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PHILIPPINES: SHATTERED LIVES BEYOND THE 2008-2009 MINDANAO ARMED CONFLICT

"We inherited an age-old conflict in Mindanao, exacerbated by a politically popular but near-sighted policy of massive retaliation. This only provoked the other side to continue the war."

- President Gloria Macapagal Arroyo during her State of the Nation Address, 27 July 2009

REPORT SUMMARY

Yet another round of fighting between the Philippine government forces and the Moro Islamic Liberation Front (MILF) has ended on 29 July 2009. The 2008-2009 hostilities, which displaced more than 750,000 persons in total and led to numerous human rights abuses, officially ended with an agreement to resume peace negotiations. One year after renewed violence between government security forces and armed groups, Mindanao is finally beginning to see a possible end to the unrest and uncertainty—and perhaps even an end to the 40-year armed conflict.

Their lives shattered by the armed conflict, hundreds of thousands of people in the Central Mindanao region of southern Philippines faced the risk of unlawful killings, enforced disappearances, torture, arbitrary arrests, displacement and burning and destruction of their homes at the hands of the Philippine armed forces, MILF fighters, and local militias. With no means of making a living, the people have become dependent on aid.

In May 2009 the Mindanao conflict was identified as having the highest number of new internally displaced persons worldwide¹ and having "the most neglected displacement situation"² in 2008.

Many displaced people, as of the end of July 2009, have still been unable to go back to their villages. They live in fear and uncertainty in overcrowded camps, with their relatives, or in makeshift shelters on roadsides. Unable to tend to their farms, they have become dependent on food rations and other aid. For many large families the food rations are not enough, and family members have been forced to go back to their villages to forage for food or something to sell, risking their lives in the process. In June 2009, the Philippine government discouraged aid agencies from giving large quantities of food to displaced persons, in an effort to prevent food from being diverted to the hands of the MILF or sold to traders.³

With a ceasefire now in place, both parties to the conflict must, as a matter of urgency, ensure the safe return to their homes of the more than 240,000 internally displaced persons.⁴ They should also cooperate in facilitating a comprehensive, impartial and thorough investigation into all allegations of grave human rights abuses and violations of international humanitarian law during the recently concluded hostilities. It is vital that those whose lives have been shattered by the abuses achieve justice promptly as armed conflicts, often borne out of perceived injustices, feed on unresolved grievances that arose from a history of conflict and many years of failure to hold to account perpetrators of grave human rights abuses.

Fighting escalated in August 2008, after the Philippine Supreme Court delayed formally signing the "Memorandum of Agreement on Ancestral Domain", a document which would later increase the autonomous territory of Muslim Mindanao. In response, MILF fighters launched attacks against civilians, and fighting between the security forces and the MILF intensified. In October 2008, the Supreme Court ruled the Memorandum unconstitutional. Fighting continued as the government forces conducted military operations in an effort to pursue MILF commanders who have led the attacks.

The armed conflict in Central Mindanao, which was officially between the Philippine government and the MILF, was further aggravated by violent acts by other armed groups, privately-armed militias and powerful feuding clans.

The Philippine government declared a Suspension of Military Operations and the MILF declared a Suspension of Military Activities as of 23 and 24 July 2009, respectively. At the same time the Armed Forces of the Philippines (AFP) stated that the pursuit of MILF commanders Ameril Umbra Kato, Abdullah Macapaar and Ali Pangalian and their fighters continues, and the military will remain involved in the operations, in support of the Philippine National Police (PNP), who will, in case of their capture, serve them their warrants of arrest for criminal acts such as murder, arson and robbery. Amnesty International calls on the Philippine government to ensure that such joint police-military pursuit operations do not result in further human rights violations in Central Mindanao⁵ and the Autonomous Region in Muslim Mindanao (ARMM).⁶

In the context of the armed conflict, Amnesty International and other human rights monitors and humanitarian workers have reported on cases of arbitrary arrests, torture and other cruel, inhuman or degrading treatment or punishment, enforced disappearances, political killings, house destruction as well as diversion and prevention of access to aid.

