her arrest Ipong was not allowed any visitors. She refused to eat as a protest of her detention. However, her custodian forcibly fed her by pushing food into her mouth.

On March 17, 2005, the Southern Command announced that Ipong had been transferred to Molave, Zamboanga del Sur, it was later discovered, however, that this was not true. It was only on 21 March when TFDP members went to Pagadian City Jail that they found Ipong after inquiring at the jail. She was charged for rebellion with no bail recommended filed before Regional Trial Court (RTC) Branch 23 in Molave, Zamboanga del Sur. Her arrest occurred on 8 March but it appears that her arrest warrant was only issued on 17 March, nine days after her arrest.

Case No. 18:

Name of the victims: James Francis Defiesta, 18 years old, of Sitio Tan-awon, from Mawab, Compostela Valley Province; Wilfredo Damalerio, 30 years old, from Nabunturan, Compostela Valley Province; Evelyn Alicaba, 38 years old, from Nabunturan, Compostela Valley Province

Alleged perpetrators: men of the 60th Infantry Battalion of Philippine Army

Place of incident: Sitio Tagaytay, Barangay Mipangi, Nabunturan, Compostela Valley

Date of incident: 27 June 2004 at about 9:00 am

Damalerio and Defiesta were arrested on 27 June 2004 by men of the 60th Infantry Battalion of Philippine Army alongside Evelyn Alicaba who had allowed the two men to stay at her house in Sitio Tagaytay, Barangay Mipangi, Nabunturan, Compostela Valley, for one night.

Evelyn was together with her six children and parents in law inside the house taking their breakfast when they saw some 30 heavily armed soldiers approaching. One of the originally three alleged rebels she hosted, Longlong, managed to escape by immediately running out via the backyard when he noticed the soldiers approaching. Defiesta and Damalerio did however not have time to escape. Evelyn went downstairs to talk to the soldiers. Because she was worried for the safety of her children and parents in law she claimed that everyone inside the house were civilians. But soldiers suspected Damalerio and Defiesta to be rebels.

While Evelyn was talking to the soldiers, her six children started to panic inside the house, some of them cried because of nervousness. About five soldiers forcibly entered the house and started searching it through, leaving the house in total disarray. Her parents in law begged the soldiers to spare their daughter in law and the children. One of the soldiers told them to shut up or else they would be killed.

Damalerio and Defiesta were brought outside the house and the soldiers interrogated them and also started assaulting them. One soldier hit Damalerio in the stomach three times and tied his both hands with a rope. Four soldiers kicked and mauled Defiesta and punched his stomach and face several times. He was hit with a butt of a 60-caliber gun on his neck twice and hit with a butt of an M203 rifle on his stomach once. His mouth started bleeding. His hair was also cut-off before the soldiers tied his both hands.

Damalerio and Defiesta said they were forced by the soldiers to admit that they are members of the New Peoples Army. A .38 caliber revolver, a .22 caliber homemade pistol and a fragmentation grenade were seized from them.

At 11:00 am the same day, when the soldiers were taking their lunch and waiting for the Police Operatives from Nabunturan, they tied Defiesta's foot to his left hand. He was however still able to eat by using his one hand. At 12:00 noon, the police operatives arrived in the area. The soldiers took Damalerio, Defiesta and Alicaba to the Nabunturan Police Station. While riding in the patrol car, Defiesta was hit by one of the police officers in the stomach. They remained tied, and were untied only after arriving at the police station. On June 29 2004 at 2:00 pm they were handed over to the BJMP District Jail in Montevista, Compostela Valley Province.

They were not given proper medical examination before being handed over to the Nabunturan police station and at the BJMP District Jail in Montevista, Compostela Valley.

Case No. 19:

Victims: Flory Balilid; Rogelio Balilid, Flory's elder brother; Rosita, Rogelio's wife, all are residents of Barangay Sinapulan, Columbia, Sultan, Kudarat

Alleged perpetrators: elements of 66th Infantry Battalion (IB) under the 6th Infantry Division (ID) based in Awang, Cotabato City, of the Philippine Army (PA)

Date of incident: 12 February 2004 at 7:00 a.m.

Flory Balilid had been briefly held and tortured by elements of the 66th Infantry Battalion of the Philippine army during a military operation on suspicion he was a commander of the New People's Army (NPA) in Colombio, Sultan Kudarat on 12 February 2004.

Flory said he was riding on his horse on the way to Sitio Malpikat from his house to haul corn when he saw about 100 heavily armed soldiers already scattered in the area. One of the soldiers approached him and ordered him to get down. He was asked what was doing. He told the soldier he was hauling corn and going to Poblacion. Flory said the soldiers instead insisted that he was a courier of the NPA. According to Flory, because his uncle Santos Balilid, a barangay chairman of Sinapulan, was tagged by the military as an NPA supporter, eventually they also accused him of supporting the NPA like his uncle.

After that, one of the soldiers suddenly covered Flory's face with a cloth and started mauling him. The soldier was quoted as saying "Ikaw ang isa ka kumander nga NPA! (You are an NPA commander)" while mauling him. The soldiers hit him with armalite butts on his chest, underarm and punched his neck. Several soldiers assaulted him one after the other.

The soldiers kept forcing Flory to admit that he was an NPA commander. He was then told to remove his T-shirt and stretched both arms side by side. One of the soldiers then pulled down Flory's briefs to his knee. He heard one of them saying in mockery on him, "I thought you were uncircumcised." They then removed the cloth tightly covering his face. He noticed that five soldiers were aiming their M-14s and M-203 at him. He said he could identify two of the soldiers.

At that time, Flory took a chance due to the soldiers' loose security on him and suddenly ran as fast as he could towards Poblacion Barangay Sinapulan. Flory said he no longer thought twice that he might be shot. All he thought was how to escape from the soldiers' cruelty. About five soldiers ran after him, but he lost them. Flory said he immediately reported the incident to his uncle, Santos Balilid, who then accompanied Flory to report the incident at the police station in Poblacion Colombio, Sultan Kudarat. Flory then undergone a medical examination and check-up at the clinic of Dr. Salome. They then went back home after reporting the incident.

It is also reported that at around 1:00 p.m. on the same day Flory's elder brother, Rogelio and his wife Rosita, were also harassed by a group of soldiers. Rogelio said he and his wife had just come from Sitio Malpikat riding on a horse when they were stopped by soldiers. One of the soldiers approached him and ordered him to report to their officer standing nearby. At that time, Rogelio, a barangay police member, was carrying a barangay issued homemade firearm locally called 'de dose.' He saw that about 20 soldiers were aiming their firearms at him and his wife.

Rogelio then went to the officer. The soldiers took his homemade firearm despite his explanation he was a barangay police member. Rogelio said the soldiers whom he talked to belonged to elements of the 66th Infantry Battalion and 7th Infantry Battalion. After talking to a military officer, Rogelio and his wife went home. . It is reported that they suffered trauma from accusations of being rebel sympathizers or leaders.

Separately, it was also reported that 10 B'laan natives, including a 3-year-old girl, were illegally arrested, detained and harassed by elements of the military in Colombio, Sultan Kudarat on February 14, 2004. The victims were wrongfully accused of being members or supporters of the NPA, a communist rebel organization in the Philippines.

Case No. 20:

Victims: Hadji Omar Ramalan; and his wife Bairon, both residents of Poblacion Bacolod, Parang, Maguindanao.

Alleged perpetrators: Elements of 64th Infantry Battalion based in Barangay Sarmiento, Matanog, Maguindanao, 3rd Infantry Battalion based in Bliss Nituan, Parang, Maguindanao and the Military Police of the 6th Infantry Division Philippine Army based in Camp Siongco, Awang, Cotabato City.

Places of incident: Barangay Langkong and Sarmiento in Matanog and Bliss Nituan, Parang, all in Maguindanao.

Dates of incident: January 9 to 26, 2004

Hadji Omar Ramalan and his wife, Bairon, were riding their motorcycle when arrested on January 9, 2004 in Barangay Langkong, Matanog, Maguindanao. Omar was alleged to have been involved in the January 4 bombing in Parang, Maguindanao.

Omar said around 10 soldiers belonging to the 64th IB wearing plain clothes flagged them down. Ramalan then started asking why they were being held but the soldiers tied his hands instead and brought them quickly to their headquarters in Barangay Sarmiento, Matanog. Omar said he and wife Bairon were told to ride on the motorcycle then followed by soldier vehicles to the headquarters.

