

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

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Questions

- 1. Please provide any relevant information about the purported murder of Victor Gardose. Did it take place on 27 December 2006 at the annual fiesta?**
- 2. If so, has anyone been arrested and tried for his murder?**
- 3. Are there any reports of witnesses of the killing being threatened or harmed?**
- 4. Please provide any information about the motivation for the killing(s), including any information about the suspected involvement of an ex-Mayor called Exmundo.**
- 5. Please provide an update on state protection in the Philippines, including the level of police protection, and whether or not witnesses of violent crimes/political assassinations would be adequately protected.**

RESPONSE

- 1. Please provide any relevant information about the purported murder of Victor Gardose. Did it take place on 27 December 2006 at the annual fiesta?**
- 2. If so, has anyone been arrested and tried for his murder?**

Information regarding the murder of Victor Gardose is provided in a number of Philippine newspaper reports. These reports indicate that Gardose, vice mayor of Tapaz town in the province of Capiz, was murdered at Barangay (village) Taft on 30 December 2006, along with his bodyguard and a village chieftain. Gardose and his companions were about to attend the coronation of the beauty queen of the annual barangay religious fiesta.

The *Philippine Daily Inquirer* describes the incident in a report dated 31 December 2006, stating:

Gardose, 39, died from two bullet wounds in the head, said Senior Supt. Cipriano Querol Jr., the Capiz police director, in a telephone interview.

Leonardo Gimeno Sr., 59, Caridad village chief, died of bullet wounds in the body while Gardose's bodyguard, Anthony Gequillo, 48, died of head wounds. The vice mayor's driver, Cornelio Gardose, 39, was unhurt.

The vice mayor and his companions had just arrived in Barangay Taft on board his jeep at around 7:20 p.m. when they were gunned down near the village's civic center.

Two bonnet-wearing gunmen opened fire with .45-caliber pistols as the victims were alighting from the jeep.

Gimeno tried to flee the gunmen but was shot dead a few meters from the vehicle. The vice mayor who was seated in the back seat died inside the jeep along with Gequillo, said Querol.

The gunmen fled on a motorcycle driven by a third suspect going to Calinog town, Iloilo. Barangay Taft is around seven kilometers from the "poblacion" or town plaza.

Gardose was about to attend the coronation of the beauty queen at the village's annual religious festival when he was gunned down. The villagers scampered to safety when they saw the bodies.

... Chief Supt. Geary Barias, Western Visayas police director, said they were not discounting politics as the motive of the killing.

Hours earlier, Gardose formally announced during a party in his barangay of San Julian that he would run for mayor in the May 2007 elections to replace Tapaz Mayor Romualdo Exmundo who is in his third and last term. The two belong to the Liberal Party.

But Barias noted that there had been no record of violence among politicians in Tapaz.

... While they were not discounting the involvement of New People's Army rebels, Barias said the killings were the work of hitmen.

"It was done by professionals," said Barias (Burgos Jr, N.P. 2006, 'Capiz town vice mayor, 2 others slain during festival Victor Gardose', *Philippine Daily Inquirer*, 31 December – Attachment 1).

A *GMA News.TV* report provides the following information on the shooting:

Gardose's driver Cornelio, 39, who survived, said they came from a family reunion and were at the Taft gym gate when they were cornered.

Initial investigation showed that at least two men shot Gimeno, who was at the front seat, and then at the driver, but the driver was not hit.

Gardose tried to escape but he was hit in the left portion of his head. His bodyguard, who was seated beside him, had gunshot wounds in the head, right arm, and left side of the body.

Police believe that the perpetrators are professional killers because no one was accidentally hit and the wounds inflicted were fatal ('Widow of slain Capiz vice mayor running for mayor' 2007, *GMA News.TV*, 7 February <http://www.gmanews.tv/story/29620/Widow-of-slain-Capiz-vice-mayor-running-for-mayor#> - Accessed 19 December 2008 – Attachment 2).

On 3 January 2007, the *Visayan Daily Star* reported that police had arrested Danilo Gelilang, a member of the Tapaz police force and bodyguard of Mayor Romualdo Exmundo, in relation to the murder. Mayor Exmundo denied any involvement in the killings. The report cites Senior Supt. Rey Rafal, head of the Task Force Gardose, stating:

Rafal said Gelilang has a "history of being used by politicians." Investigators are determining reports that the policeman shot a supporter of a politician in the past election.