In March 2009 Amnesty International visited Mindanao, including the cities of Davao, Cotabato and Iligan, and the provinces of North Cotabato and Maguindanao, to obtain updated first-hand information about the human rights situation there. The organization gathered reports from local human rights monitors, humanitarian workers, the military, the MILF, the Philippine Catholic Church, local and international non-governmental organizations and the media. This report is a follow-up to "Shattered Peace in Mindanao: The Human Cost of Conflict in the Philippines" (AI Index: ASA 35/008/2008) published by Amnesty International in October 2008.

This report focuses on the situation of internally displaced persons and human rights abuses and violations of international humanitarian law in the context of the armed conflict in Maguindanao province, which was the stronghold of the MILF and one of the centres of the armed conflict for most of its duration. Amnesty International interviewed victims, their families and witnesses as well as members of civil society in the province. Some of the cases raised in this report were taken from interviews and documentation by independent humanitarian workers and community human rights monitors.

Amnesty International does not take sides in armed conflicts generally, including conflict between the Philippine government and the MILF. In the context of armed conflict, the organization concentrates on documenting and campaigning against human rights abuses and violations of international humanitarian law, no matter who commits them.

Amnesty International's concerns

Where armed conflict is prolonged, increased suffering and hardship invariably follow. Armed conflicts have, more often than not, been the breeding ground for mass violations of human rights.

All parties to an armed conflict are obliged to comply with international humanitarian law, and in particular Common Article 3 of the 1949 Geneva Conventions, which prohibits any attacks on persons "taking no active part in the hostilities," and the Second Optional Protocol to the Geneva Conventions which contains similar provisions. Moreover, international human rights law applies in war just as in peace time. Amnesty International calls upon the parties, most notably the Philippine government and the MILF, to explicitly show commitment to putting an immediate and unconditional end to all violations of international human rights and humanitarian law, including but not limited to, attacks targeting civilians, indiscriminate attacks, burning and destruction of civilian properties, arbitrary arrests, torture, and other cruel, inhuman or degrading treatment or punishment, enforced disappearances and unlawful killings, including but not limited to political killings.⁷

The Philippine government must ensure the protection of civilians affected by the conflict, particularly displaced persons. It must also ensure that displaced families are provided with sufficient food, access to potable water and free medical treatment.

The Philippine government and the MILF must fully cooperate to facilitate prompt, impartial and thorough investigations into allegations of human rights violations and violations of international humanitarian law. Reports of the investigations should be made public. Perpetrators, irrespective of rank, must be brought to justice in proceedings which meet international standards of fairness, and victims must be ensured reparations.

Conclusions and Recommendations

The failure of both the Philippine military and the MILF to ensure that their forces comply with international law during the 2008 – 2009 conflict has resulted in human rights violations and abuses and violations of international humanitarian law. The lack of a neutral human rights monitor respected by both parties to the conflict has meant that effective investigations and bringing the perpetrators to justice has not occurred.

The presence of armed groups and privately armed militias, and localised attacks between feuding clans, has aggravated the already volatile and complex situation. At the centre of the armed conflict are the lives of the hundreds and thousands of civilians who have been displaced. Dependent on aid, with no sure prospects of livelihood, no safe communities or sometimes even standing homes to go back to, theirs is an uncertain future.

The recent suspension of hostilities provides a much-awaited respite for the conflict-affected population. The re-opening of the peace talks provides the Philippine government and the MILF with an important opportunity to put human rights at the heart of their new round of negotiations. Just like other armed conflicts in the world, the Mindanao armed conflict has fed on unresolved grievances that arose from a history of conflict. These grievances are often about grave human rights abuses, and historically, perpetrators of these abuses have not been held to account.

