

# OBSERVER

A JOURNAL ON THREATENED HUMAN RIGHTS DEFENDERS IN THE PHILIPPINES



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## SEEKING FOR JUSTICE: POLITICAL KILLINGS AND IMPUNITY

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## EDITORIAL

In the annual ranking of the „Committee to Protect Journalists“, the committee laments the deaths of 70 journalists in the Philippines since 1992; only Iraq counts more dead. According to the committee’s impunity ranking of countries, the Philippines occupy second place. The new president Aquino promised to overcome the dreadful humanitarian heritage of his predecessor. But the current administration still needs to prove that it possesses the political will and executive power within its state apparatus to let extrajudicial killings and impunity become history.

Genuine justice means to reprocess past political killings and to prosecute and sentence not only the direct delinquent but also the person or group behind the committed crime. Additionally, the state and its administration need to bear responsibility for past crimes.

After the hot spot year in 2007, the entire international community started to realise that extrajudicial killings rose up in the theoretic democracy in Southeast Asia. Within that year, many reports on political killings were published. This volume brings together a set of different perspectives such as legal, national and international, state-led and civil society-driven perspectives. The volume addresses well-known and unknown cases.

Anne Lanfer opens this issue by presenting the recent study on political killings in the Philippines of USAID and the Asia Foundation, which define extrajudicial killings and take a closer look at its implications.

Even though for many people it might be evident that the state is not allowed to kill people, there are exceptions. One of them are times of war. Not always it seems to be clear whether all conditions are met so that a killing might be considered legal. A humanitarian law perspective on the

issue presents Holger Stoltenberg-Lerche.

According to Jan Pingel, there are not only systematic-strategic reasons for political killings, but also cultural aspects which abet them. In his article, Pingel analyzes the democratic system and its patrimonial structures in the Philippines. The elitist power becomes especially manifested in the analysis of the Maguindanao Massacre in

about extrajudicial killings in Bondoc Peninsula, the EU decided to send a working group on extrajudicial killings to the Peninsula. Slowly, an investigation by the Philippine authorities started after several years. An interview with a family member of a murdered human rights defender gives a personal perspective. Finally, this volume presents different strategies of (non)involvement of civil society actors. The group Sumabay



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November 2009. Lukas Bauer highlights the aspects of these power structures and the accompanying difficulties investigators face.

Whereas the issue of political killings is often addressed with representative cases, this volume’s concern is also about elucidating the tacit and unknown cases. In the two regions where IPON is active, accompanied human rights defenders were killed because they were advocating for their rights. These extrajudicial killings are exemplarily discussed to understand the system behind it. The cases IPON is working on are usually not in the spotlight of the media and tend to sink into oblivion.

After receiving reports from IPON

Tayo! is one of many actively involved groups in foreign countries advocating for an end of political killings in the Philippines. In contrast, international Human Rights Observer such as pbi and IPON offer protection for endangered human rights defenders while not directly interfering with the domestic affairs of the country. The limits and the strengths of this approach presents Juliane Walter and Juliane Marquardt from pbi, showing examples from their works as human rights observers in Guatemala and Mexico.

This collection of articles provides a valuable examination of the issue of extrajudicial killings while enlightening this complex issue from a multi-perspective view. ■

## EXTRAJUDICIAL KILLINGS – A HUMAN RIGHTS CRISIS



### Anne Lanfer

29 years, Master of Science in Nutrition and Household Economics, has worked on Philippine agrarian issues since 2002 using both political and scientific approaches. She is a founding member of IPON.

*Extrajudicial killings in the Philippines are so numerous that a report from USAID and the ASIA Foundation calls them a national epidemic (Al Parreno 2010). This article sheds light on the contextual framework of extrajudicial killings. What defines an extrajudicial killing? Who are the victims and who are the perpetrators? And what is their societal impact? It becomes clear that independent of their number and exact definition, extrajudicial killings are always an alarming sign of a massive human rights crisis within any governance system.*

The killing of human rights defender Arnaldo Hoyohoy who was murdered in front of his house in Negros Oriental by unidentified killers wearing a cap (see Interview with Alexander “Dodong” Hoyohoy, this volume), is just one of the many extrajudicial killings that happen in the Philippines and around the world.

### What defines an extrajudicial killing?

The term ‘extrajudicial killing’ in its original meaning refers to homicides that are committed outside the legal system with no prior judgement of a court<sup>1</sup>. In this sense, the term comprises a large amount of violent acts with different motives, victims and perpetrators. For instance,



© IPON | In front of the court: Who gets access to a fair trial, who does not?

acts that are predominantly seen as vigilante killings or lynching, carried out by privately organized groups can be called an extrajudicial killing as well as homicides that are committed by the state without legal proceedings.

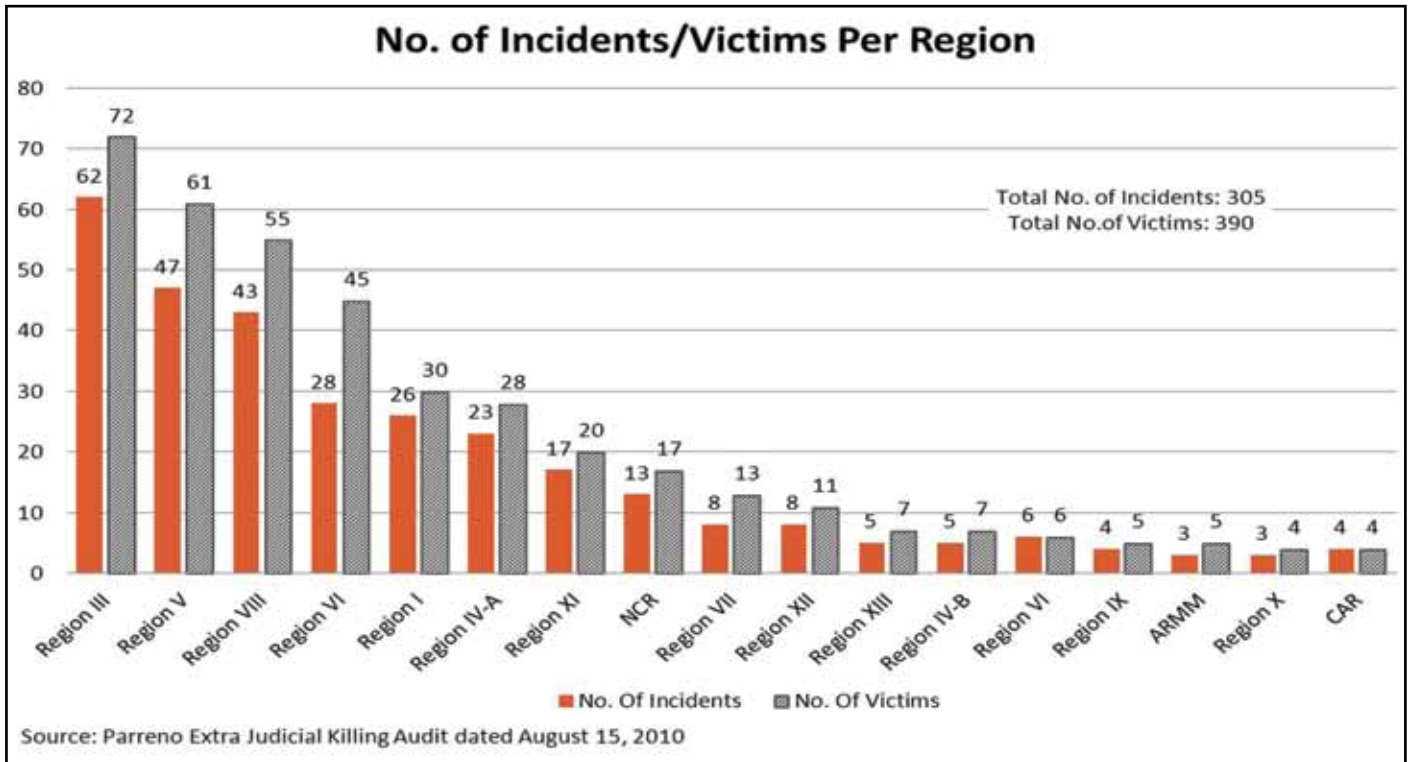
Beside this general description, there exist other predominant definitions of the term that

differ in that they claim extrajudicial killings to be politically motivated acts. According to this definition, the state has to be involved in or at least tacitly accept the commission of the killings. This type of definition is also used by the Philippine government<sup>2</sup>. When defining extrajudicial killings in that way, they are almost synonymous to the term “political killings” except for the fact that political killings can be committed with or without state involvement whereas the term extrajudicial killing implies some degree of state involvement at all times.

Politically motivated extrajudicial killings usually have in common that they are intended and well-organized murders that give the victim no chance to defend itself and that the perpetrator remains unidentified. This is achieved by either wearing face covering masks or by committing the acts swiftly with an immediate escape after the murder is committed, possibly during night time or in a lonely surrounding. There can even be the attempt of the perpetrators to make the killing look like a suicidal act. In the Philippines, a large amount of killings have been conducted at the victims’ home, at work or in between, where the perpetrator was masked and made a fast escape on a motorcycle (Melo et al. 2007).

It is another characteristic trait of politically motivated extrajudicial killings that they are usually followed by impunity. Between 2001 and 2010, there have been a total of 305 incidents of extrajudicial killings with 390 victims in the Philippines. During this period of time, only 1% of all extrajudicial killings resulted in a conviction (Al Parreno 2010).

It is important to note that extrajudicial killings are not a problem that can only be found in certain regions or only in low-income countries. Almost every country faces or has faced extrajudicial killings. For instance, vigilantism has a long history in the United States and recently



especially persons listed in sex offender registries have been subject to vigilante violence (United Nations 2009).

### Who are the victims?

In most countries, suspects of criminal acts form the largest group of victims when adhering to the general definition of extrajudicial killings. According to the report of the UN Special Rapporteur on extrajudicial killings Philip Alston, the highest most of such killings are committed against suspects of thievery (United Nations 2009). Applying the more narrow definition of extrajudicial killings, victims are most likely political activists and journalists. Due to their call for change, political activists are usually at odds with individuals or groups that are interested in maintaining the political Status Quo. In the Philippines, the group of political activists comprises a diverse group that includes human rights defenders such as land reform advocates, peasants, urban poor and trade unionists. Political activists are often affiliated with groups that are considered as communist-influenced

and therefore are also in the focus of the Armed Forces of the Philippines (AFP) (Al Parreno 2010). The killings of journalists have a similar background. Because of their work they uncover political and societal backdrops and as they have a public voice, they can shape public opinion.

Both political activists and journalists constitute essential elements for an intact critique and a balanced civil society, key to the wellbeing of a democratic state. The fact that political killings are on the rise and that individuals belonging to the aforementioned groups are threatened is a sign of structural flaws in the governance system within a state.