Upon arrival, Omar asked an unnamed military official why he and his wife were arrested. The said official did not answer but later started asking them for their alleged involvement in the Parang bombing. Omar reasoned that he didn't know anything about that and he was in Kapatagan that time. But the said official did not listen and they started taking pictures of Omar. Bairon was also held for questioning but strongly denied allegations that neither she nor husband had any involvement or personal knowledge of the bombing. The soldiers then searched the motorcycle they were driving during their arrest.

Moments later, the couple was transferred to the 3rd Infantry Battalion headquarters in nearby Bliss Nituan, Parang, onboard the military's personnel tank carrier (PTC) while other military vehicles were on convoy. Upon their arrival, the military started blindfolding Omar and his wife with a packaging tape while they were being turned over to the 3rd IB personnel. His wife, Bairon was later released by the military. Afterwards, Omar felt he was transferred to another vehicle heading to an unknown direction.

After several minutes of travel, Omar said they arrived at a place he didn't know where. Several men started interrogating him. One asked him who were his companions in carrying out the bombing in Parang. But every time he denied involvement to they would harm him. Omar was stripped of his clothes. The interrogators repeatedly forced him into admitting the bombing and that he was the owner of the motorcycle where the explosive was planted leaving some 22 people dead and scores wounded.

Omar said that while he was under the detention from January 9-12, 2004, he was tortured by the military by kicking, hitting with a hard object on the different parts of his body. He was also electrocuted and his fingers squeezed with bullets between them and forced to drink rum and something that tasted like urine. They likewise threatened him to be dumped into a canal and/or his sex organ fed to a dog. Omar said all he felt for four days was pain.

Omar was not given chance to take a bath and do personal hygiene, sleep well, eat good meal and take a rest while in custodial investigation. He was placed inside a secluded room naked and severely tortured several times. He only heard voices of his investigators. For four successive days, Omar's relatives did not know his whereabouts as they keep looking for him. It was only when Omar was turned over to jail that they found him.

On January 12, 2004, Omar was turned over to the jail of the Bureau of Correction in Cotabato City. It was only that time when Omar's blindfold was removed. Omar found out later that it was the military police belonging to the 6th Infantry Division (ID) who turned him over to the jail. The military police accordingly did not leave until Omar's blindfold was removed. At that time, Omar then took a chance to do his personal hygiene - eat well, rest and sleep.

The following day, January 13, 2004 in the morning, the military went back to the jail purposely to get Ramalan for further investigation. But the jail officers refused to turn him over back to them. On January 14, 2004, Ramalan underwent medical checkup in the Cotabato City Regional Hospital with the help of his relative. The medical report confirms Omar was indeed tortured. The report disclosed he suffered abrasions on his nasal bridge, right and left ear, upper back, left and right wrists, both knees and hematoma on forehead.

Case No. 21:

Names of the victims: Jehhon Macalinsal; Aron Salah; Abubakar Amilhasan; all are Muslims and affiliate members of party list Bayan Muna in Soccsargen (Provinces of South Cotabato, Sarangani, Sultan Kudarat and General Santos City)

Place and date of arrest: at 3:00am on 24 April 2002, Barangay Calumpang, General Santos City

Arresting officers: General Santos City Police Office

Courts handling the case: Municipal Trial Court (MTC), Branch 3, Regional Trial Court Branch (RTC), Branch 35, all in General Santos City, Mindanao

At around 3:00am on 24 April 2002, Jehon Macalinsal, Aron Salah and Abubakar Amilhasan were arrested by General Santos City police at a house where they were staying in Barangay Calumpang, General Santos City. All three men are Muslims. The police had come with a search warrant issued by the court against suspects of the 21 April 2002 Fitmart Mall bombing in General Santos City. The police later publicly pronounced that the three persons were arrested due to their alleged involvement in the Fitmart Mall bombing. Firearms and explosives were reportedly recovered at the house. However, the three men denied these charges and claimed that that evidence was planted during the police raid.

After their arrest, the three men were detained at the Pendatun Police Station (PP1) for three months in absence of any arrest warrant. While detained at the police station, one of the suspects, Jehon Macalinsal who is a pro-gay rights activist, reported that he experienced verbal sexual humiliation from a police custodian. He also said that the police forced him to admit his responsibility to the Fitmart Mall bombing and to point out Aron Salah and Abubakar Amilhasan as masterminds, which he repeatedly refused to do. It is also alleged that the three men were maltreated and tortured by the police during their arrest and detention.

Despite their claim of the victims' involvement in the Fitmart Mall bombing, the police did not file murder charges against them but charged them for illegal possession of firearms before the Municipal Trial Court (MTC), Branch 3 and illegal possession of explosives in Regional Trial Court (RTC), Branch 35. They were later released on bail.

On 5 June 2006, the Commission on Human Rights informed torture victims Jehon Macalinsal and two companions that it would take up their four-year-old complaint of torture against the police if they decide to pursue it. A lawyer representing the Commission told them to execute an affidavit days later against the officers at the General Santos City Police Office who arrested and allegedly tortured them in April 2002. Macalinsal, Aron Salah and Abubakar Amilhasan were allegedly subjected to brutal torture and sexually humiliated over a number of days following their arrest. The three men claim that they were then falsely charged with illegal possession of firearms and explosives but not with a bombing.

Although the Commission's effort is welcome, four years on, the police officials involved in leading the arrest and ordering the detention of the three alleged victims--former city police director Superintendent Jeorge Aquisap and former Police Regional Office director Senior Superintendent Bartolome Baluyot--have already been transferred and retired from service respectively. They have never been held accountable and may yet escape any responsibility. Macalinsal, Salah and Amilhasan have not been afforded adequate treatment for their injuries and for the trauma that they suffered. Macalinsal, the most seriously injured and traumatised, has partly recovered through self-medication and self-help trauma treatment, in the absence of government support. The Commission has so far failed to resolve the case.

Case No. 23:

Name of the victims: Tohamie Ulong (minor), Ting Idar (minor), Jimmy Balulao, To Akmad and Esmael Mamalankas, presently detained at the Bureau of Jail Management and Penology (BJMP) Maa, Davao City

Place and date of arrest: 8 April 2002, at Poblacion Dos, Cotabato City

Status of the case: The Regional Trial Court has already issued a ruling of the need to conduct a trial after two years of delay and postponement

The five victims were illegally arrested on 8 April 2003, in separate joint police and military operations in connection with the Davao International Airport (DIA) and Sasa Wharf bombings at a pump boat terminal in Almonte Extension, in Purok Bualan, and in Poblacion Dos, in Cotabato City.

Upon arrest, they were tortured and forced to admit to the bomb blasts in Davao City. While under custodial investigation, they were blindfold, electric shock, beaten, and they experience dry and wet methods of suffocation. The perpetrators were members of the defunct Presidential Anti-Crime Emergency Response (Pacer), a special presidential task force with headquarters in Davao City. They victims were detained at the headquarters of Criminal Investigation and Detection Group (CIDG XI) in Davao City for months before they were turned over to the City jail.

The case has had already gone through a very long and slow process of reinvestigations to prosecutor's unclear declaration of probable cause. It was only in the latter part of 2004 that they were arraigned. A pre-trial was set for 2 December 2004, but was postponed

Since December 2004, the pre-trial has been postponed on several occasions. On 4 January 2005, it was postponed due to the existence of two sets of suspects in the same case. The judge had to order the City Prosecution Office (CPO) to decide who among them will be tried first. On 7 January 2005, the CPO decided that the five torture victims would undergo trial before the new suspects.

On 18 January 2005, the hearing was set, but it was cancelled due to the absence of the Prosecutor who was confined to a hospital due to a heart ailment. Succeeding postponements occur as the prosecutor had not established yet 'probable cause'. The hearing on 4 February 2005 was postponed when the defense counsels argued that a probable cause should be established before a trial can occur.

On 18 February 2005, the prosecutor was about to present his witnesses during the pre-trial but this time the suspects were not made available to appear in Court based on the previous directive from the Regional Trial Court Branch 12 citing security reasons of postponing the trial.

They were detained for over two years without trial following their arrest and subsequent filing of charges in connection with the March and April 2003 bombings in Davao City. Two of them were minors at the time of arrest.

