

Human rights under a culture of impunity

BY THE **TASK FORCE DETAINEES OF THE PHILIPPINES**

'Ramdam ang kahirapan'

THE FIRST six months of the year witnessed the soaring prices of basic commodities such as rice, the staple food of the Filipinos, and the never ending oil price hikes. This double-whammy happened in the midst of the government's *Ramdam ang Asenso* advertising campaign.¹

Ben Sanchez, former governor of the Board of Investments (BOI), observed that there are certain truths that have to be faced, one of which is that "we are not better off than we were three years ago."²

Mrs. Arroyo claims that the stronger peso is a clear sign of the outstanding performance of her administration. In reality, this had a terrible impact on the dependents of Overseas Filipino Workers (OFW), roughly estimated at about 41 million Filipinos.³

The strong currency does not only affect OFW families but also the business/manufacturing sector, which experienced weak exports growth. Gains in the peso may have led some manufacturers to close factories, leading to about 100,000 employment positions lost in Manila. Thus, the only actual beneficiaries of the "strong peso" are the government (lower peso





cost of debt servicing), the ruling elite, oil companies, utilities companies, and importers.⁴

The government's lack of direction when it comes to the alleviation of poverty, its cluelessness to the dire economic realities, conditions, its inability to address problems of unemployment and to provide adequate social services are central problems in our country.

The administration's blind adherence to the trickle down theory as a framework for national development remains unsuccessful. The problem is that in reality, the grandiose declarations of a higher gross national product (GNP) and lower inflation rate failed to translate to anything for the people who continue to live in poverty.

The solution by the government to create a poverty alleviation program dubbed as *Ahon: Pantawid Pamilyang Pilipino* (the word *ahon* was later omitted, and the program became *Pantawid Pamilyang Pilipino Program* or *P4*) where beneficiaries will be handed P500 every month within a year, with an additional P300 peso for every child in the family that still goes to school, has been heavily criticized as a short-term, band-aid, populist measure to an enormous problem that calls for more than mere dole-outs.⁵

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Human
rights under
a culture
of impunity

Continuous attacks on human rights

The Philippines was among the first countries to undergo the Universal Periodic Review (UPR) during the first session of the United Nations Human Rights Council (UNHRC) in April this year.

The Philippine civil society submitted to the Office of the High Commissioner for Human Rights (OHCHR) its own report on the state of human rights in the country.⁶ Among the issues brought forward was the continued violation of human rights by military and law enforcement officials who "continue to disregard due process, and commit violations of fundamental human rights." The report likewise noted that the Congress and the Department of Justice "have also been ambivalent in relation to their role in addressing the issue of human rights."

The report pointed out that between January 23, 2001 to September 14, 2007, 409 cases of illegal arrest and detention (affecting 1,460 individuals) were recorded by the Task Force Detainees (TFDP).⁷

For the first semester of 2008, TFDP has documented 28 cases of illegal arrest and detention involving 41 victims.

One documented case took place in Gen. Nakar, Quezon on February 9.⁸ The two victims were members of an organization of an Agta ethnic group who were on their way to a community visit. This arrest of the two members of an indigenous group is illustrative of how the government treats persons suspected to be subversives.

Indigenous communities

Erick Avellaneda and Rannie Rutaquio were about to take a boat ride from Brgy. Umiray to their community in Sitio Matatambo when a man in civilian clothes ordered them to go the military camp. Avellaneda and Rutaquio had no idea where the camp was and why they were being asked to go there. Out of fear, they nevertheless went with the man whose identity they did not know.

They were brought to Umiray Barangay Hall which they found out had been appropriated by the Philippine Army as a makeshift camp, along with the Barangay Health Center. They were then introduced to a certain Lt. Fuentes.

A soldier was instructed to go through the bags of Avellaneda and Rutaquio. The soldiers found Avellaneda's journal, including minutes of meetings, plans and other activities of the organization to which he belonged. The soldiers said the items were "suspicious" and began to interrogate the victims. Avellaneda explained that these were simply minutes of the meetings of the Agtas. Bernabe Vargas, the barangay captain of Umiray, was asked by the soldiers if Avellaneda's explanation had any truth. Vargas told the soldiers that he did not believe the explanation, saying that Agtas do not even know how to write. Vargas went so far as to suggest that the documents may be "subversive" and that Avellaneda and Rutaquio could be members of the New People's Army (NPA). Lt. Fuentes



Human rights under a culture of impunity



then ordered that the documents, as well as Avellaneda's cell phone, be confiscated.