### Who are the perpetrators?

When it comes to the broad definition of extrajudicial killings, the perpetrators can come from various backgrounds. The range covers basically everything from a private person acting on his or her own over a random lynch mob up to a special armed state unit that was trained to conduct extrajudicial

killings. Focusing the more specific definition of politically killings based on the condition of state involvement, the range of possible perpetrators is smaller. However, it is one of the very characteristics of politically motivated extrajudicial killings that the perpetrators are very difficult to identify. As explained above, the killings are usually planned in such a way that the victim is attacked without warning and that the perpetrator can make a fast escape. This may be one of the reasons why cases of extrajudicial killings have such low clear-up rates. As the type of killings and the motives are very different from country to country, it is difficult to identify one type of group that is mostly responsible for extrajudicial killings in the world. In the Philippines, a recent report states that in the majority of cases (57%), the perpetrators were unidentified armed men. In 19% of all cases, member of the AFP were identified as perpetrators, followed by members of rebel groups (12%) (Al Parreno 2010).

The definition of extrajudicial killings in its narrow and specific version implies

state involvement on the side of the perpetrator. There is a whole spectrum of possible state involvement. It can mean that a state member actually acts as the executing person but can also comprise phenomena such as the state being the client of an assassin or the acquiescence of state agents in the commission of a killing. Unless

the failure of the state to fulfil its duty to ensure the prevention, prosecution and punishment of killings becomes evident. Impunity also has a deteriorating effect on a civil society's outfit and can massively hamper a working democratic civil society. Political activists, civil society groups and journalists cannot be guaranteed security,



IPON | According to the Supreme Court of the Philippines, for a killing to be considered extrajudicial, state actors like military or police have to be involved.

the executor is an identified member of a state institution, it is usually very difficult to prove involvement of the state.

### Implications of extrajudicial killings

Extrajudicial killings are always a sign of a major human rights crisis within a society. When the state itself is involved in extrajudicial killings, it is quite clear that this act directly violates the state's duty to protect its citizen's right to life. The fact that state officials circumvent their own structures for legal punishment is evidence of a serious structural problem within a government. Usually state officials deny any involvement in extrajudicial killings. However, even if this holds true and state agents genuinely despise extrajudicial killings, the killings are a sign of the state's failure to ensure legal prosecution of crimes. According to the report of the UN Special Rapporteur, many private perpetrators of extrajudicial killings justify their actions with a failure of state institutions in protecting their citizens and to exert justice (United Nations 2009). Considering the alarmingly low clear-up rates and the persistent impunity of perpetrators,

which in turn can lead to diminished activity of such groups. However, such groups are vital in guaranteeing a functioning society and therefore need to be especially protected.

Lately, the new president Benigno "Noynoy" Aquino openly admitted military and police involvement in extrajudicial killings in the Philippines (see article „ai statement about the new Aquino administration to human rights“, this volume). Such public recognition by the new government might be a first step in the right direction, however to end extrajudicial killings, the Aquino administration needs to take according measures that would have to be aimed at the protection of their citizen and towards installing and upholding a justice system in which criminal cases are equally prosecuted on all levels. ■

- 1) See e.g. US legal definition of extrajudicial killings (*Sinaltrainal v. Coca-Cola Co.*, 578 F.3d 1252 (11th Cir. Fla. 2009)).
- 2) Supreme Court Administrative Order No. 25-2007.

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## DISCUSSING THE LEGALITY OF 'TARGETED KILLINGS'

*The intention of this article is to provide an introduction to the question whether and under what circumstances 'targeted killings' in the Philippines can be regarded as legal. Therefore, the question will be discussed from a perspective of international law. The review of this matter is important in order to assess the widespread problematic of extrajudicial killings in the Philippines. Several other important questions connected with this problem are beyond the scope of this article.<sup>1</sup>*

Targeted killings are "the intentional slaying, undertaken with explicit governmental approval, of a specific individual or group of individuals belonging to political, armed, or terrorist organizations" (Schmahl 2010: 233). Examples are the firing of missiles from helicopters at suspected terrorists by Israeli military forces<sup>2</sup> (Kendall 2002: 1077) or more recently the attacks of unmanned flying drones used by the US military in Afghanistan and Pakistan against suspected Taliban.

When discussing the question of the legality of targeted killings under international law, essentially four legal paradigms need to be distinguished: First, the law in times of peace and the law of armed conflict, secondly *ius ad bellum* and *ius in bello*, thirdly the humanitarian law in armed inter- and intra-state conflicts and fourthly combatants and non-combatants.

### The Law of Peacetimes and Human Rights

First, it is important to differentiate between the application of the international law of peacetimes, which is the regular rule of law, and its exception, the law of war or more specifically the international law of armed conflict (Tomuschat 2004: 137). Thus, in times of peace, the International Covenant of Civil and Political Rights (ICCPR) from

1966, to which the Philippines are a contractual party since 1986 (UN 2010), is applicable, Art. 6 (1) ICCPR protects the inherent and non-derogable right to life of every human being against arbitrary deprivation by state authorities, allowing for the imposition of the death penalty in states that have not abolished it yet only after a fair trial and only for the most serious crimes (Art. 6 (2) ICCPR). As the Philippines are a signatory state since 2007 of the Second Optional Protocol to the ICCPR, aiming at the Abolition of the Death Penalty of 1989 the administration of capital punishment is illegal from the point of view of international law (UN 2010). In times of peace, the police are the only public organ to legally hold the monopoly of force in order to protect the life of every individual within the state's territorial boundaries. Lethal use of force in form of a "final rescue shot" (Schmahl 2010: 239) is only admissible under the rule of law as a last resort to save a police officer's own life (self-defence) or to protect the lives of innocent victims who are directly threatened by an offender (assistance in an emergency). Any use of force by state authorities exceeding these narrow conditions would constitute an act of "extrajudicial execution" (Kendall 2002: 1071) and would violate the principle of due process. Accordingly, during times of peace, targeted killings are clearly illegal under international law (Tomuschat 2004: 137). Under the law of armed conflict,

however, the legal discussion becomes more complex.



IPON | Policeman or military? Uniform and equipment of the Philippine National Police are similar to that of military combatants.

### The Law of Armed Conflict

Under the law of armed conflict, two spheres of law must be distinguished: *ius ad bellum*, the right to go to war, which aims at the prevention of interstate war, and *ius in bello*, the humanitarian law regulating the conduct of all parties concerned during armed conflict, which is geared towards the protection of the victims of war (Bothe 2004: 629). Therefore the question of targeted killings will have to be analysed within the realm of the law of hostilities, the *ius in bello* (Schmahl 2010: 249). In order to meet the criterion

1) For instance the question whether 'targeted killing' constitutes an illegal act of 'treacherous killing' or 'perfidy' (Art. 8 (2.) e) (ix) Rome Statute) or whether 'targeted killing' in anticipatory self-defence or as punitive measure, as so called 'armed reprisal' is permissible against terrorist attacks. Furthermore the balancing of military necessity and proportionality against the rights of individuals under the international law of armed conflict has not been touched and subsequently the question about civilians becoming victims of 'collateral damage' during the 'targeted killing' of combatants was omitted. Besides the question in how far are non-state actors bound by the provisions of international humanitarian law needs to be answered. Moreover the consequences of further court decisions on 'targeted killings' for the interpretation of the international law of armed conflict requires additional clarification. And last, but not least the question about the possibility of liability of the Philippines in potential cases of crimes against humanity e.g. of murder (Art. 7 (1.) (a) Rome Statute) in form of extrajudicial killings or war crimes (Art. 8 (2.) f) Rome Statute) demands an answer.

2) In 2006 the Supreme Court of Israel sitting as the High Court of Justice rendered its important 'targeted killings' decision in Public Committee against Torture in Israel v. the Government of Israel, defining the matter more precisely in cases of armed conflict on occupied territory (Cassese 2007; Eichensehr 2007; Milanovic 2007; Schondorf 2007).



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of an armed conflict, regardless whether it is an inter- or intra-state war, a certain intensity of hostilities is required (Tomuschat 2004: 137). Once this threshold of intensity is reached, humanitarian law is applied as *lex specialis* in relation to human rights law, which means that gaps in the system of humanitarian law can be supplemented by human rights law (Milanovic 2007: 390; Schmahl 2010: 247). In contrast, a governmental declaration of a 'war on terror' does not suffice to invoke the state of armed conflict, since it equals in terminology e.g. a 'war on drugs' (Milanovic 2007: 375-376). Humanitarian law has in most parts developed into customary international law – codified in the 1907 Hague Convention and the four Geneva Conventions (GC) from 1949 and their two Additional Protocols (AP) from 1977 (Bothe 2004: 630) – and is therefore applicable irrespective of a state being a contractual party of a treaty or not (Casey 2004: 319). The Philippines are a state party to the GC since 1952 without any reservation. They are also contractual party of the AP II, but have only signed the AP I (ICRC 2010). As a signatory state, the Philippines are at least obliged not to defeat the object and purpose of the AP (Art. 18 Vienna Convention on the Law of Treaties 1969).

### Inter- and Intra-state Armed Conflict

Thirdly, when applying international humanitarian law, the treaties differentiate their applicability in armed inter- and intra-state conflicts. While the GC in general and AP I only apply to armed interstate conflicts, at least Common Art. 3 GC and AP II explicitly apply to armed conflicts within the sovereign territory of a state (Downes 2004: 286; Milanovic 2007: 381). The Philippines legally exercise control over their entire territory without any areas under an occupying regime or peoples fighting against colonial domination, which would invoke the GC for the people affected by the armed conflict on the occupied territory (Casey 2004: 318). Furthermore, the conditions of applicability of the AP II are more restrictive than those of interstate armed conflict, namely requiring organised armed groups under responsible leadership as conflict parties, groups that exercise such a control over a part of the territory of the contractual state that it enables them to conduct sustained coordinated combat operations (Bothe 2004: 665). This definition excludes insurgents without organised command structures, leadership and sufficient control over territory, and armed conflict

among such groups, from the application of AP II (ibid.: 665). However, a recognition of belligerency by the state-party or the consent of insurgent groups to be bound by Common Art. 3 GC and AP II constitute ways of applying international humanitarian law to the conflict (Bothe 2004: 663). This would accord combatants and non-combatants basic protection during potential hostilities in the Philippines.

### Combatants, Non-Combatants and Unlawful Combatants

A final important distinction needs to be made if Common Art. 3 and AP II are applicable: The differentiation of combatants and non-combatants, meaning civilians. While the GC primarily aim at the protection of civilians in armed conflict, they also provide certain protection of combatants in form of immunity from criminal liability for fighting and prisoner-of-war status when apprehended (Schmahl 2010: 255). AP II neither mentions the word 'combatant' nor does it provide fighters with the privileges of combatants in armed interstate conflicts (ibid.: 255). The specific protection of civilians in Art. 13 (2) AP II, however, implies a distinction of persons not involved from persons involved in hostilities, namely combatants (Tomuschat 2004: 140). In international armed conflicts, the latter are obliged to distinguish themselves from the civilian population while they are engaged in an attack or in a military operation preparatory to an attack according to Art. 44 (3) AP I and thus should be easily recognisable as such, when applying criteria from Art. 4 A GC III. such as distinctive signs recognisable at a distance or the open carrying of arms. Implying their status as combatants in non-international armed conflicts from Art. 13 (3) AP II, they may only be legally targeted and killed when directly participating in hostilities (Tomuschat ibid.: 140), while it is illegal according to Art. 3 (1) GC to kill military personnel who have ceased to be active as a result of sickness, injury, or detention. Therefore, in a domestic armed conflict in the Philippines, such as in the bloodiest year so far 1985 with 4.508 victims according to official records (2.071 guerrilla, 1.242 members of government forces and 1.195 civilians), the killing of persons not actively participating in hostilities need to be treated humanely according to Common Art. 3 GC and AP II (Nimsdorf 1988: 178). This means that targeted killings of civilians remain illegal in times of domestic armed conflicts (Art. 13 (2) AP II).