No trial was conducted due to the slow progress in the conduct of reinvestigations and the prosecutor's unclear declaration of probable cause. Under Philippine Rules of Court, before a case can go on trial the prosecutor should be able to establish a 'probable cause'. It was only until 31 March 2005, nearly three years after their arrests, that Regional Trial Court Judge, Paul Arcangel, ruled the trial should take place because there existed probable cause, and the probability of the guilt or innocence of the suspects will be determined in a proper trial.

The delay in the conduct of trial and detention of persons for years without trial is a serious problem within the Philippine justice system. Though the Speedy Trial Act (Republic Act 8493) provides speedy disposition of criminal cases, however, in this case the reasons of the delay preventing the prompt resolution of this case for trial could not be invoke as justification for violations of the Act.

Case No. 24: Abadilla Five case

Name of victims: Lenido Lumanog, a kidney transplant patient requiring adequate medicines and medical attention; Augusto Santos; Senior Police Officer 2 (SPO2); Cesar Fortuna; Rameses de Jesus; Joel de Jesus

Place of detention: New Bilibid Prisons, Muntinlupa City

Names of policemen involved in arresting and torturing the accused: Police Senior Superintendents (Pol. Sr. Supt.) Romulo Sales; Sr. Supt. Bartolome Baluyot ; Several of police officers who are then members of the "Task Force Rolly"

On 19 to 26 June 1996, days after Colonel Abadilla was murdered, the "Task Force Rolly", a special police unit the government created to solve Abadilla's murder, have started arresting several persons at random in Fairview in Quezon City. It is strongly believed that the arrest of each persons and their subsequent brutal torture in police secret detention have resulted to the false claims and pointing of innocent persons as the supposed accomplices to murder.

On June 24 of the same year, most of the seven accused were presented to the media supposedly as the killers of Abadilla. It was theorize that since all of them are residents of Fairview, the supposed motive of the killing could have been masterminded by Abadilla's political rival who also resides in the said area. But this theory was never proven in the court trial. The five men were accused of conspiring each other despite the fact that have no mastermind, no motive, price or reward or whatsoever that could have motivated them to commit the murder.

The five accused have likewise claimed being brutally tortured. While in police custody, they were electrocuted, suffocated with plastic bags, brutally beaten and assaulted, amongst others, forcing them to admit responsibility to the murder and to disclose their supposed accomplices. The medical records of the accused were also falsified by the police who conducted the medical examination to make it appear that they were not tortured. They declared the wounds were "self-inflicted" and "no evidence of any external physical injury" was seen from their bodies.

There are also serious doubts on the physical evidence that were recovered from the crime scene that reinforced the accused innocence. It is reported that the supposed murder handguns were never recovered. The ballistics examinations of the empty shells recovered likewise did not match to the handguns belonging to some of the accused. The fingerprints taken from the car the gunmen had use for escape did not match to any of the five persons accused.

Even though the Commission on Human Rights (CHR) had proven in their investigation that the accused were brutally tortured and recommended for the filing of criminal charges against the policemen involved in June 1996, the Office of the Chief State Prosecutor (OCSP) have failed to act on their recommendation promptly. The prosecutor assigned to handle the case, State Prosecutor Marilyn Campomanes, has failed to resolve the preliminary investigation of the complaint for a period of five years. Campomanes was supposed to establish probable cause to hold the policemen for trial. But when the OCSP resolve the complaint on 21 August 2001, it ordered to dismiss the complaint under the ground of "sub judice rule".

The OCSP resolution argued that since the accused' murder case is still pending for review by Supreme Court they find it appropriate not to "unduly influence or bend the mind of the Supreme Court on deciding the murder case". It in effect resolved to refrain from conducting the preliminary investigation of the victim's complaint of torture and human rights violations against the policemen. It took the OCSP five years to decide that the preliminary investigation of the case could not be acted upon.

But on 8 January 2003, the preliminary investigation of the complaint was ordered to be reopened by former acting Justice Department Secretary Ma. Merceditas Gutierrez. The offences mentioned that could be charged against the policemen involved however did not include allegations of torture. The said charges include only for violations of Articles 263, 286, 124 and 125 of the Revised Penal Code (RPC) and the Republic Act RA 7438. These articles constitute violations for grave coercion, physical injuries, arbitrary detention, delay in the delivery of detained persons, rights of persons arrested and detained under custodial investigation.

When the accused legal counsel filed a motion before the Department of Justice urging them to look into allegations of torture and to also file appropriate charges, no response have so far been received on this matter. Later it was found out that the case was already turned over to one of the offices of the Office of the Ombudsman. Since the complaints were transferred to the Ombudsman, there has not been substantial progress known. The policemen involved have so far not been charged yet in court despite the complaint filed and pending for nearly eleven years.

Not only the OCSP and DoJ has caused enormous delays on acting the accused complaint or torture and human rights violations, the State Prosecutor in charged in handling the case, Campomanes, has likewise showed negligence and lack of competence to resolved the case promptly. Campomanes' improper handling of the case' documents likewise resulted to the loss of some of its files.

Campomanes have been charged with administrative case because of her negligence and lack of competence. It is reported that Campomanes in some occasion took the case' records to her home

which is illegal. Although the charges, which includes undue delay in the resolution of the preliminary investigation, for violating the complainants' right to speedy disposition of their cases and for mishandling and missing records of the case, have been filed against her these complaints did not show any progress.

The complaint, however, had been finally resolved when a subsequent order to review the complaint. It is pending before the MOLEO.

ANNEX II – Examples of cases of violent dispersal

Case 1:

Name of the victims:

1. Marlon V. Torres, 35, Public Information Officer (PIO) for Pagkakaisa ng Manggagawa sa Timog Katagalugan-Kilusang Mayo Uno (PAMANTIK-KMU) at Coordinator ng KUMASA, a resident of Jude St, Cabuyao, Laguna. He suffered injuries to his head, fractured bone on his right arm as mentioned in the Medical Certificate from the Opital ng Maynila.
2. Nestor A. Villanueva, 50, a member of Samahang ng Magsasaka sa Buntog (SAMANA-PUMALAG). His left little finger was fractured and he had injuries to his head.
3. Jason A. Hega, 26, a member of KASAMA-TK-KMP and a political party Anakpawis (Toiling Masses). He suffered contusion on various parts of his body, cuts and abrasions to his upper buttock.
4. Philip S. Nardo, 23, a member of a political party Anakbayan (Youth of the Nation) in Cavite, a resident of Barangay (village) Fatima, Santos, Dasmaringas, Cavite. He suffered injuries to his head and left leg.
5. Emmanuel J. Dioneda, 43, director for the Labor Education Advocacy Development and Services and Research Institute (LEADER), a resident of No. 992 P Vallejo, Sta Rosa, Laguna. He suffered contusions and abrasions to various parts of his body.
6. Jay D Aban, 28, a resident of No. 1039 Guevarra Street, Sta. Cruz Manila.
7. Leo Fuentes, 20, a student of the University of the Philippines Los Banos (UPLB) and chairperson of the University Student Council (USC). He suffered contusion and his right arm swelled.
8. Joseph Doinarsi, 27, a member of ANAKPUSO, a resident of San Pedro, Laguna. He suffered injuries to his right eye.
9. Rolando Gonzales, 36, a member of ANAKPUSO, a resident of San Pedro, Laguna. He was hit to his forehead and the right portion of his back had cuts.
10. Joe Francisco, 26, a member of ANAKPUSO, a resident of San Perdo, Laguna. He right arm swelled due to beatings
11. Luis Arikaya, 41, a member of Kalipunan ng Damayang Mahihirap (Kadamay), a resident of Sta. Rosa, Laguna. He suffered injuries to his left shoulder.
12. Jhun Torres, 19, a member of Kadamay, a resident of Sta. Rosa, Laguna. He suffered cuts, his left hand swelled due to beatings and his right knee wounded after he fell to the ground.
13. Tirso Bautista, 35, a member of Kadamay, a resident of Sta. Rosa, Laguna. His left belly swelled and had cuts.
14. Jay Fabella, 41, a staff member of Cabuyao Workers Alliance (Cawal). He suffered contusion to his right belly, arm and leg due to beatings. He was also hit on the head.
15. Lucesio Baril, 46, a worker for Toyota Motor Philippines, a member of the Toyota Motor Philippines Corporation Workers Association (TMPCWA), Kadamay National Office. He was hit to his right breast, left portion of his mouth, right shoulder, on forehead. His left little finger has been cut off.
16. Virgilio C. Clandog, 33, a worker for Toyota Motor Philippines and a member of the TMPCWA. He was hit on the left portion of his head. He was beaten on the head, had fractured finger on his left hand and hand injures to his knee.