Amnesty International makes the following recommendations to the Philippine government, the MILF and the international community.

Recommendations

To the Philippine authorities

1. The government security forces, comprising the AFP and government-armed paramilitaries, such as the CAFGU and CVO, must immediately cease all violations of human rights and take all measures necessary to ensure they are not repeated in the future.
2. The Philippine government, especially the Department of National Defence with regard to members of the government security forces, should initiate prompt, impartial and thorough investigations into reports of violations of international human rights and humanitarian law.
 - Witnesses and families of the victims should be protected from violence, threats or any other intimidation and those under investigation should be suspended from any position where they can exert power or influence over them.
 - Individuals identified by the investigation as responsible, including those with command responsibility irrespective of rank, must be brought to justice in proceedings which meet international standards of fairness. An order from a superior officer or a public authority may not be invoked as a justification for committing serious human rights violations or violations of international humanitarian law.
 - The reports of these investigations should be made public.
 - Victims must be ensured reparations in accordance with international standards. Such reparation must include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.
3. The Armed Forces of the Philippines must demonstrate its commitment to human rights, by providing its human rights office with the resources needed to effectively investigate all cases of violations of international humanitarian law and human rights violations perpetrated by the government security forces, including but not limited to, destruction of civilian houses and property, arbitrary arrests, enforced disappearances, unlawful killings including political killings, and torture and other cruel, inhuman and degrading treatment.

- The AFP human rights office must be given the mandate and sufficient capacity to conduct the detailed and impartial investigations itself, and not only rely on investigations done by regional commands on their own men.

4. The government should ensure the safety and well being of internally displaced persons, in accordance with international law and standards, including the UN Guiding Principles on Internal Displacement.

- In particular it must ensure that the lives of displaced persons are not at risk of direct or indiscriminate attacks or other acts of violence.

- It must provide or ensure the provision of, as a minimum, adequate food and potable water; adequate shelter and housing; appropriate clothing; and essential medical services and sanitation.

- It must grant unimpeded access to all areas under its control to humanitarian actors so that they may reach internally displaced persons and other civilians at risk without further delay.

- It must, in cooperation with the displaced persons, implement a sustainable and comprehensive plan of action for their safe and voluntary return to their villages, in conditions that allow returnees to live without threats to their security and under economic, social and political conditions compatible with human dignity. This includes provisions for adequate food, housing and livelihood upon resettlement, as recommended by the DOH-UNICEF-UNWFP in their joint nutrition and food security assessment of the internally displaced persons.

- It should ensure that their property and other rights are fully restored, and in the case of destroyed or inaccessible property, that they receive adequate compensation, irrespective of their return to their place of permanent residence.

5. The Philippine government must take responsibility for the security of all civilians residing in areas affected by the conflict regardless of their religion, political affiliation, or ethnicity. Specifically, it must take concrete steps to protect Philippine Muslims, otherwise known as Moros, from reprisal attacks and other violations, particularly by members of the government security forces.

6. The Philippine government should prioritise the establishment of an office of its national human rights institution in ARMM, starting with the issuance of an executive or administrative order which permits this. The Commission on Human Rights of the Philippines should then re-establish office/s within the Autonomous Region in Muslim Mindanao, to make the agency accessible to victims of human rights abuses. The ARMM regional government must fully cooperate to support this effort.

7. The national government, particularly through the Office of the Presidential Adviser on the Peace Process, in consultation with ARMM regional officials and civil society, should establish a culturally accepted mechanism of monitoring, investigating and bringing a just end to abuses perpetrated by privately armed militias, feuding clans and other armed groups in their practice of *rido*, to facilitate governance that is based on the rule of law in the conflict-affected region and to prevent localised clashes that could escalate into heavy fighting.