He said there is a "strong possibility" that (the killings) are election related. Investigators have discounted the involvement of New People's Army rebels, who are active in the area, or other groups.

... But Rafal did not want to comment when asked if Exmundo has been linked to the incident. He said the suspects are hired killers who are not from Tapaz ('Slay of Tapaz VM, 2 Others: Mayor's policeman-bodyguard apprehended' 2007, *Visayan Daily Star*, 3 January <http://www.visayandailystar.com/2007/January/03/police.htm> - Accessed 19 December 2008 – Attachment 3).

A week later a news report in the *Manila Standard Today* noted that a recommendation had been put forward by police officials for "the relief of the entire police force of Tapaz, Capiz, for their alleged inaction on the Dec. 30 assassination of Vice Mayor Victor Gardose." The report cites Senior Supt. Cipriano Querol Jr., Capiz provincial police chief, and states:

Querol said the officers and men of the Tapaz town office were allegedly biased in favor of local chief executives, preventing them from effectively carrying out their task of maintaining peace and order in the town.

He said his recommendation was prompted by the evident inaction of the Tapaz police in investigating the murder and in pursuing the vice mayor's suspected murderers.

Querol said he had to tap policemen at the provincial headquarters just to go after the killers....

Two suspects in the Gardose killing were arrested by the Capiz provincial police. They were identified as Noel Fuentespina, alias Boy Intsik, 28, of Barangay Sagkop in Lambunao, Iloilo, and PO3 Danilo Gelilang, a member of the Capiz provincial police.

Witnesses identified Fuentespina as the triggerman while Gelilang was sighted in the crime scene together with the gunman prior to the killings.

...The provincial government of Capiz and the municipal government of Tapaz have put up a P500,000 reward for the fast resolution of the case (Evangelista, R.A. 2007, 'Capiz town police sacked', *Manila Standard Today*, 10 January http://www.manilastandardtoday.com/?page=regions2_jan10_2007 – Accessed 5 January 2009 – Attachment 4).

On 13 January 2007, a report released on the Inquirer.net website stated that the entire Tapaz police force had been removed from the investigation and replaced by "members of the 605th provincial mobile group". According to Senior Supt. Rafal, Head of the Task Force Gardose, these actions were taken on account of the policemen's "familiarity and closeness with the community and town officials" which could "affect the investigation of the case" as well as this being "a punishment for failing to prevent the killings" (Burgos, N.P. 2007, 'Entire

police force sacked over killing of vice mayor', *Inquirer*, 13 January http://newsinfo.inquirer.net/inquirerheadlines/regions/view_article.php?article_id=43184 – Accessed 19 December 2008 – Attachment 5).

Despite these steps having been taken in a bid to solve the murder of Victor Gardose and his companions, one year later the *Cebu Daily News* reported that Rosemarie Gardose, who had become the incumbent mayor of Tapaz following the death of her husband, “lamented the slow march of justice for the slain town official and his two companions”. The widow is quoted as saying that “the family was nowhere near finding the mastermind of the murder of her husband and his two companions, Carida village chief Leonardo Gemino and the vice mayor's bodyguard Anton Gequillo.” In addition the report notes:

So far, only one suspect, Noel Fuentespina, has been charged with multiple murder in a case now pending at the Regional Trial Court (RTC) Branch 20 in Mambusao, Capiz.

But Fuentespina, the driver of former Capiz provincial board member Ronald Exmundo, has remained at large.

Witnesses also identified a Manuel "Boy" Beanisa, 44, as a possible suspect in the murders. He has not been charged.

Beanisa, a frustrated murder suspect who escaped from the Capiz provincial jail in 1985, was arrested in Manila last July and is now held at the Capiz Rehabilitation Center due to several pending cases not related to the Gardose murder.

Beanisa has denied any involvement in the Gardose murder.

Until Fuentespina is arrested, no one would know for sure who masterminded the killings, police earlier said (‘Mayor laments slow grind of justice’ 2007, *Inquirer.net* website (source: *Cebu Daily News*), 31 December http://globalnation.inquirer.net/cebudailynews/visayas/view_article.php?article_id=109661 – Accessed 19 December 2008 – Attachment 6).