17. Neil Nacario, 28, a worker for Hanjin Garments, a member of Aniban ng Manggagawang Inaapi sa Hanjin (AMIHAN), a member of Cawal. He suffered abrasions to his right elbow and left hand.
18. Rommel Mariano, 40, a worker for Toyota Motors Philippines; a member of the TMPCWA. His left hand swelled, was beaten on the back and head.
19. Federico Torres, 33, a worker for Toyota Motor Philippines; a member of the board of the TMPCWA-PAMANTIK; he suffered injuries to his left palm and pelvis, He right knee and fingers also had cuts.
20. Francisco Jose, 26, a member of the Pamprobinsyang Ugnayan ng mga Magsasaka sa Laguna (PUMALAG). He was hit to his right hand and his elbow swelled.
21. Rolando Gonzales, 36, a member of the Pumalag. He was hit to his left hand and the left portion of his back had abrasions.
22. Ronald Balcunit, 19, a member of the Solidarity of Cavite Workers (SCW). He suffered injuries to his left leg, right fingers. His right ear suffered hearing problem after having dose with high pressure water cannons. His lips had cut.
23. Reden Busadre, 33, a member of the National Coalition for the Protection of Workers Rights – Southern Tagalog (NCPWR-ST). He was hit on the back, had head bumps and abrasion to his right fingers.
24. Mark Anthony Baculo, 22, a member of the Southern Tagalog Cultural Network (STCN), a resident of No. 409 Jude Street, Barangay Sala, Cabuyao, Laguna. He suffered injuries to his left hand and the left portion of his back had contusion and abrasions.
25. Noel Sanchez, 41, a chief steward of the Union of Filipino Employees –Drug Food Alliance-Kilusang Mayo Uno (UFE-DFA-KMU); coordinator for the Cawal. He was hit on the left portion of his belly due to police beating resulting for him to vomit, stomach pain and swelling.
26. Noel Alemania, 43, acting president of the Union of Filipino Employees–Drug Food Alliance-Kilusang Mayo Uno (UFE-DFA-KMU); deputy secretary general of the Pagkakaisa ng Manggagawa sa Timog Katagalugan (PAMANTIK- KMU). He suffered contusions on the right portion of his back, his left leg swelled due to police beatings and his stomach was hit by truncheon.
27. ED Cubelo, 36, a worker at the Toyota Motor Philippines, president of the TMPCWA. He suffered contusions and cuts to his back.
28. Wenacito Urgel, 35, a worker of the Toyota Motor Philippines, vice president of the TMPCWA. He suffered contusion to his left arm, cuts to his right elbow, abrasion to his left leg, abrasion and cuts to his left belly.
29. Roderick Vidal, 25, a worker for the Toyota Motor Philippines; a member of the TMPCWA; he suffered fractured index finger.
30. Rowell Delgado, 24, a worker for Toyota Motor Philippines, a member of the TMPCWA. He suffered abrasions to his body.
31. Rolando Mingo, 52, chairman of the Southern Tagalog Region Transport Sector Organization (STARTER) and Vice- Chairman ng Pinag-isang Lakas ng Transport Organization (PISTON). He suffered head bumps and abrasions to his right wrist, contusion to his right leg.
32. Romeo Legaspi, 46, chairman of the Pamantik, chairman of a political party Anakpawis in Southern Tagalog, president of the Organized Labor Association in Line Industries and Agriculture (OLALIA-KMU), president of the Lakas ng Manggagawa Nagkakaisa ng Honda

Cars Phils (LMNH-OLALIA-KMU). He suffered bumps to his left forehead and contusion to his left breast.

33. JM Pamulaklakin, 24, a resident of Los Banos, Laguna.

34. Edgardo Laresma, 28, a member of the ROTOR- STARTER

35. Jerold Rosales, 26, a staff of the LEADER

36. Riza

37. Janet Barrientos, 44, a staff member of Gabriela–Southern Tagalog and member of the Gabriela Women's Party (GWP-ST). She suffered contusion and swelling of her left arm.

Place of incident: In front of the office of the Department of Labor and Employment (DOLE) along Murallo Street, Intramuros, Manila

Date of incident: 6 March 2008, at around 8:45pm

Name of alleged perpetrator:

1. Police Superintendent Rogelio Rosales (a.k.a. Jojo), district director of the Manila Police District (MPD), Philippine National Police (PNP), Station 5, Ermita, Manila City

2. Colonel Viray, deputy chief of the MPD-PNP

3. Senior Police Officer (SPO) Reyes

4. SPO Tan

5. SPO Dela Cruz

6. SPO Dela Santos

7. SPO Binuyag

(About 15 other policemen attached to the said police unit. There are also other persons wearing plain clothes aiding the policemen were seen in the place)

Thirty seven protestors have been injured when the policemen violently dispersed them. The police hit them with clubs, truncheons and stabbed one of them with a bladed weapon. One had his little finger cut; others suffered fractured bones and cuts on their heads.

On March 6, at around 3pm about 500 protestors coming from Southern Tagalog Region, who had marched for the past four days, towards Manila City had arrived at the national office of the Department of Labor and Employment (DOLE) in Intramuros. The march, which they called Lakbayani, had been held intended to get attention to air the protestors' grievances, particularly the delays of labour cases pending before the Dole as well as other concerned government agencies.

The march was led by an alliance of labor groups, the Pagkakaisa ng Manggagawa sa Timog Katagalugan-Kilusang Mayo Uno (PAMANTIK-KMU), political party Anakpawis and Bagong Alyansang Makabayan (BAYAN-Southern Tagalog). Those who had joined the march are workers, urban poor, activist and others.

When the protestors arrived in front of the DOLE's office, then labor secretary Arturo Brion did not show up to meet them for a dialogue regarding their issues of concerns. Some of those protestors are workers coming from companies like Nestle, Toyota and Nissan where the workers had pending labor cases with before the DOLE office. Some of the policemen were seen in front of the DOLE's office.

While there, the protestors held a program in front of the DOLE's office purposely to air and have their grievances heard, particularly by the labor secretary. But at around 7pm that day, two fire trucks coming from the Manila Fire Station had come positioning themselves close to the protestors. In the Philippines, deployment of fire trucks in places of demonstrations is seen as either an indication or a threat of possibilities of dispersal.

Upon seeing this, the protestors approached the policemen to negotiate with them. Organizers coming from the Pamantik-KMU and Bayan had spoken with one Colonel Viray of the Manila Police District (MPD) of the Philippine National Police (PNP) requesting him to allow their group to stay until the next day, March 7. The group wanted to meet with the labor secretary before leaving.

Colonel Viray, however, told them that he had to inform the ground commander regarding their request to stay longer. By that time though, about 20 policemen from the MPD, one of whom had been identified as Police Chief Supt. Rogelio Rosales (a.k.a. Jojo), district director of the Manila Police District (MPDC) Station 5, were seen coming outside the DOLE office' front door.

The group, once again, had approached Rosales and Viray requesting them to allow them carry on with their activity and to stay the area overnight. At around 8:45pm Rosales ordered his policemen to disperse the group. Those firemen mounted at the two fire trucks, which had earlier positioned in the area, suddenly sprayed the protestors with high pressure water cannons. It was subsequently followed by continuous beatings of clubs, truncheons at shields by the policemen against the protestors who had tried to move away. They continued in doing so despite the protestors already running away from them towards a nearby Liwasang Bonifacio. (photo 1 and photo 2)

One of the protestors, Marlon Torres, public information officer of Pamantik, fell on a cemented pavement after he was beaten on the head. As he fell to the ground and lost consciousness, one of his colleagues tried to rescue him to prevent him from being harmed further by grabbing him away from the crowd. (photo 3) But the person who had tried to rescue him was himself beaten by the police. They struck him with a shield and stepped hard on his feet while beating him. They continued on beating him even as he bled and fell to the ground.