The two were then separately interrogated by the soldiers. In his account, Avellaneda said he was being forced to admit that he was an NPA member. The soldiers gave him a gun, telling him to shoot himself if he would not admit that he was an NPA member. Rutaquio, who was being interrogated in another room, was also being forced to admit the same thing. When he refused, he was slapped in the face with a notebook.

The two were made to stay in the camp during the night. The next morning, they were brought to Vargas' house who instructed them to get from their respective barangays a certification that they are members assigned to do community work. They were also asked to secure a permit from the Mayor of Gen. Nakar that will allow them to visit the Agta community.

Political prisoners

As of June 2008, TFDP records show that there are still 204 political prisoners and detainees nationwide: 93 in Luzon, 43 in Visayas, and 68 in Mindanao. Of these, 191 are male and 13 are female.

As in past administrations, the Arroyo government charges political detainees with common crimes. Only 46 out of the total number of political prisoners and detainees have been charged with rebellion.

Torture

The use of torture, as noted in the UPR report, "is still a prevalent method used by State agents" in extracting information or inflicting punishment.

Three cases of torture involving six victims have been documented by TFDP for the first half of the year. One such case is that of Idarat Cabiza Generoso, a 62-year old government employee, and his son Mohar Abais Generoso, a 29-year old Arabic teacher. Both were suspected to be members of the Moro Islamic Liberation Front

Human rights under a culture of impunity

(MILF) with links to the Jemaah Islamiya (JI).⁹

In the morning of February 17, about 50 members of the 25th Infantry Battalion of the Philippine Army arrived and searched the home of Generoso. They were then brought to the military camp in Pindasan, Mabini, Compostela Valley.

Mohar was tortured. He was hit in the stomach twice. During interrogation, his head and back were poked with a gun and a rifle respectively. Twice during the interrogation, Mohar's head was wrapped with a plastic bag filled with cigarette smoke. It was only removed when his interrogators noticed that Mohar could no longer breathe.

The military also told Mohar that they will kill his father in front of him. Then they told him that they had already killed his father. Mohar's ordeal continued for two days.

Extrajudicial executions

While international scrutiny (including the Alston visit and the fact finding missions of different international organizations) may have contributed to the decrease in the cases of extrajudicial execution, still the practice continues.

The case of Ronald Sendrijas¹⁰ of Inabanga town, Bohol was one of the three cases of extrajudicial killings documented by TFDP between January-June this year.

On the evening of January 17, Sendrijas was buying medicines in a pharmacy across Ramiro Hospital in Tagbilaran City where his sister was confined. A man in a white jacket approached and shot him point blank. The victim sustained two gunshot wounds in the nape and in the neck, and he died on the spot. No one was able to identify the assailant.

Sendrijas was a former political detainee. He was arrested in 2004 for his alleged connection to several killings reportedly perpetrated by the NPA. He was released in July 2006 after he posted bail.



Human rights under a culture of impunity



Prior to his death, the military had reportedly “tagged” him as the Front 2 Secretary of the Central Visayas Regional Party Committee of the Communist Party of the Philippines.

Forced disappearance

The UPR report also noted the promulgation by the Supreme Court of the writ on Amparo as a major development in the issue of enforced disappearances. The same report however decried that “this independent initiative of the Judiciary [is] being derailed by the Executive branch through an Executive Order (EO 197)...instructing the military for safeguards against disclosure of military secrets and undue interference in military operations inimical to national security.”

Enforced or involuntary disappearance remains unabated in the Philippines. Since involuntary disappearance is not yet considered a crime under Philippine laws, the 15 cases presently filed in court are lodged as kidnapping, murder or serious illegal detention or a combination of the last two offenses.¹¹

From January to June 2008, the Families of Victims of Involuntary Disappearance (FIND) documented three cases of disappearance nationwide.

FIND provides a brief analysis on the trend of cases of disappearance through the years.

