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# Investigations and Fact-Finding Missions: Asserting our Human Rights and Breaking Impunity

*Assassination is the extreme form of censorship.*  
- George Bernard Shaw

*... they came for the Communists and I did not speak out because I was not a Communist.*

*Then they came for the trade unionists and I did not speak out because I was not a trade unionist...*

*Then they came for me and there was no one left to speak out for me.*

- Pastor Martin Niemoller

■ By MAX M. DE MESA

THE ONGOING spate of extra-judicial executions or 'salvagings'<sup>1</sup> perpetrated with impunity under the Arroyo government prompted civil society and the human rights community to form fact-finding missions. These fact-finding missions were done in the face of government and/or police pronouncements that their investigations could go no further without witnesses and leads. Even the Commission on Human Rights, in most incidents, just archived the cases. The unspoken sentiment from communities was that if any witness existed at all, that person would naturally be reluctant to give testimony, for fear of inviting reprisals. Such reluctance on the part of witness/es is understandable, especially with the widespread belief that the perpetrators are most likely death squads let loose by either the military or



police with the sanction of higher-up government and military officials.

The pattern of the extra-judicial killings reveals that there are priority targets for extermination: the "left", thus making most of these killings political in nature. The "left", depicted by the military as primarily belonging to or associated with the New People's Army (NPA), are "the enemies of the state"<sup>2</sup>. This label is extended to all legitimate and legal organizations and

institutions that are critical and/or opposed to government plans, programs and policies. In the countryside, this image is imposed upon people often coerced to attend these brain-washing sessions and dictated rallies (called "peace rallies"), as in Mexico, Pampanga<sup>3</sup> where 19 of 43 barangays have military detachments. People who express their just demands and seek redress through demonstrations and pickets are often the focus of coercive attendance, as in Towerville,



Bulacan<sup>4</sup>. Working within the framework of a Cold-War mentality and couched in a McCarthyistic, anti-communist language, the State and the military establishment, with Gen. Jovito Palparan, Jr. as the main spokesman, lend an atmosphere of legitimacy to the killings or, in the least, blunt and control the outrage towards these criminal acts. To deflect accusations of responsibility, government and military officials even insinuate that the left itself is killing its own.<sup>5</sup> Any outright condemnation of the crimes, open defense for the

victims or even consistent principled stand for justice, democracy and human rights will be construed as sympathy to, if not direct link with, the perceived "enemy of the state". In such a coercive environment, the forced conclusion and enforced behavior therefore is that it is all right to eliminate, even physically, the "left".

#### **Objectives and Obstacles**

The Citizens' Council for Human Rights (CCHR), a broad-based human rights movement convened by the Philippine Alliance of Human Rights Advocates (PAHRA),

recently organized Task Forces and Fact-Finding Missions (FFM) to investigate the extrajudicial executions<sup>6</sup>, political killings and other serious human rights violations in Metro Manila,<sup>7</sup> Central Luzon<sup>8</sup>, Negros<sup>9</sup> and Mindanao<sup>10</sup>.

The main objective of investigating extrajudicial executions, political killings and other grave human rights violations is to collect sufficient evidence and to convince the needed witnesses so as to be able to file charges, convict the perpetrators and obtain justice for the victims. Ultimately, it is to break impunity.

Most of the incidents of extrajudicial executions have no

witnesses, despite the latter's physical proximity to the killing, who could pin-point the perpetrator(s), like the following cases:

**Antonio Adriales**, leader of the peasant organization *Aguman Dareng Maldang Talagapagobra Queng Gabun* (AMTG) in Mexico, Pampanga, who was shot on January 10, 2006 near his home. At the time of the killing, his wife, Delia, and children were already preparing to rest for the night. Despite strong suspicions of who could be the killer visitors of Tony, they remained only that - suspicions - because no other proof could be produced.

Such a situation is not helpful to two more peasant

leaders who live in the same community as Tony. Before proceeding to Tony's house, the killers first knocked on the doors of these two peasant leaders, but the two were not in their respective homes. There would have been three executions that night. But it does not mean that the two peasant leaders can now breathe easier. The killers have not been caught, let alone convicted. They continue to hunt their victims with impunity.