## The Status of Terrorists under International Humanitarian Law

When introducing the problem of terrorism, the terminological distinction of combatants and non-combatants becomes even more difficult, although the application of AP II to terrorist activities is not explicitly excluded (Downes 2004: 283). At least three lines of legal arguments are possible when classifying terrorists: First, terrorists may be recognised as combatants, which would invoke the GC and AP I (ibid.: 282), allowing attacks only during hostilities and not when *hors de combat* (Art. 3 (1) GC), granting the privileges of non-liability for acts committed during combat, and the prisoner-of-war status, as mentioned above. However, applying international humanitarian law of international armed conflicts in non-international armed conflicts would pose a grave interference in the sovereign liberty of states to establish public order (Bothe 2004: 663). Second, following the ‘targeted killings’ decision of the Supreme Court of Israel, under conditions of occupation, terrorists are defined as civilians and thus may only be attacked during ‘direct participation’ in armed conflict (Art. 51 (3) AP I.; Eichensehr 2007: 1875), because recognition of terrorists in practice may not be easy, since they do not wear distinctive signs or carry their arms openly as part of their attack strategy. While the Israeli Supreme Court interpreted ‘direct participation’ in hostilities widely including those planning and sending attackers, and even applicable during periods of rest, which are regarded as “preparation for the next hostility” (Supreme Court of Israel in ibid.: 1876), this interpretation has drawn international criticism, since the mere suspicion of a person being a terrorist would suffice to attack him or her even during days or weeks of rest, which would lead to such legal uncertainty, that it would “dangerously weaken civilians’ protection” (Schmahl 2010: 260; see also Eichensehr 2007: 1873 and 1881). Third, since the introduction of the category of ‘unlawful

combatants’ by the US Government during the **war on terror**, it claimed that terrorists could neither claim protection under international humanitarian nor under human rights law (Milanovic 2007: 386-387). This view has been rejected by the UN, the ICRC and numerous scholars (ibid.: 387-388), because “the human dignity of terrorists is to be honoured; like all human beings they enjoy, and are entitled to, protection by customary international law” (Schmahl 2010: 257). Moreover, in armed intrastate conflict the concept of lawful or unlawful combatants is non-existent, as it is not mentioned in Common Art. 3 GC and AP II (Milanovic 2007: 388).

## Conclusion

In order to answer the initial question, a variety of conditions and different legal opinions and decisions determine whether and under what circumstances ‘targeted killings’ in the Philippines can be regarded as legal. Several issues have not been touched or answered; that would require a more detailed discussion, but exceeds the framework of this short note. In summary, in peacetimes ‘targeted killings’ are only legal in cases of concrete imminent threat and during combat. Common Art. 3 GC and AP II provide basic protection for civilians in non-international armed conflicts, rendering attacks against people who directly participate in hostilities legal. ■

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IPON | Targeted killings in the Philippines are rarely linked to „legal killings“ of combatants in armed conflict.

## PATRIMONIAL POWER STRUCTURES AND POLITICAL VIOLENCE



### Jan Pingel

27 years, Master of Art in Political Science, International law and History. Human rights observer with IPON in 2009.

*Political violence pervades the whole political system of the Philippines. The ruling order uses violent means to secure and extend established power structures - against opponents and political rivals.*

*The following article looks at a phenomenon of social interaction which can especially be found in Southeast Asian countries: elitist and patrimonial power structures. Related to these structures, which are not to be confounded with the democratic system established in the Philippine constitution, different arrangements and characteristics developed all over the world. This article looks on Southeast Asia and especially the Philippines and puts the focus on an extreme part of suchlike power structures: politically motivated killings.*

Until now these killings play an important role within the Philippine political system when it comes to the preservation and expansion of elitist power. Patrimonial structures have their origin and their most extreme implementations predominantly on the local level. Putting these power structures with a special focus on politically motivated killings at the centre of consideration means an intensified view on local, mostly rural and poor areas where most of the Southeast Asian population lives.

### Vertical relationship patterns

Patrimonial and elitist social networks led to strong vertical relationships of dependence in some countries and especially rural areas. This is an expression of assertiveness of those in power. A small upper-class largely controls the population living in rural areas and poor urban districts. Surprisingly, the majority of the poor social class does not question this asymmetric relationship. These patron-client-relationships<sup>1</sup> rather involve the broad lower-class into the political process. In this context, deep-rooted moral concepts of arrangement and functionality of societies seem to affect the political thinking and behaviour (Loewen 2005: 17).

Huge parts of the Southeast Asian population are living in economic insecurity and looking for shelter by local patrons. In this way, the local strongmen<sup>2</sup> can pledge followers and create a power base. The patron-client-relationships give the patrons the possibility to reach monopolistic positions and demonstrate the advantages largely

on the side of the one in power (Sidel 2005: 15). Social relationships and collective moral concepts and their arrangement in patrimonial structures go through different levels of Southeast Asian societies. Social structures are often organised in a hierarchical way and controlled by local patrons. Important in this context is the addition of authority to this relation of loyalty. This fact undermines democratic processes and the participatory character of society systems.

### Philippines

The elitist group of powerful families in the Philippines still benefits more of political, social and economic state comforts than the vast majority of the population. Often, families are parts of so-called clans<sup>3</sup>. Internal and external marriages created complex power networks. Based on their wealth and their local power bases, these family-clans managed to establish themselves in national and local politics. Further, there are those families who control the national economy. Altogether the political power and economic wealth is concentrated on about 200 families (Porchert 2008: 230).

Of all the countries of Southeast Asia, the Philippines offer the most obvious case of local strongmen (Sidel 2005: 3). These circumstances not only reflect the dominant patron-client-relationships or the wide range of power of the land-owning oligarchy, but also the unique structure of the Philippine state. "American colonialism, [...] had introduced the institutions and rhetoric of

1) Patron-client-relationships are based on social inequality and asymmetric power levels (cf. Eisenstadt et al. 1981: 271-296).

2) Term for local patrons or politicians which direct autonomous violence forces.

3) Below the elitist networks are termed as "family-clans". Especially on the local level these family-clans are concentrated on the "strongmen", the local patron with direct violence forces (cf. Sidel 2005).

formal democracy into the Philippines but left intact and reinforced social and economic inequality” (Silliman et al. 1998: 13). This inequality and a political system which is not sufficiently isolated against specific personal interests made it possible that local patrons have emerged and entrenched themselves in large part through violence and guile, thanks to favorable state structures and institutions, and as active promoters of capital accumulation and industrial growth (Sidel 2005: 5).

Consequences of this elitist dominance are prerogatives supported by a network of familial, political, social and economic relationships. Within these vertical networks, the principles of loyalty, faithfulness and commitment play an essential role. Projected on the everyday political life, these principles build a potent power – able to effectively constrain the national development. The family-clans which often seem to be above the rule of law or even dispense justice on the local level use their wide range of power to accumulate and maintain power and money.

Especially in rural areas this asymmetric relationship between strongmen and the mostly poor citizens is supplemented with the use of force. This leads to local “authoritarian clientelism” (Franco 2005: 17) which means that real access to democratic rights and freedoms is restricted through political repression and the threat and exercise of violence. Due to these practices and mechanisms, the inequalities within the Philippine political and social structures are perpetuated. A breach of this elitist dominance by the Filipin@s is a very difficult step. It seems that the long-time developed asymmetric structures are deeply rooted in the Philippine system.

### Politically motivated violence

Political violence pervades the whole political system of the Philippines, most often on or below the municipal level

but also upwards to the provincial level, when governors or congressmen secure their power through violent means.

In the last years, 390 Filipin@s fell victim to political killings (Parreño 2010: 5). The fact that the politically motivated killings are not decreasing with more distance to the Marcos dictatorship leads to the assumption that this form of violence is rooted within Philippine politics (Kreuzer 2007: 3).

Generally there are two separated forms of political violence in the Philippines:

Philippines are mainly considered as free and fair but choice is limited.

The ruling order is challenged by a number of civil society groups, from the various armed revolutionary movements, left-leaning union activists, farmers’ rights movements that for more than two decades have been trying to push through land-reform, to anti-logging movements and local organisations campaigning against mining business, to journalists who try to investigate and publicise the illegal activities of



© IPON | Holding various political and administrative positions in San Narciso, the Uy clan controls the area as a local patron.

vertical and horizontal violence. Both present the elites’ efforts to stabilise and extend the established power structures. In the following, these two types of political violence are curty in the centre of consideration.

### Vertical violence

Although there are elections in the Philippines which can effectively lead to change of positions, one can notice, that the change is only within a very limited elite. In fact, the Philippines, like other Southeast Asian countries, are practically ruled by influential clans. Elections in the

politicians and businessmen. For the family-clans, these groups and individuals are especially dangerous for the status quo because they are working on a fundamental change of political, social and economic structures (Kreuzer 2009: 17). Philipp Alston, Special Rapporteur on extrajudicial, summary or arbitrary executions of the United Nations, concluded that “there have been many extrajudicial executions of leftist activists in the Philippines. These killings have eliminated civil society leaders, including human rights defenders, trade unionists and land reform advocates, intimidated a vast number of civil society actors,

and narrowed the country's political discourse" (Alston 2008: 2). Often local politicians do neither distance themselves from violent actions against the above-mentioned groups and individuals nor show sympathies for it; they are even broadly noticed as the client.

### Horizontal violence

Beside this vertical form of political violence, there is a horizontal profile which also originates from the political establishment: the inter-elite violence. This violence is a means to stabilise and readjust the political power balance within the influential family-clans. This struggle for political positions and power bases often escalate on the local level, as the Maguindanao massacre in November 2009 has shown. Official police data have recorded 95 attacks on elective officials from June 2009 to early March 2010 with 102 victims of whom 65 were killed (Philippine Star 2010).

Furthermore local strongmen control private armies and the local police and utilise them to push for their personal interests. At any time in modern Philippine history, a large number of politicians employed the services of variously termed private armies, private or partisan armed groups, made private use of state security forces, hired contract killers or made use of prisoners. The size of private armed forces goes from the single gun-for-hire, or a lone local ruffian over a

small number of outright illegal or formally legal forces up to veritable armies encompassing several hundred heavily armed men, the latter clearly being the exception (Kreuzer 2009: 16).

Violence is a crucial ingredient of political rule in the Philippines. And even though the vertical violence against leftists, social activists and human rights defenders resembles the violent strategies of many authoritarian states, in the Philippines this latter vertical violence has to be seen in the context of the corresponding type of horizontal violence, which rages mostly between segments of the family-clans from the lowest to the highest levels. Violence against political opponents and competitors is a means to perpetuate the general structures of society, especially the central position of local patrons and family-clans. These structures shall be manifested in the general awareness of the people and also stabilised in a democratic surrounding – a surrounding that rather targets on the abolishment of these patrimonial structures.