The years 1983 to 1985 recorded the highest number of incidents of disappearance cases followed by years 1987 to 1989. 1983 to 1985 was the peak of the campaign against the Marcos dictatorship. 1987 to 1989 was the period of “total war policy” of the Aquino regime against insurgents. There was a noticeable decline in the number of victims during the administration of President Ramos. The trend was maintained at the earlier part of President Estrada’s short tenure until he declared an all-out war against terrorists,

■
Human
rights under
a culture
of impunity

raising the number of victims to 58 in year 2000. With the present dispensation of President Gloria Macapagal-Arroyo, the total number has risen to 160... with her pronouncement of an all-out war against communist insurgents and terrorists.¹²

The case of the disappearance of Rogelio Marquez, a member of Alyansa ng Magsasaka sa San Jose (Peasant Alliance of San Jose) was documented by TFDP this year.¹³

Marquez was allegedly abducted by seven uniformed police officers at Sitio Artemia, Brgy. Bubog, San Jose, Occidental Mindoro. According to a staff of the Social Services Commission of the Apostolic Vicariate of San Jose, Marquez's family went to the local radio station to find information regarding his whereabouts. The Philippine National Police (PNP) denied having Marquez in their custody.

As of this writing, Marquez remains missing.

The most celebrated case of abduction and disappearance involved Rodolfo "Jun" Lozada, a resource person invited by the Senate to shed light on the controversial ZTE broadband network scandal in which high officials of the Arroyo government and the president's husband were embroiled. Lozada would later surface, and he was able to testify at the Senate hearings. But months after Lozada's exposé, the Senate has yet to conclude its inquiry into the NBN-ZTE controversy.

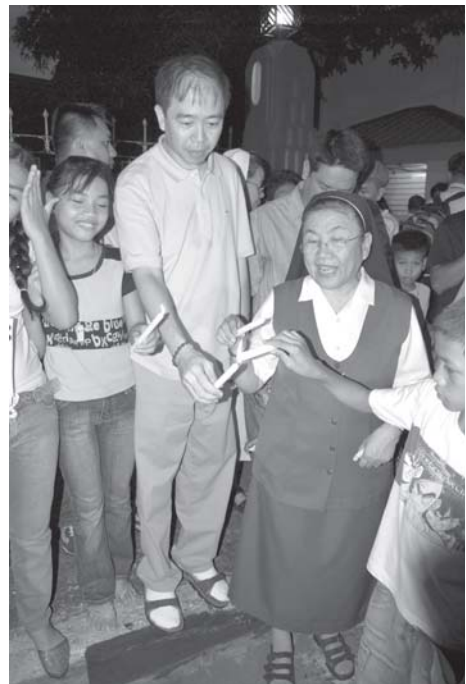
Writs of Amparo and Habeas Data

The promulgation by the SC on the Writ of Amparo for cases of extrajudicial executions and enforced disappearances, and later the on Writ of Habeas Data, could be major developments.

The Writ of Amparo seeks to provide protection to the victims (and their families) of extrajudicial killings and enforced disappearances. The rule also empowers the court to issue relief that may be granted through judicial orders of protection, production, inspection, and



Human rights under a culture of impunity









Human rights under a culture of impunity

other relief to safeguard a person's life and liberty.¹⁴

The Rule on the Writ of Habeas Data is both an independent remedy to enforce the right to informational privacy and the complementary "right to truth," as well as an additional remedy to protect the right to life, liberty, or security of a person. The writ makes available to any person whose right to privacy in life, liberty and security is violated or threatened by unlawful acts or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting, or storing of data or information regarding the person, family, home and correspondence of the aggrieved party.¹⁵

Coincidentally, on September 25, 2007, the day the Writ of Amparo was promulgated, the Executive Department issued Administrative Order 197. AO 197 directs the Department of National Defense (DND) and the Armed Forces of the Philippines (AFP) to draft a bill aimed at putting in place "safeguards" against the "disclosure of military secrets" and "undue interference in military operations inimical to national security".¹⁶

According to Chief Justice Artemio V. Panganiban, the AO is obviously "a military counterattack to outflank and overwhelm the new writ."

Caught in the crossfire

All these cases of human rights violations in the country, as the UPR report notes, are a consequence of the counter-insurgency program of the government.

As the government tries to crush a communist insurgency all over the country as well as a secessionist movement in Mindanao, members of civil society organizations and even civilians get caught in the crossfire.

Balay Rehabilitation Center, a human rights organization that monitors cases of internally displaced persons, stated in its report that displacement of civilian populations occurs as a result of military

harassment, massacre of families, and endless military operations in their communities.