**Kathy Alcantara**, leader-organizer of the *Pambansang Kilusan ng Makabayang Magbubukid* (PKMM), was killed mid-morning of December 5, 2006 in Brgy. Gabon, Abucay, Bataan. She was just a short distance from an on-going seminar of PKMM in Abucay Country Resort when she was gunned down by motorcycle-riding men. People who turned to look when they heard the shots were not in a position to recognize the killers who in the meantime had sped away.

**Enrico Cabanit**, peasant leader of UNORKA, was gunned down while in the Panabo City market, Davao del Norte, with his daughter, Daffodil, at 6 P.M. last April 24, 2006. Ka Eric was shot several times in the head, while his daughter was hit on her chest. The police consider the case "already closed" as their main suspect, identified from a cartographic sketch by "police assets," was later killed in Gen. Santos City. The "police assets" just happened to be in the area at the time Ka Eric was shot to death. One of the two witnesses interviewed by the fact-finding mission definitely said the dead police suspect was not the person who shot Ka Eric.<sup>11</sup>

There are cases, even with leads, when local government, police and military personnel frustrate the protection of human rights of victims, as in the following:

**Tomas M. Paras**, a rebel-returnee, had been a charcoal-maker for the last nine years

until the day of his abduction and enforced disappearance in the hands of the military believed to be from the 70<sup>th</sup> IB PA in Baryo Site, Samal, Bataan. When Tomas' wife, Dorina, a rebel-returnee herself, sought the help of the Barangay Captain, the latter did nothing to help locate Tomas and ensure his safety, but did affirm that the military took him aboard an army truck. When Dorina was later told that Tomas was brought to the 24 IB Detachment in Kamacho, she sent her daughter but the latter was refused entry. Dorina is presently confused and worried over inconsistent information reaching her. One news was that Tomas was killed ("Ginilitan sa leeg"/His throat was slit). The other news was that her husband is still alive and is being used by the Army as a "civilian asset" in their military operations ("Buhay. Kasama ng Army sa operasyon."/He's alive. He is with the Army in their operations.)

**Audie Lucero**, political activist of the Youth for Nationalism and Democracy in Samal, Bataan, was last seen alive in the company of military personnel at the Isaac & Catalina Medical Center (ICMC) at around 11 P.M. of February 12, 2006.

**Rico Adeva**, a community organizer of Task Force Mapalad was killed on April 15, 2006 while traveling with his wife, Nenette, from his home in Hacienda Defuego II, Silay City to Talisay City. Rico sustained ten gunshot wounds. Nenette was able to identify some of her husband's killers.<sup>12</sup>

**Mario Domingo** and four other farmer beneficiaries were fired upon by a group led by one Lito Silverio. Domingo and his companions were protesting why Silverio and his men were planting corn in the land that belonged to Task Force Mapalad to which the former belonged. Despite being in flight, Silverio's men pursued

Domingo and shot him in the temple. Domingo died instantly. Even the police who came to the scene were fired upon.

There are cases of frustrated salvagings and massacres perpetrated by non-state actors but have been abetted by government officials, despite identified perpetrators. Examples are:

**Marlon C. Maspas**, a resident of Brgy. Sta. Monica, San Simon, Pampanga. On January 31, 2006, two gun-men (Oscar Romero, Jr. and Michael Arsenio) fired upon him. He was hit by a bullet, but was able to escape to safety. Romero and Arsenio had mistaken Marlon for someone else, someone who was involved in the killing of one of the notorious Batu brothers. The Batu brothers were leaders of a group which engaged in extortion, among others, to which Romero and Arsenio belonged. The Batu brothers' group are also known to be used by local officials during elections. Marlon has filed charges against the two with the police, but up to the time of the fact-finding mission, Romero and Arsenio were still freely roaming in the town.

**Rolito Boltron** is a farmer beneficiary in Hacienda Mulawin, Silay City, a recipient of a Certificate of Land Ownership Award (CLOA). On the evening of January 5, 2004, he and other farmer-beneficiaries were in a tent guarding their awarded land. At 3:00 AM, they were suddenly roused by lights coming from a tractor. The farmers were fired upon, without provocation, as they were going out of the tent. Rolito was hit on the lower abdomen and would end up completely paralyzed. The perpetrators were identified as Joseph Lacson, the *encargado* of Hacienda Mulawin and the security guards hired by the former landowner. No one has been convicted of this crime.