A state with a stronger institutional effectiveness and a higher accordance to the rule of law would debilitate the local patrons and politicians and their range of power. When it comes to politically motivated killings, weak spots of the Philippine state like the lack of law enforcement is important or rather essential. Therefore the political elite of the country has no interest in a successfully implemented and non-privatised monopoly of violence. ■



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## POLITICAL JOURNALISTS - A THREATENED SPECIES

*Journalists and political activists from organisations like Karapatan, an alliance of individuals, groups and organisations working for the promotion and protection of human rights in the Philippines, are a threatened species in the Philippines. Joseph Lagorra is under fire for being both: he works as a journalist for the “Philippine Human Rights Reporting Project” and for the church-based human rights organisation “Promotion Church People’s Response” (PCPR).*

Extrajudicial killings take place frequently in the Philippines. Among the victims, many are journalists and newsmen. This article exemplifies the dangers and threats many journalists have to face in the Philippines. The publication of an article that covers an inconvenient topic, most often political topics, can have lethal consequences for the writer.

In 2009, the Maguindanao massacre shocked the world. More than 30 media workers were killed in just one incident (CPJ 2009). Although lethal attacks on journalists are not a singularity in the Philippines, the USAID “Report on the Philippine extrajudicial killings” shows that 15 % of all extrajudicial killings are murders of journalists (Al Parreno 2010: 7). According to this report, journalists are the second most endangered group when it comes to extrajudicial killings. Most of the identified suspects belong to the military and the police, and just like in other instances of extrajudicial killings, many cases remain unsolved. According to the “National Union of Journalists of the Philippines”, more than 100 journalists have been killed since 2001 (NUJP: 2010).

IPON Observers have met personally with several journalists in the Philippines. One of them is Joseph Lagorra. Based in Negros Oriental, he writes for several newspapers in the country and also for the Philippine Human Rights Reporting Project. This project conducts trainings that respond to journalists’ needs to develop and strengthen their knowledge, skills and attitude on reporting and monitoring human rights. As a member of PCPR,

he also organises and teaches classes on human rights. Many of PCPR’s members, including several fathers, have been killed over the last years.

In his articles, Lagorra is not afraid of writing about alarming topics concerning human rights, even though he puts his life on the line. On several occasions he and his organisations have accused the military of committing human rights violations in Negros Oriental. Lagorra and others claim that the military, especially the 79th Infantry Brigade, is responsible for numerous abuses committed against farmers (Lagorra: 2009). Among the accusations there are cases such as murder, enforced disappearance, physical assault, destruction of property, illegal arrest and many others. Father Nene Francisco, PCPR secretary general, states: “The military do not distinguish civilians from combatants. Community folks are automatically branded as NPA supporters” (ibid.).

Colonel Cesar Yano, commander of the 302nd Brigade, denies the accusations. Yano further claims that Karapatan and PCPR are legal fronts of the Communist Party of the Philippines, under which the armed New People’s Army (NPA) operates.

When I met him in Dumaguete City, the pressure asserted on Joseph Lagorra was indisputable, I could almost touch it. With a calm voice he told me that militaristic looking men had conducted a house search in his apartment. His face showed a smile when he told his story, but his hands were unmistakably shaking. After this incident, he moved to

another place and travels a lot. With an emphatic voice he added that he would keep writing because the truth is on his side.

Quoting famous German philosopher Arthur Schopenhauer:

**“All truth passes through three stages. First, it is ridiculed. Second, it is violently opposed. Third, it is accepted as being self-evident.”**

The first and the second stage are predominant at the moment, but as long as journalists like Lagorra keep on writing about human rights violations, there is still hope that Schopenhauer’s third stage will be achieved.



© IPON | No colour! Is this the reason for impunity? The police show the European Union delegation their obsolete fingerprint machine.



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© IPON | Farmers demanding continuation of the agrarian reform, February 2009, Manila.

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## PATRIMONIALISM

*The term patrimonialism was used by Weber (1947) to describe a traditional form of ruling which is marked by a high degree of personalization and missing separation of private and public spheres. Administrative staff is recruited personally by the ruler on behalf of personal relations. Therefore it is also the ruler's choice to dismiss them, sometimes without a reason. Like the ruler, his recruited staff enjoys a quite big leeway within their domain (Brinkerhoff et al. 2002:6f). The dawn of patrimonial structures in many parts of the so-called "third world" can be linked to colonialism. The colonial powers either tried to centralize their power through quasi-feudal arrangements (Latin America) or through the coercion of violent oppression (Sub-Saharan Africa) (Schlichte 2009:142). Established structures of clientelism did not vanish with independence and even today still exist in former colonial countries. The combination of patrimonial and modern patterns is described as neo-patrimonialism. Although not a specific form of governance, it is a distinct feature in authoritarian presidential regimes which are focused on the president as a person. The president takes possession of material goods and resources of the country. In search for support through clients and to remain in power, those means are distributed through networks to these clients (Brinkerhoff et al. 2002:9; Hensell 2009:36). Hence money and resources are mostly used for the benefits of a few. Especially the population in peripheral areas does not profit from national institutions or politics. Also, patrimonial structures are seen as a hindering factor for economic development since rules and laws may change at will of the ruler (Brinkerhoff et al. 2002:7f).*

Christian Hallmann

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## POLITICAL KILLINGS IN SAN NARCISO

*Human rights defenders (HRD) have long been targets of the violence that engulfed the Philippine agrarian reform program. On the Bondoc peninsula in southern Quezon, several people including five HRD from the municipality of San Narciso were killed between 1998 and 2008, with adverse effects for their relatives and entire communities. Hitherto no justice has been brought to those who perpetrated the crimes, which partly explains the continuing violence and a growing culture of impunity in the region.*



© IPON archive | Exhuming the decomposing body of human rights defender Deolito Empas from a shallow grave; he was discovered three weeks after his death. His abduction was only reported to the police after four days because of the low trust in the police by the people.

In a bid to curb the widespread rural poverty and social injustice, the Philippine government enacted the Comprehensive Agrarian Reform Law (CARL or RA 6657) in 1988. The purpose of this law was to enable the distribution of agrarian land to landless citizens in order to stimulate production and development. However, the implementation of this law, also known as the Comprehensive Agrarian Reform Program (CARP), became a matter of controversy and violence, since it directly affected a crucial power-base in the Philippines; land ownership is an essential factor for exercising social, economic and political power and influence in the Philippines. Therefore, in order to preserve their

privileged status-quo, the landowners, who originally inherited the extensive chunks of land from former Spanish and American colonial masters, passionately oppose the program and are ready to apply any method within their means to cling on to the land. Their behaviour and actions have in effect led to delays in the implementation of the program while at the same time evoking violence and insecurity in various parts of the country.

The Bondoc Peninsula on the south-western tip of the province of Quezon has for a long time been one of the hotspots of agrarian reform-related disputes and the associated violence. Particularly in the municipality of San Narciso on the eastern side of the

peninsula, violence is explicitly used against any person who intends to apply to acquire land. Most of the land in the municipality belongs to the Uy, a locally influential but also unpopular landowning family. Since 2006 IPON observers have been closely following developments and human rights violations related to agrarian disputes committed in this municipality. Members of the Uy family do not only command significant economic means in San Narciso but also occupy most public offices and hold influential political positions. The area is also known to be a stronghold of the renegade New People's Army (NPA).

Between 1998 and 2008 several people, including five peasant leaders of the



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HRD group KMBP (Kilusang Magbubukid Bondoc Peninsula), were killed as a result of the agrarian disputes in the municipality of San Narciso. The KMBP is a local peasant organisation which not only encourages landless farmers to petition for land through the government's program but also advocates their human rights. The Uy family is indisputably keen to hold on to its land and subsequently its members apply numerous methods to avoid distributing the land. They applied for several exemptions on their landholding, besides threatening and harassing all tenants and workers who intend to apply for land distribution. Five KMBP leaders have been murdered, apparently to threaten and punish the HRD who encourage and promote the struggle for land rights.

In June 1998, a KMBP leader and active HRD called Mr. Vender became the first victim of the series of killings related to agrarian violence in San Narciso. According to official records, his murderers hacked and stabbed him to death. He was succeeded by Mr. Romero as leader of the organisation, but Romero was shot and killed in October 2003 by armed assailants reportedly hired by some members of the Uy family. His successor in the leadership position, Mr. Benitez, was also killed in March 2004 under similar circumstances. The year before, in February 2003, Mr. Tejino, a local leader from the neighbouring village, had been attacked and killed by the NPA. In November 2008, Mr. Empas, also a leading HRD in the KMBP, was abducted by unknown assailants from a bar and his body was only discovered three weeks after his disappearance with gunshot wounds. The victims were either accused of advocating for their land rights or branded informers of the national Philippine security agencies before being killed. The NPA claimed responsibility for the murder of Tejino in the public, accusing the HRD of having spied for the military.

Although there may be several indicators that

some members of the Uy family masterminded these killings, such evidence is insufficient to secure legal prosecution against them. This is mainly because it is based on assumptions and rumours centred on the possible motive: avoiding distribution of land in the municipality. It is, nevertheless, remarkable that all victims had disagreements with the Uys over land distribution. Their trouble only started after they petitioned the authorities on grounds that their applications for land had been unfairly dishonoured. Members of the KMBP believe that since the Uys are dedicated to maintain their landholding, they are ready to use all economic and political positions to harass those who wish to acquire land from their landholding on the one hand, as well as to influence the direction and result of investigations into the violence on the other hand. In the case of Benitez's murder, a prominent Uy family member, who also serves as mayor of San Narciso, decided to stand surety for the release of one of the prime suspects from prison. In another dramatic incidence, armed NPA members attacked a provincial jail where they dramatically freed all inmates including the prime murder suspect of Empas. Such an action could only happen with internal and high profile help. However, the Uy family denies any allegations of involvement and instead blames the problems on personal grudges between KMBP members. The executions were carried out brutally and with little secrecy. The victims initially received death threats over a considerable period of time, their families and friends were also warned of the upcoming killing and finally the victims disappeared only to be discovered dead later. Their corpses were disposed off in a manner which suggested a public show of ruthlessness and impunity. Such actions were indeed meant to openly create fear in the public and deter other HRD from continuing with their mission.

It is no coincidence that these killings happened

 IPON archive | In fear: Deolito Empas' family. Members were forced to flee their village and seek safety in the cities. Some sought state protection through the witness protection program. Their movement was therefore confined to restricted areas.



to leaders of the HRD group of the Uy landholding who earlier applied or petitioned authorities against irregularities in land distribution processes. They did not occur by accident to those who actively participated in local politics. KMBP leaders who chose to spearhead the struggle for human rights became main targets. They were killed because they were able to mobilise other farmers to demand for their rights. The killings effectively instilled fear among other KMBP members, as they became hesitant to take up leadership positions in their organisation. Besides harassing HRD, the violence also caused unimaginable suffering for the victims' families, relatives and friends. Because of the fear and uncertainty about their own personal security, the families of the murdered leaders were forced to flee into hiding, to avoid reprisal from the landowner and his agents also known as goons locally. Those who decided to seek legal justice, as in the case of the widows of Benitez and Empas, had to apply for state witness protection because their lives were threatened by the relatives and accomplices of the murderers. Applying for state witness protection is a bureaucratically long and humiliating process which implies relocation and perhaps isolation from your community. Several members of the families of murdered victims were forced to flee into hiding in the cities of Manila, Lucena and other unknown remote locations.