There is a failure to account for all the casualties in the sporadic wars in Central Mindanao and in Sulu and Basilan provinces. Since April of this year, there have been aerial bombings and shellings which hit civilian communities. These military operations against the Moro National Liberation Front (MNLF) and the Moro Islamic Liberation Front (MILF) forces are under the pretext that these separatist armed groups are providing haven to the Abu Sayyaf and other international terrorists who are believed to conduct trainings in their camps. The stalled peace talks have been compromised as a consequence.¹⁷

One of the first documented cases for the year was the incident in Barangay Ipil, Maimbung, Sulu.¹⁸ On February 4, elements of the Special Warfare Group of the Philippine Navy and Light Reaction Company conducted a military operation in Barangay Ipil, an islet near the mainland town of Maimbung, Sulu, populated by more than 30 households. The military operation was based on a false intelligence report of the presence of the Abu Sayyaf group holding a kidnapped businesswoman.

When gunshots were heard, the families of Lahim, Akub and Failan boarded a *bangka* to flee for safety. There were 11 of them in the *bangka* when they encountered soldiers on board a rubber boat. The soldiers reportedly started firing shots at them. The women who were hit shouted and pleaded for the soldiers to stop the shooting. Six of them, including a pregnant woman and a four-year old child, died on the spot. Two others were wounded.

In a separate incident, residents were rounded up in their house and ordered to kneel down. A certain Ibno Wahid was shot point-blank in front of his wife and relatives. Those who scampered for cover were either killed or wounded when their houses were peppered with bullets. Valuables were also taken.



Human rights under a culture of impunity



Human rights under a culture of impunity

CARNAGE

Renewed fighting in August this year has brought the problem of internally displaced persons (IDPs) to a new crisis level. As of August 12, 2008, humanitarian organizations estimated that 160,000 villagers had fled their homes. In North Cotabato province alone, some 130,000 IDPs needed immediate relief. By August 20, an estimated 220,000 residents of N. Cotabato and Lanao provinces had become IDPs.

In its August 31, 2008 update on what it calls the “complex emergency in Mindanao,” the National Disaster Coordinating Council (NDCC) reported that a total of 88,243 families (or 423,772 persons) have been affected by the renewed hostilities. Less than a fourth of those displaced (18,554 families or 91,148 individuals) found refuge in the 136 schools, gymnasiums or camps that were turned into evacuation centers. As the NDCC reports, the majority of those who fled their villages sought shelter in the homes of friends or relatives.

64,404 of the displaced families (317,375 individuals) needed immediate assistance, having lost their homes and/or sources of livelihood.

Government's response

The culture of impunity prevails amidst these massive human rights violations. The government remains unmoved despite the deafening clamour for solutions to the terrible human rights record it has chalked up and the swelling discontent among the population.

Numerous large scale mobilizations and activities have been held in support of truth, accountability and justice. On February 29, during a large interfaith rally in Makati City, the government even prevented the media from taking aerial shots of the mass action. This was believed to be a ploy so that those who were not able to

join the rally would not see the increasing scale of dissent against the Arroyo government.

Even the protest actions calling for truth, accountability and justice are met with further human rights violations, such as the one TFDP documented in Tacloban City.¹⁹

On February 29, as the interfaith rally was happening in Makati City, a similar activity was being held in front of the Redemptorist Church in Tacloban City. The people were staging a noise barrage in support of a nationwide call for truth when members of the Special Weapons and Tactics (SWAT) and the the Philippine National Police (PNP) violently dispersed the participants.

At first, the police attempted to end the activity by asking for a copy of the protest permit. When that did not work, an unidentified police in a threatening tone told one of the protesters, “*Magkikirit kita*” (We will meet again). During the noise barrage, the armalite-carrying SWAT men moved towards the protesters and started grabbing their streamers, banners, and placards.

Hot air

The Philippine delegation to the UPR, headed by Executive Secretary Eduardo Ermita, enumerated the efforts made by the Arroyo government to address human rights concerns in the Philippines.

The government report boasted that from 2006 to 2007, there has been a decline in the incidents of killings of activists and members of the media.²⁰ If indeed political killings had declined, it is still not clear whether this could be attributed to the serious efforts of the Arroyo government. Some observers have pointed out that the decline was recorded *after* Maj. Gen. Jovito Palparan²¹ and Lt. Gen. Romeo Tolentino retired from active service.²²

Human rights advocates cannot rest easy on Arroyo’s pronouncements about measures to stop extrajudicial killings and abductions, when in the same breath, she heaps praises on General Palparan (during the 2006 State of the Nation address, for example).



Human rights under a culture of impunity



Her vocal support of Palparan only confirms what human rights advocates have always suspected: that the killings are part of the government's "unintended policy."