In the sources consulted no updates on the situation since the end of December 2007 could be found. Consequently it is not possible to determine whether any suspects were actually tried in relation to the Victor Gardose murder case.

3. Are there any reports of witnesses of the killing being threatened or harmed?

No information is available within the sources consulted indicating whether witnesses to Victor Gardose’s murder have been threatened or harmed.

4. Please provide any information about the motivation for the killing(s), including any information about the suspected involvement of an ex-Mayor called Exmundo.

Newspaper reports suggest that the killing of Victor Gardose and his companions was politically motivated (see Questions 1 and 2) although no evidence is provided in the sources consulted to substantiate these claims.

Limited information was found in the sources consulted regarding the suspected involvement of either Tapaz Mayor Romualdo Exmundo (for whom one of the suspects, Danilo Gelilang, was a body guard) or his cousin, former Capiz provincial board member Ronald Exmundo

(for whom another suspect, Noel Fuentespina, worked as a driver), in the killing of Victor Gardose. However, an *Inquirer* report, dated 8 January 2007, suggests that while both Romualdo and Ronald Exmundo denied involvement in the attack, the Exmundo family did receive some criticism during this time. For example, the report notes:

Board member Exmundo also expressed dismay over criticisms against their family. On Friday, he delivered a privilege speech denying any part in the ambush.

“Everybody was in a frenzy condemning me; shouting to high heavens that I be delivered to the devil instead, opening the floodgates of retribution to me and my family. It is sad how people can be so cruel, but worse is to condemn an innocent man for the sins of others,” he said in his speech (Celino, F.V. 2007, ‘Driver of Capiz board member questioned on exec’s murder’, *Inquirer*, 8 January http://newsinfo.inquirer.net/inquirerheadlines/regions/view_article.php?article_id=42176 – Accessed 5 January 2009 – Attachment 7).

5. Please provide an update on state protection in the Philippines, including the level of police protection, and whether or not witnesses of violent crimes/political assassinations would be adequately protected.

A 2008 report by the Immigration and Refugee Board of Canada discusses issues relating to “crime, police effectiveness and state response, including witness protection” in the Philippines. In considering the effectiveness of the Philippine National Police (PNP) in dealing with crime, the report cites the US State Department’s *Country Reports for Human Rights Practices for 2006* which asserts that, despite steps being taken to rectify the situation, the PNP “has deep-rooted institutional deficiencies” and is often viewed by the public as being corrupt.

This information is pertinent when considering the level of police protection that may be offered to witnesses of violent crimes/political assassinations, despite the institution of the *Witness Protection, Security and Benefit Act* in 1991 (see attached document – Attachment 8). While the Act entitles witnesses of “grave felonies” to benefits such as secure housing, relocation and/or change of personal identity at the expense of the Program, assistance in obtaining a means of livelihood, financial assistance for the witness and their families, organisations such as Amnesty International, the Asian Human Rights Commission, and Human Rights Watch draw attention to inadequacies within the witness protection program. These are cited in the 2008 Immigration and Refugee Board of Canada report noted above, which states:

Effectiveness of Witness Protection

Various organizations have described problems with the witness protection program in the Philippines (AHRC 26 May 2006; Philippines 22 Jan. 2007, 75; HRW June 2007). In particular, the Melo Commission report states that the witness protection program lacks both the human and financial resources to protect witnesses of extrajudicial killings (Philippines 22 Jan. 2007, 75). Furthermore, the Asian Human Rights Commission (AHRC), an organization that works to promote and protect human rights in Asia (AHRC n.d.), describes the failure of the witness protection program as undermining the justice system (26 May 2006). Human Rights Watch (HRW) indicates that the government has not provided “credible assurances of protection” to witnesses (June 2007, 64). HRW researchers investigating extrajudicial killings

found that citizens would rather attempt to ensure their own protection than rely on the government's witness protection program (ibid., 62).