Another victim, Nestor Villanueva, a member of the Samahan ng Magsasaka sa Buntog (SAMANA), suffered cuts to his head after he was hit by a truncheon. He had also suffered injuries to different parts of his body after being beaten by the policemen as he was trying to escape.

Also, Philip Nardo, had collapsed after he was struck with truncheon on the back of his head. He fell unconscious. He gained his consciousness back after being thrown into the police' service vehicle due to the impact of the fall. Another victim, Lucesio Baril, a factory worker, had his left little finger cut off when he used his hand to protect himself from being stabbed by a bladed weapon by one of the policemen.

While the group were being dispersed, they overheard the policemen to have said: "Mga Manila Police Finest kami! (We are Manila Police' finest)" as they also pursued the protesters to a nearby Liwasang Bonifacio.

About 37 protestors, who had suffered cuts, abrasions, head bumps, contusions and fractured bones, were listed to have been injured when the policemen violently dispersed the group. The flags and banners the protestors were carrying were also damaged due to the violent dispersal.

After the incident, six persons--namely Marlon, Nestor, Philip, Jason Hega, Emmanuel Dioneda and Jay Abahn, were taken into police custody. But despite the serious injuries they already had, the police did not immediately take them to the hospital until an hour later saying that they had no key to the patrol car they use.

At about 1am on March 7 the police took the four persons, Philip, Jason, Jay and Emmanuel, to the Manila Police District at the United Nations' Avenue. The four persons were treated at the Ospital ng Maynila (Manila Hospital). The two others, Nestor and Marlon, were taken to the police at around 6am.

On the same day, all the six were taken to the Regional Trial Court (RTC) in Manila where they were subjected to inquest proceedings and charged for violation of Batas Pambansa (BP 880) or the Public Assembly Act of 1985. They were also charged for violation of the Revised Penal Code (RPC) for Tumults and other disturbance of public order and direct assaults to persons in authority respectively. However, they were released from police custody for "for further investigation" by the prosecutor.

Of all the victims reported the other ten of whom, namely Noel Alemania, Ronald Balcunit, Neil Nacario, Ariel Legaspi, Mark Anthony Baculo, ED Cubelo, Romeo Legaspi, Virgilio Colandog, one Boyet and Lucesio Baril, were taken to Philippine General Hospital (PGH). Apart from Lucesio who had his little finger cut-off the other victims suffered various injuries to their bodies.

Some of the personal belongings deposited at the service vehicle, which was used by the protesters for their activity, have also gone missing after it was released from police custody. The food and kitchen utensils were lost. Two persons, JM and Edgardo had also lost their wallets containing mobile phone SIM card and cash amounting to P2,470 (USD 59) respectively. Two others, Jerold lost his belt bag containing an MP4 Black mobile phone and Riza her pouch containing P600 (USD 14).

Case 2:

Number of affected workers: 575 regular workers of the Philippine Long Distance Telephone Company (PLDT)

Name of victims arrested during protest:

1. Pete Pinlac, President of Manggagawa sa Komunikasyon sa Pilipinas (MKP-PLDT Union)
2. Atty. Virgie Pinlac, Spokesperson of Pagkakaisa ng Kababaihan (KAISA KA)
3. Arturo Castillo, First VP of MKP- PLDT

4. Bong Beato, Second VP of MKP-PLDT
5. Roy Fernandez, Union Representative of MKP-PLDT
6. Mitzi Chan, Popular Struggles Director of Kilusan para sa Pambansang Demokrasya (KPD)
7. Aurelio Veloso (a.k.a. Ogi), of Manggagawa Para sa Kalayaan ng Bayan (MAKABAYAN)

Alleged perpetrators of violent dispersal: Colonel Jojo Rosales and his men attached to the Western Police District (WPD), Manila

Date of incident: 10 October 2007

Place of incident: In front of the Department of Labour and Employment (DOLE) head office in Manila

The workers were about to commence a hunger strike on 10 October 2007 after negotiations with the Secretary of the Department of Labour and Employment (DOLE) failed to reach an agreement regarding the questionable termination of 575 regular workers and the refusal by the telephone company to allow their workers to resume work despite a lawful order. The police pulled manhandled and dragged the workers who were demonstrating peacefully. Seven of them were arrested, detained and subsequently charged for supposedly holding an illegal assembly.

On September 15, the Philippine Long Distance Telephone Company (PLDT), the country's largest and oldest telephone company, terminated 575 regular employees. About 450 of them were female workers. It was another massive layoff of workers after 484 of the company's workers were laid off in 2002.

Most of those terminated on September 15 were rank and file employees and members of the union, the Communication Workers of the Philippines (Manggagawa sa Komunikasyon sa Pilipinas). It also includes 25 union representatives and a large number of their active members. Their union is said to be the country's last remaining national union.

Prior to issuance of notice terminating workers in early September, there had been reports of the management's plan to reduce the number of their regular workers. Termination of regular workers was allegedly the action taken by the company to introduce a contractualization scheme of workers which involves laying off regular workers and hiring new employees with new contract periods. The salaries, benefits and rights of employees with only contractual status are less than those regularly employed. For instance, contractual employees are not qualified to form themselves into labour union and to collectively bargain with their company for their rights and welfare.

When the company terminated 484 regular workers in 2002, workers had no choice but to going on strike. Those terminated were included in the list of a Redundancy Declaration by the PLDT Management or workers they claimed whose job description duplicates. A "return-to-work" order was issued following the strike by the former secretary of the DOLE, Patricia Sto. Tomas. She, however, excluded other workers from returning to work. Her order excluding other workers from returning to work was ruled out by the Supreme Court. In its ruling it argued that while the Secretary of Labor has power to issue a "return-to-work" order it has to no right or privilege to decide on its own in excluding workers from returning to their work.

Despite the Supreme Court's ruling, the workers concerned have so far not been reinstated into their jobs because the company has refused to do so. The company has instead argued that the Supreme Court's ruling did not categorically announce that they were ordered to accept all employees they had terminated. In effect, those not included in the list of returning workers by the former labour secretary have not been reinstated.

The present Labour Secretary, Arturo Brion, also reportedly agreed on the position taken by the company. Thus, those workers concerned were forced to carry on lengthy and expensive legal remedies in fighting for their right to be reinstated. Most of the workers, however, were unable to endure the long and tedious legal process. They were forced to agree into the management's settlement package. Two of those who refused settlement and proceeded with the legal process with their union have already died.

Since it terminated a large number of workers in 2002, the company's workforce has instead increased from 15,000 to 24,750 - which is contrary to their claims that they are reducing the work force and that there were duplications with the job descriptions. About 87.5 percent of this is employees with contractual status.

On October 10, the workers and union leaders initiated a dialogue with Secretary Brion regarding yet another massive layoff of workers in the company. The union leaders demanded the reinstatement of terminated workers, to allow them to return to work and to stop the company from terminating more workers. But the secretary has instead reportedly encouraged them to accept the company's settlement package.

Prior to this, on September 6 the DOLE had already issued an order assuming jurisdiction (AJ) of the labour dispute between the union and the management. The 575 workers who were listed to be terminated effective September 15 should have allowed subsequently to return to work following the DOLE's order. However, the company had already instigated a lockout and refused to allow the workers to return to work on September 17. The company's decision to have a lockout did not only violate the DOLE's order, but also arbitrarily denied the workers from returning to their work despite a lawful order.

This was the subject of the dialogue between the workers and the DOLE on October 10 - which was called for by Secretary Brion. But when the union leaders and the workers demanded from the DOLE that those terminated are reinstated, allowed to return to work and to order the management to stop from terminating workers, they were unable reach an agreement. This prompted the workers to protest and commence their hunger strike outside the DOLE's head office in Manila to protest the position they have taken; and against the illegal actions by the management.

As they started sitting down to commence their hunger strike in front of the DOLE office, policemen led by Colonel Jojo Rosales and moved forward into the protesting workers and started beating them. (To see photos, please click [photo1](#), [photo 2](#), [photo 3](#)) One of the union's leaders, Bong Beato, was forcibly pulled out from the group. Several policemen repeatedly beat him as he was being taken to their service vehicle. One of Beato's colleagues, Mitzi Chan, went

to his rescue but she was instead repeatedly beaten by the policeman on her face which resulted in her nose being broken.