8. The Philippine senate, as a matter of priority, must ensure that the Anti-Torture Bill and the Anti-Involuntary Disappearance Bill fully accord with international human rights law, in particular the International Convention on the Protection of All Persons from Enforced Disappearance and the Convention against Torture, and expedite the approval of the proposed legislations before the end of the next session.

9. As a matter of priority, the Philippine state should ratify the International Convention on the Protection of All Persons from Enforced Disappearance, and to make the declarations required under Articles 31 and 32 of the Convention, thus recognizing the competence of the Committee on Enforced Disappearances to consider communications from individuals and state parties.

10. The Philippine government should implement urgently the recommendations contained in the 2008 UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions' report and 2009 follow-up report on the Philippines which remain unfulfilled.

11. The Philippine government should extend an open invitation to the UN Special Procedures to visit Central Mindanao, in particular the Special Rapporteur on the promotion and protection of human rights while countering

terrorism and the Working Group on Enforced or Involuntary Disappearances, who have both requested to visit the Philippines several times.

Recommendations to the MILF

1. The MILF should publicly declare a commitment to respecting the human rights of all peoples and immediately order its fighters, followers and supporters to cease all acts that constitute to human rights abuses, particularly in the context of the armed conflict.
2. The MILF must ensure that its fighters, followers and supporters adhere strictly to their obligations under international humanitarian law by clarifying to its fighters, followers or supporters, irrespective of rank, that IHL violations would not be tolerated, particularly attacks on civilians and civilian properties or objects, and indiscriminate attacks. Members suspected of committing violations must be removed from any positions where they may repeat them.
3. The MILF must cooperate with the Philippine government in facilitating joint investigations of allegations of grave abuses and violations of international human rights and humanitarian law, and bringing to justice perpetrators of such abuses, in a civilian court, through proceedings that comply with international standards of fairness.
4. The MILF should divulge the results of its investigations of the attacks on civilians perpetrated by three of its commanders in August 2008 and the punishments which it stated that it has imposed on those it found to be responsible.

Recommendations to the International Community

Amnesty International calls on the international community to support measures for independent human rights monitors to document reports of abuses by the parties to the conflict, with the aim of improving compliance with international human rights law and humanitarian law in particular with regard to protection of civilians. Specifically:

1. Amnesty International calls on multilateral organizations such as the Organization of Islamic Conference and the European Union, which have both expressed interest in supporting the peace process, to give assistance in establishing international monitors of human rights abuses and violations of international humanitarian law committed in the context of the armed conflict.
2. Amnesty International calls on the international donor community to support the expansion of independent local human rights monitoring teams, in order to have more systematic and coordinated documentation and reporting of violations of international human rights and humanitarian law in the conflict-affected areas.

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ENDNOTES

Declared by the Internal Displacement Monitoring Centre (IDMC), an international organization that monitors conflict-induced displacement.

2 Norwegian Refugee Council, "Global Overview of Trends and Developments in 2008", May 2009. <http://www.nrc.no/?did=9408780>, last accessed 2 July 2009.

3 Manny Mogato, "Philippines asks aid agencies to limit food rations", Thomson Reuters, 3 June 2009, <http://www.reuters.com/article/asiaCrisis/idUSMAN479139>, last accessed 5 June 2009.

4 National Disaster Coordinating Council, "NDCC Update Sitrep 86 re: IDPs in Mindanao", 14 July 2009.

5 Central Mindanao or Region XII consists of the provinces of South Cotabato, Cotabato, Sultan Kudarat, Sarangani and the cities of Cotabato, General Santos, Kidapawan, Koronadal and Tacurong.

6 ARMM consists of the provinces Maguindanao, Lanao del Sur, Basilan, Sulu, Tawi-tawi, and the two cities of Marawi and Isabela.

7 In this report, the term "political killings" is used to refer to unlawful killings by government security forces or armed groups. Unlawful killings in the context of this report also includes targeted killings of civilians and other non-combatants by government security forces or armed groups, and killings resulting from disproportionate or indiscriminate attacks.