In 2007, a Filipino Senator put forward a resolution calling for an enquiry into the effectiveness of the witness protection program (Philippines 6 Sept. 2007). Senator Francis Escudero is quoted as saying that the witness protection program "falls short," and that it is distrusted by the public (ibid.). The opposition Senator notes that the witness protection program is administered by the Department of Justice, which interacts regularly with the Armed Forces and with the PNP (ibid.). He suggests that an improved program should be "insulated" from other government institutions (ibid.).

In contrast, the United States (US) reports that the witness protection program has been "strengthened and expanded" by the Philippines Department of Justice (US 24 Mar. 2007). Further information on how the program has been strengthened could not be found among the sources consulted by the Research Directorate (Immigration and Refugee Board of Canada 2008, *PHL102718.E - Philippines: Crime, police effectiveness and state response, including witness protection (2005-2007)*, 14 March - Attachment 9).

In a 2008 report entitled *Witnessing Justice – Break the Chain of Impunity*, Amnesty International discusses problems within the criminal justice process, including failure to adequately protect witnesses in cases under investigation. In regards to investigations into political killings and enforced disappearances, the report states:

Few effective investigations have been conducted, and the arrest, prosecution and conviction of those responsible are rare. There are delays and deficiencies in each step of the criminal justice process. Many cases are never brought to court due to a lack of evidence, mostly because witnesses fear reprisals (p.1).

...Witnesses in cases under investigation by the authorities are particularly vulnerable to intimidation and reprisals, and sometimes even death. Many have complained repeatedly about the failure of the police to provide protection for them and their families, and said they have lost confidence in the ability of the Department of Justice to provide protection (p.3).

The *Witness Protection, Security and Benefit Act* (1991) does provide witnesses and close family members with housing, relocation and/or change of personal identity expenses, as well as a means of livelihood and medical treatment, but this rarely happens in practice. There are long court delays and protection is withdrawn if the case is unsuccessful, despite continuing threats. This is in clear violation of international law and standards, which provide for the protection of witnesses whenever and for as long as such protection is necessary, irrespective of the outcome of judicial or other proceedings. Penalties against those who harass witnesses (approximately US\$65 and/or imprisonment of six months to one year) have proved an inadequate deterrent (p.4) (Amnesty International 2008, *Witnessing Justice – Break the Chain of Impunity*, July, ASA 35/003/2008 - Attachment 10).

A statement by the Asian Human Rights Commission (AHRC), dated 26 May 2006, also refers to "the lack of effective witness protection in the Philippines" stating that "the reluctance of witnesses and victims' families to cooperate with police investigators comes as no surprise" when police themselves have been implicated in abductions and killings ("Task Force on killings must start with witness protection" 2006, Asian Human Rights Commission website, 26 May <http://www.ahrchk.net/ahrc-in-news/mainfile.php/2006ahrcinnews/708/> - Accessed 22 December 2008 - Attachment 11).

Later statements by the AHRC express concern that police use the lack of witnesses as a reason for not investigating crimes thoroughly ('A police director tries to exonerate officers from responsibility of unsolved cases over lack of witnesses' 2008, Asian Human Rights Commission website, 29 July <http://www.ahrchk.net/ua/mainfile.php/2008/2951/?print=yes> – Accessed 22 December 2008 - Attachment 12) and condemn their failure to do so. For example, an AHRC statement, dated 12 August 2008, comments:

The AHRC has already express [sic] concern that the failure of the police to ensure that the witnesses come forward; and their failure to exhaust all means possible to encourage and give assurance of protection, has already resulted in the perpetrators murdering their targets without fear of being identified, arrested or prosecuted ('Lawyers demand adequate action, protection of witnesses' 2008, Asian Human Rights Commission website, 12 August <http://www.ahrchk.net/ua/mainfile.php/2008/2970/?print=yes> – Accessed 22 December 2008 - Attachment 13).

A 2007 Human Rights Watch report entitled *Scared Silent: Impunity for Extrajudicial killings in the Philippines*, which is based on over one hundred interviews, draws attention to deficiencies within the Philippine criminal justice system and the vulnerability of witnesses who lack effective protection. The report states:

...[P]olice consistently fail to offer or arrange protection, and victims and witnesses are wary of having to rely on the government for protection while they are accusing government officials of serious abuses, including murder.