Those arrested were Pete Pinlac, President of Manggagawa sa Komunikasyon sa Pilipinas (MKP-PLDT Union); lawyer Virgie Pinlac, Spokesperson of Pagkakaisa ng Kababaihan (KAISA KA); Arturo Castillo, First Vice President (VP) of MKP- PLDT; Bong Beato, Second VP of MKP-PLDT; Roy Fernandez, Union Representative of MKP-PLDT; Mitzi Chan, Popular Struggles Director of Kilusan para sa Pambansang Demokrasya (KPD) and Aurelio Veloso (a.k.a. Ogi), of Manggagawa Para sa Kalayaan ng Bayan (MAKABAYAN)

They were taken to the Western Police District Headquarters (WPD) following their arrest where they were charged for violating the Batas Pambansa (BP) 880 (the Public Assembly Act of 1985). The police accused them of disturbing the peace and traffic flow when they demonstrate in front of the DOLE office. Those arrested were released the following day, October 11, for further investigation by the police.

Case 3:

Affected persons: Several public school teachers from seven provinces and six cities in Luzon and Metro Manila

Alleged perpetrators: Police Colonel Roberto Rosales, head of the dispersal unit; one Police Officer Viray, and several policemen attached to the Manila Police District (MPD)

Date of incident: 5 October 2007

Place of incident: Plaza Zalamanca, Taft Avenue, Manila

The policemen involved in attacking peaceful demonstration of public school teachers in Taft Avenue, Manila on 5 October 2007 have not been held to account. The teachers were holding their activity in a park where the demonstration should have been allowed to mark the World Teachers Day, but the policemen attached to the Manila Police District (MPD) attacked and dispersed them.

It was on October 05, at 7am, public school teachers who had come from seven provinces and six cities all over Luzon and Metro Manila gathered at the Plaza Zalamanca, Taft Avenue, Manila to mark the "World Teachers' Day". The park has been designated as Freedom Park effectively allowing demonstrations. The teachers, some of whom were in official school uniforms, joined the activity. They were supposed to end their programme at noontime and were planning to march towards the Mendiola Bridge afterwards. The bridge, however, is located close to the presidential palace and is designated as a no rally zone.

While they were on a roll call and preparing for the program, three policemen in uniforms mingled with the teachers and started asking each one after the other: "Sino ba ang lider n'yo dito na pwedeng makausap? (Who is your leader whom we could speak to?)" It was then that Fidel Fababier, secretary general for Action and Solidarity for the Empowerment of Teachers (ASSERT), who organized the activity introduced himself to them. He was asked the name of their group and where they came from. One of the policemen also started taking notes of what he told them.

Fababier properly explained to them that their group is composed of public school teachers from different provinces and cities in Luzon and Manila. He told them they were there to mark the World Teachers Day. The Secretary of the Department of Education (DepEd), Jesli Lapus, issued Memorandum No. 396, s. 2007 which also encourages teachers to join activities being held at a nearby university; and the time they spent in this activity is part of their official duty. Fababier also showed to the policemen the application for permit they made on October 1 at the Office of the City Mayor in Manila.

Under the existing law, Batas Pambansa 880 (BP 880) (Public Assembly Act of 1985), permits are required from those persons organizing demonstrations to places not designated as Freedom Park. But even though Plaza Zalamanca is designated as a Freedom Park, the organizers nevertheless applied for a permit and properly informed the local government of their activity. The law requires the local government to act on the application within two working days from the date it was filed. If they fail to act on it, the application is automatically deemed approved.

The police officer, however, insisted from Fababier that they must have a permit before they allowed them to carry on with their activity. Despite Fababier's proper explanation to the police that their application for permit is already a permit according to law, the policemen refused to accept his explanations and insisted they should have an approved permit, not an application the organizer showed to him.

The policemen told Fababier: " E, hindi naman 'to permit, a. sulat pa lang ninyo ito kay Mayor. (This is not a permit. This is only your letter to the Mayor)". He further told the organizer: "Pasensya na kayo, sir, "no permit, no rally' ang patakaran namin dito" (Sorry sir, our policy here is no permit, no rally). His claims, however, contradicts the policies by which the park is designated as Freedom Park. The policemen left after getting copies of the group's application for permit and the memorandum by the DepEd.

Shortly after they started their activity, dozens of heavily armed policemen with shields from the Special Weapons and Tactics (Swat) in black shirts and several civilian operatives suddenly arrived in patrol cars. They immediately positioned themselves close to the rear, front and left side of the pickup vehicle that was served as makeshift stage. The police positioned themselves by the stunned teachers.

It prompted some of the teachers to leave out of fear. The others preferred to move to a safer place at a nearby park Luneta Children's Park to avoid possible police action. Fababier urged the police officers present there to observe the BP 880 regarding the police' conduct on dealing with demonstrations, particularly the rules requiring them to position themselves 100 meters away from the demonstrators.

However, one of the policemen told them: "Kayong mga teachers ang bopol! Umuwi na kayo! (You teachers are lousy. You better go home)". It prompted an exchanged of insulting words between the police and teachers. The teacher then yelled at the police several times that: "MPD, i-guidance!" - an academic slang telling the police should be put into disciplinary action. Some

of the organizers had to negotiate with the policemen to avoid a confrontation and urged them to observe the law and allow them to carry on their activity.

One of the leaders asked the police to allow them to continue their activity and for the police to exercise restraint. However, the policemen once again insisted from them to show their permit before they would allow them to carry on. Police Colonel Roberto Rosales, who lead the dispersal unit, shouted at them: "Ipakita niyo muna ang inyong permit. Hindi yan, permit, request lang yan (Show us your permit first. What you have is not a permit it is just a request)!"

When the demonstrators explained that their application for permit is considered approved already, Police Colonel Rosales told them: "Wala akong pakialam sa batas! Hindi yan ang kailangan ko, permit ang ipakita mo! (I don't give a damn with the law. It's not what I needed. Show me your permit!)". Shortly the policemen surrounding the demonstrators moved in. They together with those policemen wearing plainclothes suddenly started forcibly grabbing the streamers and placards from the group of teachers. (To see photos, please click photo1, photo2 and photo3) They unplugged the sound system and tried to confiscate their microphone. It was broken due to the scuffle.

Some teachers ran for their safety out of fear while the others remained. Those who remained continued on chanting at the police: "MPD..! i-guidance!" , "MPD. Law enforcers, lawbreakers!", "No one is above the law! Streamers at mikropono....Ibalik! (Give our streamers and microphone back)"

At this time one of the policemen, Police Officer Viray approach and spoke with the organizers and leaders of the group. He tried explaining to them that the police' presence there is to protect the teachers from the possible harm they may experience. He said the park where they are holding their demonstration is notorious for criminal elements; therefore, the police are there suggesting that their presence is to protect them.

At 11:30am, one of the leaders and organizer from Central Luzon, while holding a megaphone with him, crossed the street from the place where they were holding their activity urging their frightened companions nearby to regroup. At the time they were waiting for the arrival of their companions who were attending a symposium at the nearby Philippine Normal University (PNU).

However, Colonel Rosales grabbed his megaphone and ordered his men "Walanghiya kasi yang lider nila, nang-uupat! Damputin na 'yan! (Shame on their leaders, Arrest them!)". It once again renewed the scuffle between the demonstrators and the police. The dispersal left an undetermined number of demonstrators injured and suffering public humiliation. One of the teachers had her breast unnecessary exposed during the scuffle. The teachers have either lost and damaged their mobile phones due to the dispersal.

The police units responsible in dispersing the teachers are the same unit who violently dispersed workers holding peaceful protest on October 10. As described in our previous appeal UA-299-2007, the workers were about to begin their hunger strike in front of the labour department's

office when they were violently dispersed. The police, once again, justified their action of dispersing them on pretext that they disturb the peace and obstruct traffic. Their use of violence should have not been necessary at the time.