It may be assumed that it is due to lack of political will, coupled with the laxity of the public servants, that all murders remain hitherto unresolved. A couple of the cases are pending in the law courts, awaiting further investigations or rather voluntary witnesses to testify. In all cases, apprehended suspects were released on bail and some have since fled into hiding as fugitives. The major players who include the local politicians, security agencies and the judiciary have all failed in their roles



© IPON | On the grave: Cigarettes, candles and flowers for Deolito Empas, local president of KMBP, killed February 19, 2008.

to serve the citizens, protect them and protect the law. The local authorities are constantly influenced by members of the influential family through threats, intimidation and bribery. The local police and military authorities blame their inability to act and protect citizen on lack of equipment and logistics. They claim that they are poorly equipped and lack transport means to access scenes of crime and violence. The courts and prosecutors have equally failed as none of the cases ever received a final verdict. They claim that the police ought to do more in matters such as securing witnesses and the necessary evidence. The government's failure to solve such cases encourages impunity among the rich and politically influential families, thereby encouraging repeated violence and insecurity in the area. Calls by the local organisations and other international organisations like IPON to have these matters reviewed have often fallen on the government's deaf ear.

San Narciso is one of the five municipalities of the Bondoc peninsula where international human rights

observers concentrated on collecting information and recording facts about human rights violations since 2006. Members of IPON observed that although the government enacted a law to change the existing system which promotes exploitation and oppression of the poor, it has done little to enforce this law. IPON's observers have since appealed to and approached state actors from the region on several occasions through various means to fulfil their responsibility to protect and help the citizens realise their rights. Enforcing the law by the state and its agents is the primary function of the government of the Philippines; therefore the prosecution of those who mastermind the murder of HRD should take place. This would certainly put a stop to the culture of impunity and promote the rule of law, peace and prosperity in the country.

This article was written based on information, records and data compiled by IPON human rights observers from the municipality of San Narciso, Quezon Province, Philippines. ■

## THE LONG FIGHT FOR FREEDOM AND EQUITY - HISTORY OF A LONG LASTING LAND-CONFLICT IN NEGROS ORIENTAL



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*One can say the Philippine people had a hard lot. After 300 years of Spanish colonial rule, they had to deal with an additional 40 years under the US-American rule and Japanese occupation until the Philippines became finally independent in 1946.*

This colonial background affected land tenure adversely. A few privileged family-clans were set by the Spanish administration to control land and people. These consolidated power-relations were not changed by the Americans. Ferdinand Marcos used the powerful landlords to stabilize his dictatorship before the Philippine people brought it to an end in 1986. The return to democracy was highly associated with the call for a comprehensive and equitable redistribution of agricultural land. According to the Philippine Constitution from 1987, “[t]he State shall encourage and undertake the just distribution of all agricultural lands, [...] taking into account ecological, developmental or equity considerations, and subject to the payment of just compensation” (Article XIII, Section 4).

Under President Corazon Aquino, the re-democratized administration implemented the claim for agrarian reform. The Comprehensive Agrarian Reform Program (CARP) was established in 1988 with the intention to redistribute agricultural land to landless farmers. Through CARP, landless farmers can petition for the land they till. After a thorough examination process, the Department of Agrarian Reform (DAR) can award the so-called agrarian reform beneficiaries (ARBs) up to five hectares of land. Ownership rights are transferred when the DAR issues the corresponding land title, the Certificate of Land Ownership Award (CLOA). Land conflicts arise when the former landowner opposes the re-distribution of his/her land, either by legally questioning the legitimacy of the ARBs legal claims or by forcibly hindering them from entering their land. In the case that taking possession of the awarded land would endanger the lives of the

ARBs, the DAR is responsible for carrying out a land handover ceremony, called “Installation”. DAR can request the assistance of the police or the military so that ARBs can physically take possession of the land awarded to them.

The continued resistance of the landholders in the Island of Negros is remarkably high. Since centuries, huge landholdings of the profitable sugarcane fields are controlled by a small number of very influential family-clans. The Teves-clan<sup>1</sup> in Negros Oriental is one of them and shall serve as an example to explain the structure of resistance towards real achievements in the quest for effective land reform. Whereas the family of Teves officially supports the reform<sup>2</sup>, spear-headed by a leading family member who is elected congressman, the family opposes the distribution of their own land parcels in Barangay<sup>3</sup> Caranoche in Santa Catalina and Barangay Villareal in Bayawan City, Negros Oriental. In the 1990s, the Teves family has participated in a programme called “Voluntary Offer to Sell” (VOS). VOS was initiated to encourage landowner to cooperate with the reform program and to sell their land voluntarily through incentives<sup>4</sup>. It is remarkable, that influential landowner like the Teves-clan satisfactorily allege their willingness for land-distribution to key actors. The land-titles (CLOA-titles) were awarded to ARBs in 1997 and 1999, but the Teves-clan rejected the rightful holders of the land-titles and engaged new farm workers loyal to them. The contentious land is guarded by private security guards to prevent the CLOA-holders from entering their land. In 1998 the Teves-clan started a long legal dispute questioning the legitimacy of the ARBs up to the Supreme Court. In 2004 the Court finally dismissed Teves’s

1) In order to understand the following Interview, position and family relations of this clan should be highlighted: Arnie Teves is the owner of the regional sugar mill and administrator of their (former) landholdings. Henry Pryde A. Teves, is representative of the third district of Negros Oriental and the younger brother of Arnie. Henry is the grandson of former Rep. Herminio G. Teves. His uncle Margarito Teves was Secretary of Finance under the Arroyo administration, and also a former three-term congressman. Herminio Teves (90 years old) is the former owner of the landholding. He bought the landowning from his brother and former Senator Lorenzo Teves.

2) On August 2, 2010, H. Teves even became chairman of the committee for Agrarian Reform.

3) Barangay is the smallest administrative unit in the Philippine and comparable to commune.

4) Redemption of just compensation regularly implies 10% cash and 90% Land Bank bonds. The just compensation under VOS concedes a 5% increased cash portion.

appeal and affirmed the legitimacy of the ARBs.

In the meantime and during all these years of peacefully fighting for their land, the rightful ARBs in order to mobilize support became members of the non-governmental organisation "Task Force Mapalad" (TFM). While advocating for their land ownership, the peasants spoke up and gathered support based on and supported by various UN declarations, which assigns them the function of HRD (United Nations 2004). The HRD continued to ask for an official installation to be granted access to their land. After a camp out in front of the DAR central office in Manila and a hunger-strike<sup>5</sup>, covered and highlighted in the media (Inquirer 2008), the HRD land was peacefully installed on November 12, 2008.

However, since the peaceful installation ceremony, the HRD have been exposed to various human rights abuses and violations. Houses were demolished, physical threats were made and warning

shots were given by Teves' security guards (IPON 2010).

On December 3, 2008, Arnaldo Hoyohoy, son of a CLOA-holder Ronaldo Hoyohoy, was shot dead in front of his house (see the subsequent Interview with his brother Alexander Hoyohoy, this volume). Eight weeks later, DAR lawyer, Attorney Eleazen Casipong, who had represented the HRD of TFM against diverse legal claims in court, was shot dead, too. In both cases, suspects have not been identified.

Regardless of court decisions and the official installation ceremony, the physical harassment and the legal dispute continue. The Teves-clan has used their loyal farmers to file a petition for replacement of ARBs called inclusion/exclusion<sup>6</sup> at DAR. Even though the then-DAR Secretary rejected this petition in November 2008, he reversed his own decision in March 2009 by disqualifying 15 out of 19 CLOA-holders in Barangay Caranoche. The case was pending at the office of the president but was

lately (November 2010) re-appealed undecided to the DAR. The petition for the landholding at Barangay Villareal has always been decided in favour of the HRD and is nonetheless still pending at the office of DAR Secretary. On the legal side, the HRD still hold the CLOA-titles and are therefore the rightful owner until today. In March 2009, Arnie Teves entered the land together with armed security guards and loyal farmers. They were illegitimately accompanied by the local police. Until present, threats against the HRD and anyone supporting them continue to be made. Meanwhile, the Teves-clan is creating facts by investing into the contentious land, e.g. by building irrigation-systems or planting new trees. ■

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© TFM | Only short-lived: The newly installed land owners can often only stay a short time before being chased away again.

5) During the hunger-strike the human rights defenders shaped their hair in order to get the attention they needed, cf. cover-picture Observer (1) 2010.

6) After the issuance of CLOA-titles, other potential ARBs can petition for their inclusion in the CLOA-title by filing a Motion of Reconsideration. CLOA-holders can be excluded and lose their CLOA-titles among other reasons on the ground that they do not cultivate the land awarded to them or that they lack basic qualifications to till the land. These cases lie within jurisdiction of DAR.

## “WE KNOW THAT WE ARE ON THE RIGHT WAY”



**Mira Florian**

24 years, Master in International Relations, University of Groningen, Netherlands; human rights observer with IPON in 2010.

*After several years of land struggle in Negros, human rights defenders are still confronted with landlessness and continuous human rights abuses and violations. Two persons involved in the land conflict have been killed in Negros Oriental almost two years ago. For the IPON observer team talked Mira Florian, Anna Hollendung and Friederike Mayer<sup>1</sup> with Alexander “Dodong” Hoyohoy about the killing of his brother Arnaldo Hoyohoy on December 3, 2008.*

**Dodong, can you tell us about your experiences in the struggle for land on Hacienda Teves. Can you describe how it started?**

**DODONG:** 1988, when the CARP<sup>2</sup> started, I and my brother were in Manila, but my father stayed here. That’s why he is included in the programme. He applied after the son of Lorenzo Teves told him that this land was voluntarily offered to sell. He told my father that he must apply – that he can benefit from that. But this was not in accordance with Lorenzo Teves, the former landowner.

**What happened after your father petitioned for own land?**

**DODONG:** He could not work under the present administration of Teves. After the land was voluntarily offered to sell, the Teves family did not allow him to continue his work because he was an applicant of the programme.

**Did the situation change when he received his certificate of landownership?**

**DODONG:** No. When there were some occurrences here I wanted a follow up with the authorities, from the DAR<sup>3</sup>. My father was already old and he had a lack of knowledge about documenting. So I came back from Manila to Bayawan. I help the farmers and support them with the documents, the activities and with our association. I am here for protecting my place because of some rumours and threats against farmer beneficiaries.

**Did your brother Arnaldo come with you when you went back to Bayawan where your land is?**

**DODONG:** No, he returned late. In the 1990s, or 99s. Then, he became a mechanic of Arnie Teves<sup>4</sup>. They were close friends.

**And did he stay in his job?**

**DODONG:** When we had our CARP activities in Manila I told him to remain aloof from Arnie Teves and his group. I told him that it is hard for

me to shout there, in the DAR while he was with the Teves. And I was afraid that something would happen to him. So, that is why he dropped his job and then he started to lead the people.

**Did Arnie Teves and your brother Arnaldo stay in contact?**

**DODONG:** After the land installation, as far as I know, there was no conversation between them anymore. Arnie Teves told him to tell our family not to participate in the CARP, and that we have no chance to get the land.

**How did your brother Arnaldo get engaged in all that activism and fighting for the land?**

**DODONG:** My brother became active in the fight for land when I and the others were in Manila to camp-out in front of the DAR and did a hunger-strike. He led the farmers here and protected them while I and the others were in Manila.