... There are also serious structural concerns involved with a witness protection program run by the police, given that many witnesses and family members may perceive the police as being closely aligned with the military - the very group from whom they fear they need protection.

As a result, the report asserts:

Witnesses and victims' families are being scared silent. Numerous families told Human Rights Watch that they are afraid to cooperate with police because of a deep fear of becoming a target for reprisal by the perpetrators. After all, these families note, the perpetrators are armed and have so far proven their ability to act with impunity. A number of family members and witnesses have taken their protection into their own hands, and have fled their homes to live in hiding either in bigger cities or in the sanctuary of churches.

The report proceeds to provide interview accounts suggesting why witnesses are reluctant to testify to the police or put pressure on local authorities to carry out thorough investigations, after which it concludes:

Witnesses need protection so as to feel safe to come forward. This is particularly the case when the perpetrators are suspected of being local military forces or other strong political players. Police must earn cooperation from victims and witnesses, but bad community relations, general mistrust by victims families of the government security forces, and poor policing are impediments to building such trust (Human Rights Watch 2007, *Scared Silent: Impunity for Extrajudicial Killings in the Philippines*, June, Volume 19, No. 9(C), pp.62-67 - Attachment 14).

List of Sources Consulted

Internet Sources:

Government Information & Reports

UK Home Office <http://www.ind.homeoffice.gov.uk>

US Department of State <http://www.state.gov>

Immigration and Refugee Board of Canada <http://www.irb-cisr.gc.ca/>

United Nations (UN)

UNHCR Refworld <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain>

Non-Government Organisations

Amnesty International <http://www.amnesty.org/>

Human Rights Watch (HRW) <http://www.hrw.org/>

Freedom House www.freedomhouse.org/

Asian Human Rights Commission <http://www.ahrchk.net/index.php>

Region Specific Links

GMA News.TV <http://www.gmanews.tv/index.html>

Visayan Daily Star <http://www.visayandailystar.com/>

Manila Standard Today www.manilastandardtoday.com/

Philippine Daily Inquirer <http://www.inq7.net/>

Inquirer www.inquirer.net/

Chan Robles Virtual Law Library website www.chanrobles.com/virtuallibrary1.htm

Search Engines

Google search engine <http://www.google.com.au/>

Copernic <http://www.copernic.com/>

Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)

MRT-RRT Library Catalogue

List of Attachments

1. Burgos Jr, N.P. 2006, 'Capiz town vice mayor, 2 others slain during festival Victor Gardose', *Philippine Daily Inquirer*, 31 December. (FACTIVA)
2. 'Widow of slain Capiz vice mayor running for mayor' 2007, *GMA News.TV*, 7 February <http://www.gmanews.tv/story/29620/Widow-of-slain-Capiz-vice-mayor-running-for-mayor#> - Accessed 19 December 2008.
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8. 'Republic Act No. 6981: Witness Protection, Security and Benefit Act' 1991, Chan Robles Virtual Law Library website, 24 April
<http://www.chanrobles.com/republicactno6981.htm> - Accessed 6 January 2009.
9. Immigration and Refugee Board of Canada 2008, *PHL102718.E - Philippines: Crime, police effectiveness and state response, including witness protection (2005-2007)*, 14 March. (REFWORLD)
10. Amnesty International 2008, *Witnessing Justice – Break the Chain of Impunity*, July, ASA 35/003/2008.
11. 'Task Force on killings must start with witness protection' 2006, Asian Human Rights Commission website, 26 May <http://www.ahrchk.net/ahrc-in-news/mainfile.php/2006ahrcinnews/708/> - Accessed 22 December 2008.
12. 'A police director tries to exonerate officers from responsibility of unsolved cases over lack of witnesses' 2008, Asian Human Rights Commission website, 29 July
<http://www.ahrchk.net/ua/mainfile.php/2008/2951/?print=yes> – Accessed 22 December 2008.
13. 'Lawyers demand adequate action, protection of witnesses' 2008, Asian Human Rights Commission website, 12 August
<http://www.ahrchk.net/ua/mainfile.php/2008/2970/?print=yes> – Accessed 22 December 2008.
14. Human Rights Watch 2007, *Scared Silent: Impunity for Extrajudicial Killings in the Philippines*, June, Volume 19, No. 9(C).