**Rogelio Areglo** and other farmer beneficiaries, without provocation, were fired upon by

personnel of Hacienda Minacalao, also in Silay City, last December 29, 2004. Areglo was hit with a bullet in his left abdomen. The other farmers were spared only because the perpetrators ran out of bullets. Areglo's companions were able to apprehend Ronilo de los Santos and Randy Batan while the other six other assailants, all of whom were known to the victims as men of Narciso Tam, were able to escape. De los Santos and Batan have been turned over to the police but the case has not yet been resolved.

### **Asserting our Common Humanity**

The government and the military are primarily accountable for this spreading coercive environment and culture of impunity in which even non-state actors thrive. Non-state actors, such as landlords, would naturally be inclined to maintain close relations with the military and police to serve their own interests. The various forms of harassment and intimidation, with the acquiescence of authorities, could be but a prelude to more extra-judicial executions all over the country. This fear is all the more heightened with the recent allotment by Ms. Gloria Macapagal-Arroyo of one billion pesos for the decimation of the New People's Army.

There is also a crisis in human rights, as there is a crisis on the political plane. Extra-judicial executions, political killings and other gross human rights violations have been - and continue to be - perpetrated with impunity that these violations have not only divided people between those who have rights and those whose rights can be easily dispensed with, but have destroyed our belief in our common humanity. Our vulnerabilities have been infected by the virus of the communist bogey which in turn debilitates our capabilities to defend human dignity. More often than not, the outrage towards these killings have been partisan, i.e., cutting

through, among others, organizational, sectoral and ideological lines. Even the churches and churchpeople seem to be still held back by the "red scare" that killings of priests from the Philippine Independent Church do not draw open condemnation and solidarity from Catholic and other Christian churches and congregations. The psy-war of the Arroyo administration and of the military has managed to separate the middle and upper classes of Philippine society from the ordinary people struggling for their human rights and fundamental freedoms.

It is thus time to recall the statement that Pastor Martin Niemoller made during Hitler's attempt to decimate the Jews. If we do not respond now in solidarity with those whose dignity and human rights are assaulted, there may be no one else to come to our defense when our own dignity and human rights are assaulted.

Asserting our common humanity must be done in the face of all attempts to dehumanize us by violating our human rights. This must be done before both state and non-state authorities and entities, demanding accountability and responsibility respectively. And while priorities must be established, this assertion must be done in principle by all and for all.<sup>13</sup>

Conducting investigations and fact-finding missions with the broadest representative participation is a form of protest against this assault on our common humanity. Formation of such missions asserts not only our common concern, but also denounces and fights against all attempts to erode our dignity as human beings.

### **Searching for a breakthrough against impunity**

Many, if not most, of the cases are frustrating due to the very slim, if any, chance of arresting the perpetrator(s) and bringing justice to the victims. We have seen above that



**Shouting to the obstinately deaf, activists call for an end to the political mayhem.**

Photo by AKBAYAN

difficulties and obstacles to resolving a case are numerous.

But beyond fact-finding missions, there must also be an entity tasked to sift through the growing number of incidents of extra-judicial executions, political killings and other grave human rights violations and select those cases which could be pursued to resolution. There is a need to search for a breakthrough against impunity, either from a case of extra-judicial execution, political killing, torture or enforced disappearance. There must be a focus on those cases which have a high prospect of prosecution and conviction. This means the readiness and passion of lawyers, as well as witnesses, for this specific pursuit of justice. The security of survivor victims and witnesses must be sustainably assured and meticulously arranged. Material and financial needs

have to be realistically and programmatically obtained.

Complete disclosure and determined pursuit of evidence can be achieved if all concerned parties contribute to the building of evidence against the perpetrators. This is where cooperation and trust must be established between civil society, the non-government human rights groups and the Commission on Human Rights (CHR) without infringing on each one's independence and initiative. There must be an open exchange of investigation results. The CHR has privileged access to government and military officials, buildings and offices, as well as symbolic authority. Civil society and non-government human rights groups usually have deeper roots in communities where the violations have been perpetrated. They could also have more persuasive influence

to draw out fearful witnesses and reliable data and statements which may be helpful in the prosecution of the perpetrators.