**So, while you and a group of farmer beneficiaries were in Manila for protests Arnaldo stayed here in Bayawan?**

**DODONG:** Here, my brother and another son of the beneficiaries were leading the activities before they entered the land on November 6 for a self-installation. But before that, there was a series of meetings with the DAR, the police and the other state agencies in Manila and Bayawan to install the land for us. When there was a meeting here in Bayawan, the remaining farmers went there.

**Before your brother Arnaldo was shot down, were there no threats in this instance?**

**DODONG:** We did not receive a threat, but the situation was very hot. Even at midnight there were many suspicious guys with big motorbikes passing by, going around or standing by. We were afraid. Only Arnaldo, my brother, was confident. You know they had been friends, he



**Anna Hollendung**

27 years, student of Political Science, Carl von Ossietzky Universität Oldenburg, Germany; human rights observer with IPON in 2010.

1) The interview was conducted without a translator in July 2010.

2) Comprehensive Agrarian Reform Programme.

3) Department of Agrarian Reform.

4) Arnie Teves is the owner of the regional sugar mill and administrator of their (former) landholdings.

and Arnie Teves. He expected no enemy anywhere. He thought it's OK, because he was able to go to every house of the Teves', he could enter everywhere... but after the activities in Manila they broke up their friendship.

**Can you tell us more about the death of your brother? How did it happen?**

**DODONG:** Early in the morning he was in the field, then by afternoon he went home, then he cooked food for dinner, then early evening we sat in front of the house until 6. Then, at 6 o'clock the news started. So we went inside. Only my brother walked outside. There was a truck loaded with sugarcane standing near to the gate. He talked to his friend, the owner of the truck for a short time. Then, after the truck passed he closed the gate and that's when we heard the gunshot.

At that time we were lying here, watching TV. His daughter entered the house. When she was at the door we heard a gunshot. I told his daughter "just look at the outside!" So she turned back. Her father was on the ground. She shouted "papa, papa!" and immediately ran to her father. Then we brought him to hospital, but we were too late.

**Did you see the one who fired?**

**DODONG:** No, because there were many people outside. The tricycle drivers, the students from the university on the other side of the road. At that time the night classes were finished, and the students came out. That's why there are many people who have seen the incident but they do not testify. The killers did not wear something to hide their faces, just wearing a cap. There were many witnesses, but no one was willing to testify. I do not know what happened, I asked them, they denied.

**What do you think, why did they deny?**

**DODONG:** Maybe they are afraid. This incident was related to that troubling... and to the mind of the people, it is related to the big man, Teves. The problem is that there is no real witness protection. There is a law, but the

witness protection does not run.

**And nobody ran after these guys?**

**DODONG:** No, that had to be done by the policemen who had been here at that time. The killers did not run away, they just walked inside the campus. But the police replied that they need an order. When they finally were looking, the criminal was far away. All this happened while the police was just five meters away.

**And they did not come?**

**DODONG:** That is not correct. They came, they came. But they did not run after the killers. I remember that they investigated the incident. But until now it is a bad investigation, there are witnesses and the legal records, and after that nothing.

**Did somebody file a case?**

**DODONG:** We filed a case. The NBI, the national bureau of investigation, filed it.

**Did the killing affect the activism of your organisation?**

**DODONG:** Yes. Some of the farmer beneficiaries are afraid. Others became nervous because of that accident. It can happen again. We don't go out at night and we don't go to the bay. There was a split because some farmers are not fully active anymore, due to fear. That is the situation. They are afraid of entering the land. Not all, but some of the beneficiaries. Some stopped all the activism, because of the risk. It can kill you.

**So it was more difficult to fight for the land after the murder?**

**DODONG:** Yes. But we know that we are on the right way. We are fighting through legal battle. We have a Supreme Court order. The DAR-Secretary had decided already that we are the owners of the land. I don't know what happened there, why the DAR-Secretary later reversed his own decision. So until now, we continue, we continue by writing and we try to pull the purpose forward.

**After all, what do you think, why**

**did they kill your brother and not somebody else?**

**DODONG:** On my part, maybe my brother was not the intention, maybe they wanted just one of my family... Any, any of my family, no matter whom, as soon as possible. They did not want my brother, but me, or my father, or also my other brother as long as we were visible. I am sure that it was not my brother who was the target but my family, because my family was recognized as leading group in the struggle. We are visible. That's my idea about it.

**Do you think they could have killed you as well?**

**DODONG:** Maybe. If I had been standing there in front of the house that evening they would have shot me. But only my brother was standing; only he was standing there.

**Thank you for the interview!** ■



© IPON | Alexander Hoyohoy about his killed brother: „They did not want my brother, but me.“

## VIOLENCE AND NULLUM IUS IN THE PHILIPPINES



**Lukas Bauer**

26 years, studies Political Sciences and Public Administration at University of Leipzig, Germany; human rights observer with IPON in 2009/10.

*Without a doubt, the massacre of Maguindanao is the most prominent case of political killings in the Philippines. It demonstrates that political violence not only affects individuals and representatives of groups who advocate for social change, but also rival family-clans.*

On November 23, 2009, more than 100 gunmen stopped a convoy that was en route to file the candidacy for a rival candidate of the sitting governor for the upcoming gubernatorial elections in Maguindanao which is part of the Autonomous Region of Muslim Mindanao in the southern part of the Philippines. The gunmen executed at least 57 people, including family members, supporters and bystanders, as well as 32 journalists and media workers, making it the single biggest attack on the journalists on duty in history, according to a global press watchdog (CPJ 2009). Allegedly, the gunmen were not just members of Governor (and warlord) Andal Ampatuan Senior's private army, but also local police auxiliary forces and policemen. Some of the victims were seriously abused, others downright executed, all of them were buried in mass graves.

Especially in the southern parts of the Philippines, the political power is closely attached to family-clans such as the Ampatuan's family. The family controls the Maguindanao Province by holding (or controlling) all important political offices. The clan's patriarch Andal Ampatuan Sr. has held the position as governor of the province since 1998. The family has reinforced their grip on power by building a strong alliance with the former President Gloria Macapagal Arroyo and maintains one of the country's biggest private armies. The Ampatuan-clan ensured Arroyo's re-election in 2005 by controlling the populous province. In return, the president allowed the Ampatuan family to maintain a private army, officially been dubbed to serve as an anti-terror unit.

According to Kreuzer (2007, 2009), the empowerment of the Ampatuan-clan within the province became possible after all elite-families were unified under Ampatuan's leadership. Political offices were prorated between the families, and for general election 2007 no one opposed the newly established order, chaired and dominated by Ampatuan. As described

by Kreuzer, the established order is based on violence, political killings are seen as a first option of enforcing political strategies.

Knowing well that his actions would challenge the dominant family, Datu<sup>1</sup> Ismail Mangudadatu wanted to file the papers to be recognized as a candidate for Governor in Maguindanao, which eventually led to the loss of his wife and sister who were part of the convoy on November 23. The Magudadatu-clan is also a very powerful family in the whole of Mindanao and in constant rivalry with Ampatuan-clan at the regional level. In contrast, the two families have been political allies in the province of Maguindanao for years. Only four days after the terrible massacre, a second caravan of more than 50 vehicles including high-ranking military and police as well as hundreds of supporters took the same road to file candidacy for Ismail Mangudadatu. On Election Day, he was elected Governor and assumed office on June 30, 2010.

Suwaib Upham alias "Jessie" who was supposed to be key witness for the prosecution, belonged to the private army of the Ampatuan-clan and was an alleged participant of the massacre. He was shot dead by unidentified gunman on June 14, 2010. The witness was supposed to give evidence that members of the Ampatuan-clan had ordered the massacre. „He saw, and participated in the killings and could have directly named in court those involved [...]. In fact, another witness has come out to give testimony that Ampatuan Senior took part in the killing," Harry Roque, the prosecutor, told the press on June 23, 2010 (Al Jazeera 2010).

Upham accused the Ampatuan-clan to be behind the massacre. Allegedly, the prime suspect Andal Ampatuan Junior, son of former Governor and warlord Andal Senior, and adversary of Datu Ismail Mangudadatu placed a US\$ 45,000 bounty on Mangudadatu while being in prison (ABS-CBN 2010).

In March 2010, Upham applied for admission to the Department of Justice's Witness Protection

Program but officials at the agency stayed inactive. The failure of the state-led Witness Protection Program has been criticized by innumerable human rights organisations.

According to prosecutor Harry Roque, the prosecution now relies on a new testimony by another key witness, Lakmudin Saliao. He was a former house servant of the Ampatuan-clan and quoted key suspect Andal Ampatuan Jr. saying, „just kill them all“. This piece of evidence received worldwide media attention with headlines like: “Clan Planned Philippine Massacre Over Dinner, Witness Says” (The New York Times 2010).

Witness protection not only needs to protect witnesses, but also their families. Meanwhile, Saliao’s family fled from their village because they’ve feared acts of revenge. Until now, most members of the private army of the Ampatuan-clan, estimated to consist of as many as 3,000 men, are still at large and are believed to be behind at least one successful and one attempted murder of family members of witnesses (including the crown witness Suwaib Upham). The trial will deliver judgement on 196 accused, and consists of around 200 witnesses for the

prosecution and 300 witnesses for the defence. It commenced on September 8, 2010. Experts assume a long lasting process.

The implementation of an efficient process based on the rule of law and an effective witness-protection program along with the de-militarization of the country and the abolishment of private armies, will be a challenging practical test for the new Administration of President Aquino. ■

1) Datu is a kind of tribal chief and includes spiritual as well as secular power.



© IPON | Every kid knows, the word of the Ampatuans is the law.

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## DEVASTATING CUTBACK IN PROPOSED BUDGET FOR CHR AND JUDICIAL SYSTEM IN 2011

*The projected cuts in the Philippine budget for 2011 will affect the Commission on Human Rights (CHR) with a cutback of 6% compared to 2010<sup>1</sup>. The CHR, chaired by Loretta Ann P. Rosales, encourages the implementation of human rights in the Philippines. The CHR agenda comprises legal aid, specialized training and monitoring, as well as investigations of human rights violations such as ‘extrajudicial killings’ and ‘enforced disappearances’. The recently published ‘Report on the Philippine Extrajudicial Killings’ by Parreno casts a bad light on the investigation and prosecution of extrajudicial killings: Of 305 known cases, 161 were filed for criminal prosecution resulting in a total of 4 convictions only. Other cases are either pending, have been abandoned or are said to be ‘cold cases’ – unsolved cases which are unlikely to be re-opened in the future<sup>2</sup>.*

*Even more serious is a proposed budget slash that would affect the judicial system: The budget allotted is expected to be lowered by 47% in comparison to the preceding year. The Philippine Star, a major newspaper, has voiced the concern that judges and judicial officers will be more likely to accept bribes as their monthly income will decrease<sup>3</sup>. The cutback will also have a deteriorating effect on facilities and the work of the judicial system in general.*

Christian Hallmann

1) Philippine Daily Inquirer (2010): CHR budget slashed; DSWD defends increase – Sept 14, 2010.

2) Parreño, Al A. (2010): Report on the Philippine Extrajudicial Killings (2001-August 2010). USAID and Asia Foundation Report, Manila.