Case 4:

Names of arrested activists:

1. Emalyn M. Aliviano (23), of Pajo, Lapu-lapu City, spokesperson of Kilusan Para sa Pambansang Demokrasya (KPD)
2. Almirie B. Morgado (19) of Pajo, Lapu-lapu City, Member of KPD
3. Joan I. Martinez (24) of Pajo, Lapu-lapu City, organizer for Youth for National Democracy (YND)
4. Ashbel C. Edaña (19) of Warweck Barracks, Carbon, Cebu City, member of KPD
5. Reyniel Jim V. Perez (22) of Junquera St., Cebu City, member of KPD
6. Deo Cane Jabines (23) of Tisa, Labangon, Cebu City, member of KPD
7. Lourd Sherry V. Perez (23) of Pajo, Lapu-lapu City; member of KPD
8. Melba C. Ugbinada (22) of Babag, Lapu-lapu City
9. Rosita D. Blando (54) of Pajo, Lapu-lapu City
10. Ronald Sitoy (21) of Junquera, Cebu City
11. Jordan M. Jainar (19) of U.R., Katipunan, Cebu City
12. John Francis B. Aguilar (19) of Junquera, Cebu City
13. Johann Wee, a minor. He was released to the custody of the Department of Social Welfare and Development (DSWD)

Six of the arrested victims injured:

1. Emalyn Aliviano
2. Lourd Sherry Perez
3. Joan Martinez
4. Almarie Marzado
5. Melba Ugbinada
6. Reyniel Jim Perez

Alleged perpetrators: Elements of Mactan Police Stations (MPS), Special Weapon and Tactics (Swat), Lapu-Lapu City Police Station and demolition team from the City government of Lapu-lapu

Place of incident: Barangay (village) Mactan, Lapu-lapu City, Cebu

Date of incident: at 8:45am on September 29, 2006

Thirteen activist had been arrested, detained and subsequently arbitrarily charged after policemen violently dispersed them for supporting a group of urban poor opposing a demolition in Barangay (village) Mactan, Lapu-lapu City, the Philippines on September 29, 2006. Not only were the activists arrested, at least 20 families were also left homeless after the demolition team succeeded in dismantling houses to pave the way for the construction of a parking lot for delegates of the Association of South East Asian Nation (Asean) in December 2006.

According to a report from the Task Force Detainees of the Philippines (TFDP)-Visayas, the arrested activists are all members of the Kilusan Para sa Pambansang Demokrasya (Movement for National Democracy) or KPD. The activists were forcibly pushed, shoved, handcuffed and

subsequently detained by the demolition team--all of which are attached to the Mactan Police Station, Special Weapons and Tactics (SWAT) and the Lapu-lapu City Police Station.

Following their arrest, the victims, namely, Emalyn M. Aliviano (23), Almirie B. Morgado (19), Joan I. Martinez (24), Lourd Sherry V. Perez (23), Rosita D. Blando (54), all are resident of Lapu-lapu City; Ashbel C. Edaña (19) of Carbon, Cebu City; Reyniel Jim V. Perez (22) of Junquera Street, Cebu City; Deo Cane Jabines (23) of Labangon, Cebu City; Melba C. Ugbinada (22) of Babag, Lapu-lapu City; Ronald Sitoy (21) of Junquera, Cebu City; Jordan M. Jainar (19) of Katipunan, Cebu City and John Francis B. Aguilar(19) of Junquera, Cebu City were detained at Philippine National Police (PNP) Headquarters in Lapu-lapu City. One of the arrested persons, Johann Wee, was released to the custody of Department of Social Welfare and Development (DSWD) because he was a minor.

Six of the victims, namely Emalyn Aliviano, Lourd Sherry Perez, Joan Martinez, Almarie Marzado, Melba Ugbinada and Reyniel Jim Perez, suffered bruises and abrasions.

According to Aliviano, spokesperson for the KPD, she and her colleagues went to Barangay (village) Mactan, Lapu-lapu City at about 8:45 a.m. to join members of the Atbang Shangrila Urban Poor Association who were preparing against a scheduled demolition. The contested lot subject for demolitions are being occupied by members of the Atbang Shangrila, which is across the road fronting the Shangrila Hotel.

Prior to this day, 22 houses had already been demolished at the same place, which according to the local government will be used as parking lot for Asean delegates. Although the houses have been demolished the displaced families remain due to absence of relocation site that should have been provided by the local government. After the victims learned of yet another scheduled demolition, they gathered themselves to protect the remaining houses.

On that morning when the group of KPD arrived, the members of the urban poor have already prepared some placards and blue ropes to condone-off the site subject for demolition. The KPD who brought with them a guitar, started putting barricades in a festive mood while singing. Other members helped out in preparing a bigger streamer. A few minutes pass 9:00 a.m., a Task Force Demolition numbering about 15 to 20 arrived. Some were wearing blue uniforms, others are in plain clothes. About five Swat team members also arrived in the area. The police ordered the victims to self disperse for them to push through with the demolition. Emalyn immediately approached them to negotiate, but she was ignored. No one also introduced themselves, or identified the officer and team leader in command.

The victims were opposing to the demolition due to absence of a relocation site for the affected families and the claims over contested lot is still pending in court. Moments later, two to three mobile patrols and about 40 members of dispersal unit armed with truncheons and guns had arrived. The demolition team positioned themselves at the back of the lot while others stood in array in front of a human barricade. At the same time, a fire truck equipped with water cannons was also deployed. During this moment, the leaders led by Emalyn continued to look and to

approach the leader of the Philippine National Police (PNP) team but to no avail. The policemen also continued taking pictures and video of the victims.

The barricaders held on to their ropes, but the dispersal suddenly moved towards them. They used truncheons and water canons to break into the human barricade. The KPD members who were earlier identified by the policemen were later violently arrested one after the other. They pushed and shove them. Some fell to the ground. The women were handcuffed and forcibly dragged towards a van waiting nearby.

While inside the police station in Lapu-lapu City, the police continued on holding them in handcuffs. They were made to wait until lunchtime before Police Inspector Andres Intong arrived and introduced himself as head of the arresting team. The handcuffs were later removed when Police officer 3 (PO3) Dioscoro Amistad Arong started interviewing the victims in preparation for filing of charges against them.

The policemen charged the victims for violation of Art. 153 of the Revised Penal Code (R.P.C) and Violation of Art. 151 of the R.P.C for disobedience and disturbance of public order. In the complaint, the police claimed the protesters threw stones at them during the demolition. The policemen also prepared complaints for allegedly exploiting minors by way of using children to fend off the demolition team. The victims, however, said the children were not forced into joining as they are already present at the barricade because their family has not moved out even after their houses were demolished. The victims were detained from September 29 to October 1, 2006. The charges are supposed to be filed on October 2, Monday.

Some of the affected families were also injured. Policemen attached to the Lapu-Lapu Police Station, elements of Swat team and demolition team violently assaulted and broke down the affected families of the demolition, all of whom are members of the Atbang Shangrila Urban Poor Association (ASUPA), who at the time resisting.

The subject of the demolition was a lot occupied by members of the ASUPA, a group of urban poor settling in the conflicted lot. The contested lot was a private property previously owned by the Igot clan in Lapu-lapu City. The lot, which was partitioned among beneficiaries of the Igot, then sold the property to private individuals, four of whom are among 10 beneficiaries.

Members of ASUPA insisted that the demolition should have not been conducted because ownership claims over the contested lot is still pending before the Regional Trial Court (RTC), Branch 53 in Lapu-lapu City. Also, the local government provided not relocation site for the affected families once they are demolished. Although there were information that P 10,000.00 was offered to every family by the local government in exchange for their consent to self demolish, but no one has received this. Mayor Arturo Radaza of Lapu-lapu City was also contacted for him to intervene to defer the demolition until the victims demands are met, but he refused to speak to them.

The city government on the other hand based their action from the declaration of the City Attorney Joseph Lim that the structures the settlers have built on the contested lot are illegal

structures. Lim said the settlers violated the Building Code by not obtaining permits from the city government before constructing houses and stalls on the site.

On September 29, the demolition and dispersal teams executed the order following a final notice to vacate the lot served on September 13. The police and Swat team then used truncheons and water canons to break into the human barricade leaving several persons injured, including few children who were with their parents at the time. Injured children include a four-year-old and a six-year-old son of Lucio Montenegro. They were hit with truncheons.

Case 5:

Number of workers affected by food blockade: 70 union members of the Nagkakaisang Manggagawa sa Chong Won

Alleged perpetrators: Elements of the Philippine Economic Zone Authority (PEZA) police and Jantro security guards

Place of incident: In front of the Chong Won Fashion Inc. (CWFI) factory inside the Cavite Export Processing Zone (CEPZ) Rosario, Cavite

Date of incident: 25 September 2006 to present

Union members on strike at the Chong Won Fashion Inc. (CWFI) in Rosario, Cavite are being denied access to food. It is reported that following failed attempts by elements of the Philippine Economic Zone Authority (PEZA) police and Jantro security guards to forcibly disperse the workers on strike, they have now drastically resorted to blocking food supplies, water and clothing for workers at the picket line.