The CHR and the human rights movement should pool knowledge and capabilities for this serious endeavor of halting the rampage of human rights violations. While the CHR has no prosecutorial power, it nonetheless could lend its personnel and resources to those who will file charges against gross violators of human rights. The CHR should avoid becoming just an expensive archive of gross human rights violations. To be a major actor in the fight against impunity, CHR, for one, must warn and weed out if necessary, officials and personnel whose actions abet impunity.<sup>14</sup> On the other hand, the non-government human rights organizations and institutions must collectively set common priorities. Together they could leave a legacy of being trailblazers in breaking impunity.

This legacy begins with acknowledging that the people themselves are the decisive force in breaking impunity. The needed human rights education that upholds the people's dignity must be broadly implemented and accelerated. People should know and assert their human rights. This assertion should be expressed organizationally through human rights formations, such as the Barangay Human Rights Action Centers (BHRACs)<sup>15</sup>. The members of these human rights formations must be trained in documenting and monitoring human rights violations, as well as government compliance of its state obligations within their scope of responsibility. These documentations should in turn be brought before all venues in the national, regional and international levels to obtain appropriate responses, including judicial and legislative<sup>16</sup>. Such human rights sensitivity and skills can imbue peoples' struggles with the

added courage and enthusiasm in asserting their common humanity and eventually breaking impunity.<sup>17</sup> Impunity, after all, is only broken when the people have determinedly asserted their human rights.