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## DEMANDING AN END TO HUMAN RIGHTS VIOLATIONS IN THE PHILIPPINES



### Anne-Sophie Windel

22 years, studies Medicine at the University of Greifswald, Germany. She accomplished a voluntary social year in 2007-2008 with the United Church of Christ in the Philippines (UCCP). She is a cofounder of Sumabay Tayo! Walking together – for Justice!

*On February 6, 2010, 43 health workers were illegally arrested by military forces in Brgy. Morong, Tanay, Rizal. The community health workers, doctors, nurses and midwives, are accused of being members of the maoist guerrilla, the New People's Army. The so-called "Morong 43" have been detained ever since. Some of them have been victims of torture and maltreatment. The detainees suffer from medical disorders and even a newborn baby was still exposed to the inhuman conditions in jail. The victims and their relatives are psychologically and physically worn out.*

During its 5th human rights day headlined "The Human Right to Health", commemorated in the German city of Oldenburg on September 4, 2010, the human rights initiative Sumabay Tayo! Walking together – for Justice! raised attention to cases of human rights violations in the Philippines and their impact on the psychological and physical health of its victims. With several information posters as well as a role play, the initiative portrayed the alarming human rights situation in the archipelago. Furthermore, a petition campaign was conducted. More than 90 pedestrians presented their pictures and signatures to demand a stop of political killings and enforced disappearances<sup>1</sup>. The pictures and signatures were sent as postcards to the Philippine President Aquino.

Sumabay Tayo!'s commitment is founded on

the disconcerting human rights situation of the past years: During the Administration of the former President Arroyo (2001-2010), more than 1200 political killings have taken place and over 200 cases of enforced disappearances were recorded according to the Philippine human rights organisation KARAPATAN- Alliance for the Advancement for People's Rights. Moreover, there has been increasing militarization and consistent impunity.

The climate of impunity allows the perpetrators - believed to belong to (para-)military forces - to systematically harass, oppress, make disappear and kill unarmed politically active civilians. The overall impunity continues under the new Administration of President Aquino with 15 political killings since his inauguration (data as of September 22, 2010). Among the recurrent victims are human rights defenders, farmers, church people, local politicians, journalists, lawyers, teachers and land reformists.

Deeply concerned with these conditions, young German and Philippine students and professionals founded Sumabay Tayo! Walking together – for Justice! in spring 2009. As an independent and voluntary human rights initiative, the action group currently focuses on the stop of politically motivated killings in the Philippines and the related cases of enforced disappearances. The initiative also addresses other human rights violations such as the illegal arrest of the "Morong 43". Raising awareness and conducting public activities, the group would like to reach a large audience, spread the word and mobilize fellow citizens. Furthermore, the initiative points out that its work

1) i.e. displacement of persons to a secret place by state or state-like organs.

© Sumabay Tayo! | A picture-collage of the passers-by in Oldenburg who demanded a Stop of political killings and enforced disappearances in the Philippines.



is to be seen complementary to advocacy and lobbying that is already undertaken by other German organisations: Through our activities we try to support those affected by human rights violations, those left behind, and human rights defenders in the Philippines. We try to actively contribute to the solving of cases and to hold perpetrators and masterminds accountable. Our initiative calls for thorough, comprehensive and impartial investigations and the prosecution of human rights violations as well as fair trials. In view of this aim, it is indispensable that witnesses, victims and their relatives are guaranteed full protection.

Through awareness building and continuous attention to the human rights situation, we hope that an end to impunity and of all human rights violations in the Philippines will become true some day soon! ■

For further information or the Sumabay Tayo!-Newsletter please contact [sumabaytayo@gmail.com](mailto:sumabaytayo@gmail.com) or visit our facebook account: *Sumabay Tayo! Walking together – for Justice!*

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Sumabay Tayo! | More than 1000 candles – each symbolizing one victim of political killings - were lit at Sumabay Tayo!'s first activity during the German Protestant Church Day in May 2009.

## AMNESTY STATEMENT ABOUT THE NEW AQUINO ADMINISTRATION

*The new President Benigno “Noynoy” Aquino discusses the bad human rights situation of the country - one positive signal for human rights. He accepts that the military and the police of the Philippines are involved in the extrajudicial killings. The former chairman of the Human Rights Commission Leila De Lima is appointed as the new justice secretary of his administration. She is known as a person with a deep commitment to human rights. Amnesty International assessed the first 100 days of President Aquino as „two steps forward as well as three missed opportunities“.*

#### *The missed opportunities*

*Aquino has the power to cancel the Executive Order No. 546 (presidential order 2006 by former President Gloria Arroyo) which directs the police to give active support to the military in counter-insurgency operations. Before and during the elections, Aquino said: “Our security forces must be directed to dismantle all private armies.” The private army of the former Maguindanao Governor Ampatuan, who is the alleged criminal of the Maguindanao massacre in November 2009 (see article of Lukas Bauer, this volume), had been armed by the state authorities for example. Amnesty said: „The system of authorization for armed groups which are then used as private armies remains intact.“*

*Secondly, the President promised the installation of a truth commission. But it is useless if this commission has no mandate to address human rights violations like extrajudicial killings and enforced disappearances. There exists the plan of de Lima to install the “superbody” to investigate political killings, but the president has to issue the executive order.*

*Thirdly, the new Administration also has the opportunity to give a great signal for human rights to the international forum. The UN “International Convention for the Protection of all Enforced Disappearances” needs ratification by only one more country in order to come into effect. ai said: “The President should promptly sign the treaty“.*

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## WHICH STRATEGIES ARE SUCCESSFUL FOR THE PREVENTION OF POLITICAL MURDER? - REFLEXIONS OF PBI ON INTERNATIONAL OBSERVATION AND ACCOMPANIMENT -



### Juliane Marquardt

27 years, human rights observer with pbi until June 2010 at Mexico project. Project abstractor for educational and public relation work at pbi office in Germany.

*Under which conditions and utilizing which strategies is it possible to prevent politically motivated murder? Peace brigades international (pbi) is an organisation that must continually grapple with this question. The organisation was founded in 1981 and focuses on the areas of non-violent conflict transformation and civilian protective accompaniment.*

Pbi is a UN-recognized international peace and human rights organization that accompanies human rights defenders (HRD) within areas of conflict, who are subject to threats and persecution from governmental forces because of their commitment to the rights of all people. The organization sends out teams of international volunteers into these conflict areas to serve as protective companions and human rights observers. In this way, the organization serves in promoting violence prevention and strengthening the civilian conflict resolution effort.

The international organization adheres to the principles of non-violence, independence, non-partisanship, and non-interference and is only active where requested. Currently, it maintains projects in Colombia, Mexico, Guatemala, Nepal, Indonesia, and is also involved in a peace-coalition in Chiapas, Mexico (SIPAZ).

The goal of pbi is to provide HRD with the political space needed in order for them to be able to pursue the legitimate work of human rights protection in their country without placing themselves or their families in danger.

In order to be able to answer the questions of whether it is possible to prevent political violence and, if so, through which strategies, it is first necessary to take a look at the surrounding context.

### Description of the conflict situation

In conflict areas, the use or threatened use of violence against HRD for political purposes leads to intense fear and political paralysis. The deficiency or total absence of constitutional and democratic structures intensifies this paralysis and can lead to a complete standstill of social

initiatives. The state uses these repressive means because, in its view, the social movements threaten to change the status quo and thereby endanger the political and economic interests of the powerful elite. The populations of these failed states, however, still attempt to break through these decrepit and unjust structures and, in the spirit of social justice, attempt to close the „social gap“ between rich and poor.

In turn, the state uses the criminalization tactic in order to avoid losing its privileges and to enforce its political and economic interests. It creates artificial enemy concepts and uses them to justify massive violence against the population. HRD are portrayed as criminal activists who destroy the public order and who impede economic and social progress. As a consequence and in turn, the victims of repression join together in communities of solidarity which attempt to counteract the states' efforts towards repression and criminalization.

### The Strategy: Creating political space

Pbi works on the premise that all political actors in complex conflict situations carry out a cost/benefit analysis of their political actions, in which the consequences of these actions appear either as acceptable/profitable or as unacceptable/unprofitable. Through this, they define the limits of their political maneuvering room.

Pbi's central assumption is that the international presence provided by international observers (without direct interference) increases the political costs of human rights violations for the aggressors and their enlists to the extent that they abandon their plans. Pbi also assumes that „threatening sufficient negative consequences (serves) to frighten the aggressor



### Juliane Walter

30 years, studied International Economic and European Law, economic researcher for human rights of Instituto Centroamericano de Estudios Fiscales, Guatemala; human rights observer with pbi until May 2010 at Guatemala project. Project abstractor for pbi Germany.

into not committing the human rights violation." (Mahony/ Eguren 1997: 84). However, the physical presence of the volunteers alone is not enough to provide the HRD adequate protection. Therefore, pbi extends beyond the physical accompaniment with political and informational components. On the one hand, the teams repeatedly conduct meetings with local, national, and international authorities and organizations within the countries and also maintain contact with the embassies represented there. As Liam Mahony and Luis Enrique Eguren note: „Moral condemnation...and diplomatic hints... by the international community (serve) to create a generalized understanding that human rights violations will result in negative consequences." (ibid.: 85). On the other hand, pbi publishes articles and brochures about the human rights situation in the project countries. These publications are then distributed in the respective countries as well as in North America and Europe.

The political as well as the informative components of the accompaniment are further pursued in Germany. The contact to important politicians, lawmakers, ambassadors, journalists and lawyers as well as the routine publication of articles serves to enhance the protection of the HRD. In addition, workshops and lectures serve to outline the human rights violations and to elaborate upon specific incidents. Another important mechanism that serves to protect HRD in conflict areas is that of the international alarm and support networks. These are located in the European and North-American countries where pbi country groups are present. They consist of individuals, including prominent figures and politicians, who receive prompt notice of urgent human rights abuses and who then take appropriate action. What must be kept in mind, though, is that in order to generate international, political pressure with any credibility,

the „chain of communication from accompaniment to the international community to governmental pressure must be clear and effective." (ibid.: 86).



© peace brigades international - Deutscher Zweig e.V. | Accompaniment by pbi in Jalapa/ Guatemala: Demonstration of indigenous women organisations.

Now comes the question: Under which conditions does this strategy work?

The strategy to create political space for the HRD only works, and pbi can only be involved, when certain conditions are met:

#### *Political circumstances*

The states must want to maintain or enhance their international images as HRD and implementers. There must be, or at least appear to be, present basic foundations of democracy and constitutionality. International political pressure can only be effective and have an impact when these interests exist. Under such conditions, the fear generated by threats and violent attacks on the human rights activists does not have to lead to the paralysis of the social movement but rather can challenge the existing rudiments of democracy and constitutionality and put them under pressure. Pbi holds the

governmental actors liable and calls upon them to fulfill their obligations to human rights as stated in international conventions and agreements to which

they have committed themselves. Through its international character, pbi has significant potential to exert pressure.

If a political situation should deteriorate to the point that the state no longer cares about being internationally perceived as supportive of human rights - in other words, when its values have fundamentally deviated from those of the international community -, then a protective accompaniment from pbi cannot succeed. This is also the case when other benefits, such as economic or political interests, outweigh the political costs. In such a situation, not only would the volunteers be placing themselves in danger but it would also be impossible to build up international pressure and offer the human rights activists protection. The same applies when the country is infiltrated with organized crime, because in this case too, the protective accompaniment would produce no deterring effect.