Misrepresentations

The government report also listed "as a concrete manifestation of the Philippines' willingness to cooperate with the international human rights system" its invitation to Prof. Philip Alston, the UN Special Rapporteur on Extra-Judicial, Summary or Arbitrary Executions.²³ But in her speech before the UNHRC, Ambassador Erlinda Basilio, the Philippines' permanent representative to the United Nations in Geneva, lambasted the Alston report, saying it was "bloated."

Basilio claimed that the allegations of extrajudicial killings in the Alston Report have been exaggerated for political purposes, citing cases of what she said should be considered as misreported and non-existent cases. Once such case she cited was the "Bicutan Massacre," which involved, according to her, "23 cases of convicted members of the terrorist Abu Sayyaf Group, who died in a violent jailbreak attempt."²⁴

But it was the ambassador herself who was misreporting the facts. Reports prove that those who were killed were detainees who had yet to see their day in court, let alone be convicted of terrorism. Only three of those who died were suspected members of the ASG, and these three were not included in the Alston report.

Tortuous

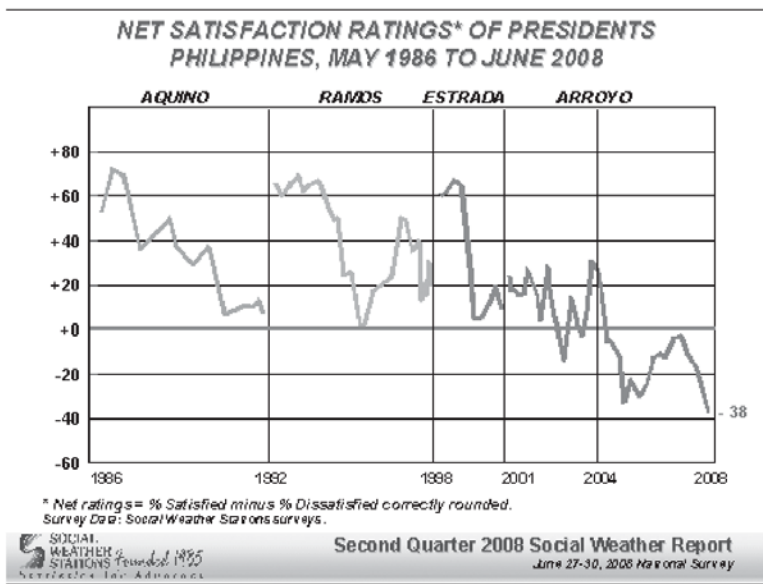
Another pronouncement made during the UPR was that the Philippines also strengthened domestic support for the ratification of the Optional Protocol to the Convention Against Torture (OPCAT). An announcement from Malacañang on April 22 that the president has already ratified the OPCAT could support the claim. It turned out, however, that the declaration was nothing more than a public relation coup aimed at boosting the human rights image of the president while ensuring that the concrete result – the Senate ratification of the OPCAT – will remain suspended in limbo.²⁵

■
Human
rights under
a culture
of impunity

Sadly, legislation of human rights bills is not a government priority. Despite strong lobby efforts, there are still no domestic laws criminalizing torture and enforced disappearance. There are pending anti-torture and anti-enforced disappearance bills in both houses of Congress, but the enactment into law of both bills still has a long way to go.

People's response

A devious administration cannot forever hoodwink the people. In its 2nd quarter survey, the Social Weather Stations (SWS) recorded a -38 satisfaction rating for the president. Mrs. Arroyo is the only president after Marcos who has received a negative satisfaction rating (refer to figure, below).



Source: <http://www.sws.org.ph/>

Despite the gigantic stumbling block that is the Arroyo government itself, efforts to break the culture of impunity has been steadily growing. In the face of impunity, human rights defenders continue to courageously fight for the realization of human rights. Grassroots education and awareness building are being done. Different organizations continue to work together for human rights and peace.



Human rights under a culture of impunity



In its report to the UPR, civil society groups recommended the following:

1. Immediate ratification of international human rights instruments, including Optional Protocol Against Torture (OPCAT) and the Convention on Enforced Disappearance;
2. Enactment of domestic legislations reflective of the State's commitment to universal human rights principles and dismantling of policies that violate them, including the repeal of the Mining Act of 1995;
3. Repeal of the Human Security Act of 2007;
4. Prioritization of basic services (education, health, housing, etc.) over foreign debt servicing in the annual budget, which would entail the repeal of the Automatic Appropriations Law;
5. Implementation of the Alston and Staffenhagen recommendations.