According to a report from the labour group Workers' Assistance Center (WAC) in Rosario, Cavite, the PEZA police and guards are denying permission to union members to reenter once they go outside the picket line. The PEZA police and guards have already set-up a blocking point on both ends of the roads leading to the picket line. It is reported that at least 70 union members are holed-up at the picket line and are facing serious threats of hunger.

Following a violent dispersal on September 25, (please see our previous appeal for details: UA-314-2006) the management of the Korean-owned factory have allegedly resorted on urging scab workers to fight it out with the strikers. They also urged them to carry pointed defense tools when attacking the strikers. Such action has effectively used the scab workers as thugs in inciting further violence to take place. One of the scab workers has already been accosted for carrying pointed weapons.

As the tension is increasing at the picket line, it is reported that the officials of the national office of PEZA are failing to effectively respond to the incident to prevent further violence from occurring. They have likewise failed to act on appeals to withdraw their PEZA policemen and security guards in the field for continuously committing illegal acts. It is alleged that the presence of the PEZA police and guard and the actions they are taking against the workers are alleged to be upon the request of the factory's management.

It is also reported that those injured union members have not been afforded with medical assistance or treatment by the concerned government agencies.

No immediate sanctions have also been imposed upon the PEZA police and guards who are involved in the violent dispersal of the workers that wounded ten of them, two of whom we identified as Solomon Noceda and Benigno Terante. Under the existing rules and guidelines on strike, police and guards are prohibited from positioning themselves within the 50 meters of the picket line. The use of violence and excessive force is also prohibited once the workers on strike have complied with the legal procedures for holding the strike.

Case 6:

Name of injured victims:

- 1.) Solomon Noceda
- 2.) Benigno Terante

The two victims are members of the labour union Nagkakaisang Manggagawa sa Chong Won-Independent (United Workers at Chong Won) (NMCW-Ind). The names of other victims are yet to be identified.

Names of alleged perpetrators: Elements of the Philippine Economic Zone Authority (PEZA) police headed by Peza police Chief Jose Sarasua and Jantro security guards, all of them are assigned inside the Cavite Export Processing Zone (CEPZ) Rosario, Cavite.

Place of incident: In front of Chong Won Fashion Inc (CWFI) garment factory inside the CEPZ, Rosario, Cavite

Date and time of incident: between 8:30am to 9am September 25, 2006

Charges have been filed against the policemen involved in violently dispersing a group of public school teachers holding a peaceful demonstration in Manila. They were charged with criminal offenses by the Commission on Human Rights (CHR) and the Office of the Prosecutor in Manila on October 17 and November 19 respectively.

As mentioned in our previous appeal (UA-300-2007), the teachers were peacefully demonstrating to mark the World Teachers Day on October 5 when the policemen attached to the Station 5 of the Manila Police District (MPD) attacked them. The policemen were headed by Chief Superintendent Rogelio (not Roberto as earlier mentioned) Rosales (a.k.a. Jojo), the Station's commander.

On October 17, the complainants, namely James Pagaduan, Fidel Fababier, Veronica Cabe, Evelia Sator, Geraldine Gutierrez, Lourdes Calaguas and Jane Farinas, filed charges of police brutality and physical injuries, against Chief Superintendent Rosales and several other policemen involved with the Commission on Human Rights (CHR) in Quezon City. They also sought redress for violation of their rights to peaceably assemble and to freedom of expression (for demonstrations, see photo 1 and photo 2)

Others whose names could not be immediately identified are described as John Does in the complaint. They are members of the Special Weapon and Army Tactics (Swat) team and civilian intelligence agents who also took part in violently dispersing the victims. Their names could not

be identified at the time because they were not wearing nametags during the incident, but the victims say that they could recognize them if they see them again.

Apart from the charges they have filed at the CHR, on November 19, the victims also filed criminal complaints against the same policemen with the Office of the Prosecutor in Manila. The prosecutor had already accepted their complaint. Once the prosecutor finds probable cause that the policemen can be held criminally liable, the case will be transmitted to the appropriate court who would hear the case.

At the prosecutor's office, the victims charged the policemen for violating the provisions of Public Assembly Act of 1985 (the Batas Pambansa 880), which regulates public demonstrations. It may be recalled that the victims had already complied with the law, particularly in applying for necessary permits and informing the local government of their activity. Regardless, the police nevertheless attacked and violently dispersed them. The victims also charged the policemen with causing physical injuries and oral defamation.

As mentioned in our previous appeal, even though Plaza Zalamanca, where the victims held demonstrations, had already been designated as Freedom Park, the organizers applied for the necessary permit. It should have not been necessary for them to do so but they applied anyway so as to prevent possible confrontations with the police. The policemen in Manila often routinely use excessive and brute force in dispersing demonstrations. The law requires the local government to act on the application within two working days from the date of filing. In this case, they failed to act on the application, and it should have been deemed to have been approved.

It is also learned that even though the victims have properly informed the Department of Education (DepEd) of the said incident, they have not taken any action. No interventions were taken by them that would have ensured the welfare of their public school teachers, particularly by assisting them in their complaint in seeking redress to their grievances. The teachers have not received any replies from the DepEd on their concerns.

Also, there has not been any information from the CHR since they filed their complaint as to when it would be able to complete their investigation or when the hearing of their complaints takes place.

The Asian Human Rights Commission (AHRC) writes to inform you that ten union members on strike were injured after police and security guards forcibly broke into their line violently in dispersing them in Rosario, Cavite, Philippines. The workers all are members of the labour union Nagkakaisang Manggagawa sa Chong Won-Independent (United Workers at Chong Won) (NMCW-Ind). They began their strike at 6:00 am today, September 25, in front of their factory when elements of the Philippine Economic Zone Authority (PEZA) and Jantro security guards assaulted them.

The perpetrators, armed with firearms, clubs and backed by a fire truck equipped with a water cannon, started arriving at the picket line and dispersed the workers as soon as they announced

they were on strike. They broke into the union member's line as they were peacefully assembled in front of the factory. Of the ten injured victims, two of whom were identified as Solomon Noceda and Benigno Terante.

Noceda suffered injuries to his head and his body after he was repeatedly kicked and beaten by security guards while Terante had his hands bruised. Terante reportedly fainted following a scuffle with guards and policemen. The police and guards, however, did not bother taking him to a hospital or clinic for treatment. There were also reports that the police and guards blocked the entry of food supplies for the workers on strike.

According to a report from the Workers' Assistance Center (WAC), a non-governmental labour organisation based in Rosario, Cavite, the union members went on strike as a result of their Korean employer's refusal to begin negotiations for their Collective Bargaining Agreement (CBA). The union members are demanding a salary increase and benefits but the company has refused to begin the negotiations since April 21, 2005. Even though the office of the Secretary of the Department of Labour and Employment (DOLE) ordered them to proceed with the negotiations, the management of Chong Won Fashion Inc. (CWFI)--has refused to do so.

Despite the fact that the appeals and petition filed by the management questioning the legitimacy of the union have all been dismissed, they refused to begin negotiations. This prompted the union members to go on strike following a majority decision by the union to do so. The union notified the National Conciliation and Mediation Board (NCMB) and their management of the impending strike and that they have complied with all the legal procedures for holding a strike.

Despite this, however, the PEZA police and Jantro security guards forcibly broke into their line and started beating the union members in the absence of lawful orders from the court or from DOLE to carry out the dispersal. This is latest incident where the PEZA police and Jantro security guards used excessive force and violence in dealing with workers on protest and strike. On August 31, several union members were also injured when they forcibly dismantled the makeshift tents the workers erected in front of the factory.

Under the existing rules on the implementing of strikes the policemen and guards are required to position themselves at least 50 meters away from the picket line. This however, has been arbitrarily violated and ignored by the PEZA police and guards. It has been a common practice amongst them to harass, threaten, intimidate and use excessive force and violence on workers on protest and on strike. Often they carry firearms, clubs and have their identity name badges covered when they assault the workers.