### *Comprehensive and ongoing accompaniment*

As already mentioned, pbi does not rely only on physical presence and observation as strategies to create political space for HRD, but offers a comprehensive accompaniment that includes physical, political, and informative elements. This comprehensive system of accompaniment aims to contribute to the activists' protection in both the short and long term.

According to Mahony and Eguren, „deterrence analysts distinguish between ‚general deterrence‘ and ‚immediate deterrence‘.“ (ibid.: 85). In terms of protecting human rights, a combination of various international and local efforts are needed to achieve a general deterrence with long-term effect. „Immediate deterrence, as represented by accompaniment, sends a specific message at a given time to a specific aggressor to forestall attacks against a specific target: ‚Don't touch this one while we're here!‘“ (ibid.). The two forms of deterrence complement each other. Thereby, the combination of and continuity in the implementation of all these activities is very important.

### *Between accompanied and accomplices*

In order to establish effective political pressure, it is vital that those being threatened as well as the accompaniment organization know who the aggressor is.

When the conflict is too complex or if there is too much uncertainty about which actors and aggressors are involved and how they are connected to each other, protective accompaniment is inadvisable – it would place the lives of the accompanied and the volunteers in danger.

Furthermore, there must be clear, confidential, and effective communication between those being accompanied and the accompaniment organization. Clear agreements must be reached, and the accompanied persons must be fully aware of the mandate and methods of the accompaniment organization. Additionally, those being accompanied should keep the accompaniment organization well informed about their situation and activities.

### *Within the accompaniment organization*

It is important to conduct analyses before, during, and after the accompaniment. Prior to an accompaniment, pbi conducts a conflict and

safety analysis to identify all the actors in the conflict. The aggressors must be affiliated with the government and must be aware of the political costs and consequences of their actions; otherwise, pbi has no deterrence effect. Pbi cannot step in when the conflict is too complex for analysis, when there is no information available about the actors, when it is a conflict between individuals, or when organized crime is involved. In such cases, intervention would fail and would endanger the volunteers' lives.

Certain precautionary measures are also taken before every physical accompaniment. Politicians and lawmakers at the national, local, and community levels as well as ambassadors of the volunteers' home countries are informed when an accompaniment is scheduled to take place. This is especially emphasized when the accompaniments take place in remote areas. If the volunteers get into danger, the ambassadors are ready to intervene. Shortly before the accompaniments, the local police and human rights organizations are also informed – on one hand to solicit support in case of emergency and, on the other hand, to exert political pressure.

It is of great importance that there is enough personnel available to implement steady and ongoing accompaniment measures. Clear agreements must also be made within the accompanying teams in order to minimize danger.

### **Best Practice: The 24-hour accompaniment**

One example for the success of international accompaniment as a protection mechanism is the 24-hour accompaniment. Pbi utilizes this type of accompaniment in cases of severe threat and when a person's safety is seriously in danger. This means that the human rights activists who request this form of accompaniment or in whose cases it is deemed absolutely necessary are accompanied by the volunteers 24 hours a day, everywhere they go.

In 2002 Valentina Rosendo Cantú, a member of the indigenous Me'phaa people in the Mexican state of Guerrero, was interrogated, beaten, and sexually abused by members of the military. She brought the crime to court and, since then, has been fighting for justice and punishment of the perpetrators. During this battle, the now 25-year-



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old has repeatedly been followed and received death threats against her and her family. Her eight-year-old daughter was also threatened and nearly kidnapped. The acts of violence increased to the extent that in February 2010, out of fear for Valentina's life, pbi initiated 24-hour accompaniment. Up to now, the volunteer team accompanies Valentina everywhere she goes from the moment she leaves her house. Additionally, the pbi team is available around the clock via phone.

### Example of an unsuccessful international accompaniment

In April of 2010, an international caravan was travelling within Oaxaca (a state in the south of Mexico) for humanitarian purposes when it was attacked. The peace caravan's goal was to deliver food and medicine to the San Juan Copala community and to document human rights violations against the Triqui people living there. However, before reaching their destination, roughly 30 members of a paramilitary group opened fire on the caravan. A

Mexican activist and an international observer from Finland, who were both accompanying the caravan, were shot and consequently died, and there were many additional injuries. One member of the caravan hid in the forest and had to hold out for several days, yet help did not arrive.

San Juan Copala is an autonomous community of the Triqui people, which has dissociated itself from the official government. The community's population attempts to lead and govern its territory autonomously and with self-determination, and is therefore a thorn in the government's eye. San Juan Copala is led by the Independent Movement for the Unification of the Triqui Struggles (MULTI). However, the group UBISORT (Unión de Bienestar Social de la Región Triqui), which has been classified by the United Nations High Commissioner on Refugees as a paramilitary organization, blocked the community's access to electricity, food and medical care since January 2010. UBISORT was founded in 1994 by local members of Oaxaca's ruling party, the Institutional Revolution Party (PRI). The residents themselves are not

even allowed to leave the community, since paramilitaries hinder them from leaving. While the Oaxacan government has denied responsibility for the attack and blames the caravan organizers for entering the region even knowing what the situation in the region was, the victims of the attack blame the government and paramilitaries for being responsible for the losses. In these situations, the concept of creating protection and a larger political space for the local human rights organizations through the presence of international observers is perceived not to be working. The human rights caravan could not have hoped for support from the government because San Juan Copala has long since been considered a conflict area in which several unpredictable actors, such as paramilitaries and guerrilla groups are operating. Therefore, international accompaniment and the deterrence effect is questionable, and pbi is not active in the area. Activists criticize that politicians assume no responsibility for those who venture in the area, and they maintain that they have no control

over the groups that operate there. And as long as the blame and responsibility can be placed on uncontrollable groups, as claimed by the government, there are no political costs that can prevent this type of political murder.

### The problem of the non measurability of success

The strategy of creating political space appears convincing in principle. However, accompaniment organizations such as pbi and other face a problem: the success of efforts in international protective accompaniment and human rights observation cannot be objectively measured. It is not possible to determine whether the accompaniment contributed to keeping a person alive due to the large number of factors that might have played a role. Unfortunately, only the failures, i.e. the death of or attack on an accompanied person, are measurable. Throughout its existence, though, pbi has had no such failures to report – no one has been killed while being physically accompanied. Subjective success is, in a way, more measurable: the thanks of the HRD. Guatemalan environmental activist and pbi-accompanied Eloyda Mejía of the Friends of Izabal Sees Union (ASALI) said the following: „The protection that I have received from pbi has saved my life.“

And Colombian journalist Claudia Julieta Duque commented that „pbi was always there to save my daughter’s and my life. Its members became my guardian angels, my friends, and my essential company. If I was able to smile during that period, it was thanks to them. It was thanks to these foreign nationals, so concerned for our situation, who worked with dedication and deep respect.

I was fully aware that without their presence, the threats might have turned from words into actions.“

Tita Radilla and her brother Rosendo from the AFADEM organization (Association of Relatives of Disappeared People and Victims of Human Rights Abuses in Mexico) were also accompanied by pbi and reported the following: „pbi was very important during the trials. The accompaniment from pbi gives us strength and a great deal of security. The presence of pbi means the government knows that the international community is watching the trial.“

### The keys to successful protective accompaniment for the prevention of political murder

In summary, pbi emphasizes the following points as the key to successful protective accompaniment:

- **Comprehensive accompaniment: physical, informative, and political**
- **Continuity in regard to all three aspects of accompaniment**
- **Effective and efficient networking, on both the local and international level**
- **Advocacy work at all political levels**
- **Transparency of their actions**
- **Confidentiality with the accompanied persons**
- **Excellent communication between those being accompanied and the accompaniers**

During pbi’s many years of experience with international accompaniment it has become clear that the combination of these key factors is crucial for minimizing the probability of political attacks and murders. ■

#### SOURCE

- Mahony, Liam and Eguren, Luis Enrique (1997): *Unarmed Bodyguards – International Accompaniment for the Protection of Human Rights*. Kumarian Press, Inc.



## IPON AND THE INSTRUMENT OF HUMAN RIGHTS OBSERVATION

The International Peace Observers Network (IPON) is a German independent non-intervening and non-profit organisation which aims for improving the human rights situation in the Philippines by sending observers to conflict areas.

The Instrument of human rights observation is based on the idea that, if a country has ratified the UN "Universal Declaration of Human Rights" (and/or other relevant international declarations on human rights), it is therefore responsible to enhance, respect, and implement human rights. If a country does not follow these responsibilities independent international observers will document these violations of human rights and bring it to public attention. IPON follows this legalistic approach to human rights. Since 2006 IPON accompanies organisations of human rights defenders (HRD) in the Philippines, starting with the request of the farmers organisation KMBP (Kilusang Magbubukid ng Bondoc Peninsula) in Bondoc Peninsula, Quezon Province. Since 2008 IPON observers are present

in Negros Occidental accompanying the HRD of TFM (Task Force Mapalad). IPON will not intervene in any internal conflict and will not interfere in the strategies of the accompanied HRD. The organisation will only go into a conflict area after a request from a human rights defender organisation and after preliminary studies which include an examination whether the instrument of human rights observation is suitable for the present situation.

The work of IPON is based on four pillars: **Presence:** The IPON observers will be present at the side of HRD who are exposed to human rights violations because of their work. Their presence is supposed to prevent assaults and enable the unhindered work of the HRD. The presence of international observers is believed to rise the inhibition threshold for encroachments.

**Accompanying:** HRD are accompanied to different ventures like political actions, meetings with governmental institutions, or conferences. In some cases individuals who are especially endangered get company by IPON members.

**Observation:** It can be difficult to get unfiltered information from conflict areas. The possibility to document events in situation makes the reports of the IPON observers very valuable. The documentations always take place in regard of human rights. Because of the legalistic approach the role of the state actors is essential in the critical analysis of the human rights situation.

**Informing action:** The information that has been gathered directly in the conflict area and has been analysed by the observers are brought to the attention of an international public. IPON is in touch with different institutions of the Philippine state and points out their responsibility of implementing human rights. In Germany the reports are handed over to the public. They serve as a basis for the work of organisations, pressure groups and politicians. This way the international pressure on the Philippines to guarantee human rights rises. IPON is convinced that the publication of human rights violations will finally lead to their decrease and prevention.



### Partnergroups in the Philippines:

|                |   |
|----------------|---|
| <b>QUARDDS</b> | (Quezon Association for Rural Development and Democratization Services) |
| <b>KMBP</b>    | (Kilusang Magbubukid ng Bondoc Peninsula)                               |
| <b>TFM</b>     | (Task Force Mapalad)  |

## AIMS AND SCOPE

**OBSERVER:** offers a forum for analysis, strategies and debates regarding human rights observation in the Philippines with a focus on human rights defenders. How does the implementation of the UN Human Rights Charta is performed by Philippine Institutions? Which are the elemental dangers human rights defenders in the Philippines are exposed to? These are some of the possible topics. Comparisons with other countries will expand the handling and perspectives of human rights observation. Each publication has its own thematic emphasis. Guest articles from different disciplines and organisations are welcome.