NOTES:

- ¹ These advertisements, which were first aired during the seventh anniversary of EDSA 2, featured various workers claiming their lives had improved under the Arroyo administration. Brief video clips of Mrs. Arroyo taking her oath as acting president at the EDSA Shrine on January 20, 2001 were interspersed with the interviews in the TV ads. While the ads did not indicate the sponsoring group or agency, they appeared to be aired in place of government infomercials and regular spots of the Philippine Amusement and Gaming Corp. (<http://www.gmanews.tv/story/77283/Asenso-ads-air-in-place-of-govt-infomercials>)
- ² Strong Peso, Higher Prices by Ben Sanchez, www.inquirer.net, March 28, 2008.
- ³ *ibid.*
- ⁴ *ibid.*
- ⁵ DSWD says 'poverty targeting' in RP difficult, www.abscbnnews.com, July 19, 2008.
- ⁶ This report was submitted by the Philippine NGO headed by the Philippine Alliance of Human Rights Advocates (PAHRA). Other civil society organizations, most of which are also PAHRA members, that were part of

the report: Philippine Human Rights Information Center (Philrights); Task Force Detainees of the Philippines (TFDP); Association of Major Religious Superiors in the Philippines (AMRSP); Justice, Peace and Integrity of Creation Commission-AMRSP (JPICC-AMRSP); Families of Victims of Involuntary Disappearance (FIND); Balay Rehabilitation Center Inc.; Claimants 1081; Moro Human Rights Center (MHRC); Philippine Network of Rural Development Inc. (Philnet-RDI); Medical Action Group (MAG); Kasarinlan Kalayaan (SARILAYA); University Center for Human Rights Education (UCHURE); Center for Migrant Advocacy (CMA); TEACHERS; Social Watch-Phil.; Action for Economic Reform (AER); Legal Resource Center-Kasama ng Kalikasan (LRC-KSK); Freedom from Debt Coalition (FDC); Kilusan para sa Pambansang Demokrasya-Central Luzon (KPD-CL); Alab Katipunan (AK); Pinay Kilos (PINK); Claret Justice and Peace and Integrity of Creation (Claret-JPIC); Phil. NGO Liaison Committee on Food Security and Fair Trade (PNLC); Pambansang Koalisyon ng mga Kababaihan sa Kanayunan (PKKK); Focus on the Global South; Justice, Peace and Integrity of Creation-Franciscan Sisters of the Immaculate Conception (JPICC-SFIC); and the Philippine Coalition for the International Criminal Court (PC-ICC). See also "Engaging governments through the UPR process" by Renato Mabunga, pp. 27-31, *Human Rights Forum*, June 2008.

- 7 "These individuals were arbitrarily arrested, detained for days, even weeks, even in the absence of charges against them. There were also documented cases of these individuals being subjected to cruel, inhuman, and unjust punishment and tortured."
- 8 Fact Sheet 08-INF-001 documented by TFDP-Luzon
- 9 Fact Sheet 08-DOR-001 documented by TFDP-Mindanao
- 10 Fact Sheet 08-BOH-001 documented by TFDP-Visayas
- 11 Families of Victims of Involuntary Disappearance (FIND), Overall Results: FIND's Search and Documentation Work (November 1985 to June 30, 2008).
- 12 Ibid.
- 13 Fact Sheet 08-OCM-001 documented by TFDP-Luzon
- 14 No.105, page 14, National Report Submitted in Accordance with Paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1 Philippines.
- 15 Ibid.
- 16 Artemio V. Panganiban, *With Due Respect Column*, www.inquirer.net, October 28, 2007.
- 17 Conejar, Daniel. *Struggle for Bangsamoro Human Rights*, Philippine Human Rights Update, Vol. 22 No. 2, Task Force Detainees of the Philippines.



Human rights under a culture of impunity



- 18 Fact Sheet 08-JOL-001 documented by TFDP-Mindanao
- 19 08-NLY-001 case documented by TFDP - Visayas
- 20 No.105, page 14, National Report Submitted in Accordance with Paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1 Philippines
- 21 Dubbed "The Butcher of Mindoro", then later, "The Butcher of Samar."
- 22 www.inquirer.net I-TEAM REPORT: Political killings not official but an unintended policy
- 23 No. 109, page 15, National Report Submitted in Accordance with Paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1 Philippines.
- 24 <http://www.gov.ph/news/default.asp?i=21149>
- 25 TFDP press release, May 22, 2008.

Human
rights under
a culture
of impunity