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**NOTES:**

- <sup>1</sup> Extra-judicial executions are killings perpetrated by state agents without recourse to the rule of law. "Salvaging" is a coined Filipino term for extra-judicial killing, popular during the martial law period. The victims of these human rights violations during martial law were those with political beliefs. Thus, most of the times, extra-judicial executions are synonymous with political killings.
- <sup>2</sup> Armed Forces of the Philippines' production "Enemies of the State", 2004. It must be pointed out that much of the information came from the martial law period. It contained names of persons some of whom are already dead, like Sr. Christine Tan of the Association of the Major Religious Superiors in the Philippines (AMRSP).
- <sup>3</sup> See CCHR Fact-Finding Mission Report: Pampanga and Bataan. April 24-26, 2006. Please refer to section on 'Militarization of Communities', p. 10ff.
- <sup>4</sup> See SANLAKAS report on Toverville, Bulacan, where each family was required to send a representative to a barangay (village) meeting where the military documentary, "The Enemy of the State", was shown. It must be noted that the urban poor communities harassed by the military were those which sent delegations to the anniversary of EDSA I last February 24, 2006.
- <sup>5</sup> Philippine Daily Inquirer, June 25, 2006, p. A18, 'One in body, spirit for the oppressed'. The extra-judicial executions of husband and wife George Vigo and Maricel Alave, former activists, were being blamed by Central Mindanao police Chief Superintendent German Doria to the NPA's sparrow unit. The local NPA denied responsibility saying that the couple were engaged "in the progressive legal democratic mass movement in North Cotabato".
- <sup>6</sup> At this point, extra-judicial executions take the strict generic and broader application of all killings perpetrated by state agents against anyone without due process of the law. Thus, one of the human rights violations identified by the CHR in the case of the "Bicutan Siege" is extra-judicial execution. Even though the victims of the siege were suspected members of the kidnap-for-ransom group Abu Sayaf, they nonetheless were entitled to respect and protection of their human rights to life, to due process and to be free from inhuman treatment. All political killings or 'salvagings' referred to in this paper belong to the category of extra-judicial executions. But extra-judicial executions are not only political killings.
- <sup>7</sup> Task Force Bicutan was formed both to address the legal aspect of the Bicutan Siege and the campaign component of the incident. The Moro Human Rights Center (MHRC) is the lead organization. The legal aspect focuses on the cases of extra-judicial executions, massacre, excessive use of force and inhuman treatment of detainees in the SICA Bldg. in Camp Bagong Diwa, Taguig. These human rights violations were perpetrated on March 15, 2005 by police elements under the command of Angelo Reyes, then Secretary of the Interior and Local Government; incoming Police Chief Superintendent Lomibao and then-outgoing Police Chief Superintendent Aglipay. The Commission on Human Rights has already made an *en banc* resolution citing the above mentioned violations of the people who conducted the siege.
- <sup>8</sup> The cases presented for investigation came from the *Kilusan para sa Pambansang Demokratiko (KDP)* from the provinces of Pampanga and Bataan in Central Luzon.
- <sup>9</sup> The cases for investigation came from the organization Task Force *Mapalad* (TFM) which covers several contested land areas (Haciendas Del Fuego, Progreso, Dolores, Dorotea, and Adoracion) in Silay City, Negros Occidental. In the course of their struggles for justice and agrarian reform, some of the TFM leaders have been 'salvaged' and many of its members harassed and intimidated by State and non-State elements.
- <sup>10</sup> The high profile case was the one of Eric Cabanit, a peasant leader and staunch human rights defender, who was gunned down along with his daughter in Davao City in the island of Mindanao. Other cases were from Southern Mindanao, involving primarily violence in agrarian reform areas.
- <sup>11</sup> International Fact-finding Mission Final Report: "Running Amok: Landlord Lawlessness and Impunity in the Philippines". Fact-finding Mission conducted from June 2-15, 2006.
- <sup>12</sup> Nenette Adeva made a supplementary affidavit wherein she identified two of the three assailants of her husband, i.e. Ronald Europa y Porras and a certain "Boy Negro", whom she remembered as members of the Revolutionary Proletarian Army-Alex Bongcayo Brigade (RPA-ABB). The RPA-ABB verbally denied they had anything to do with the killing of Rico Adeva. See the final report of the International Fact-finding Report "Running Amok; Landlord Lawlessness and Impunity in the Philippines", 2-15 June 2006.
- <sup>13</sup> In practice, this assertion of our common humanity means taking up the advocacy and/or defense of suspected Abu Sayyaf detainees in Camp Bagong Diwa, of mass leaders from different political persuasions whose human rights have been violated by either state or non-state actors. Cases in Negros and the Bondoc Peninsula are examples of alleged violations by non-state actors as reported by the International Fact-finding Mission.
- <sup>14</sup> For example, Task Force Detainees of the Philippines (TFDP)-Mindanao: A complaint accompanied with relevant documents was filed by Rodolfo Baluyo and Talib Japalali in the CHR Davao office against military personnel who, without provocation, fired upon the house of the couple, Bacar Japalali and Carmen Baluyo, and killed them.
- <sup>15</sup> The incident happened in Barangay Bincungan, Tagum City on September 8, 2004.
- <sup>16</sup> CHR failed to conduct an investigation. This and similar acts of omission contribute to the culture of impunity.
- <sup>17</sup> This is a neglected program of the CHR which was envisioned to empower the citizens to take the lead in the promotion and protection of human rights in the grassroots level. After the Memorandum of Agreement between the CHR and the Department of Interior and Local Government (DILG) in 1994, out of 7,270 BHRACs established, only 2,342 are functional nationwide. Many must be acknowledged to have been politically coopted when the Barangay officials themselves act as the Barangay Human Rights Action Officers. The whole program must be assessed by all interested stakeholders. For one, the CHR has for several years not responded to the offer of assessment and collaboration by the Task Force Detainees of the Philippines (TFDP) and the Philippine Alliance of Human Rights Advocates (PAHRA) to establish and to strengthen BHRACs in their areas of operations.
- <sup>18</sup> It should be noted that the Philippines is a signatory to many human rights instruments and is presently a member of the newly formed United Nations Human Rights Council.
- All people's formations of human rights should receive information and, eventually, training on the use of the international human rights mechanisms.
- <sup>19</sup> Collaborative efforts by civil society, especially the grassroots communities, the human rights movements and CHR could focus as priority areas the projected "mega regions" of development as well as the militarized areas where human rights violations are expected to increase. Massive human rights education and paralegal trainings and building human rights formations should receive comprehensive support.