

CORI

country of origin research and information

CORI Country Report Southern Philippines, February 2011

Commissioned by the United Nations High Commissioner for Refugees, Division of International Protection.
Any views expressed in this paper are those of the author and are not necessarily those of UNHCR.



Preface

Country of Origin Information (COI) is required within Refugee Status Determination (RSD) to provide objective evidence on conditions in refugee producing countries to support decision making. Quality information about human rights, legal provisions, politics, culture, society, religion and healthcare in countries of origin is essential in establishing whether or not a person's fear of persecution is well founded.

CORI Country Reports are designed to aid decision making within RSD. They are not intended to be general reports on human rights conditions. They serve a specific purpose, collating legally relevant information on conditions in countries of origin, pertinent to the assessment of claims for asylum. Categories of COI included within this report are based on the most common issues arising from asylum applications made by nationals from the southern Philippines, specifically Mindanao, Tawi Tawi, Basilan and Sulu. This report covers events up to 28 February 2011.

COI is a specific discipline distinct from academic, journalistic or policy writing, with its own conventions and protocols of professional standards as outlined in international guidance such as The Common EU Guidelines on Processing Country of Origin Information, 2008 and UNHCR, Country of Origin Information: Towards Enhanced International Cooperation, 2004.

CORI provides information impartially and objectively, the inclusion of source material in this report does not equate to CORI agreeing with its content or reflect CORI's position on conditions in a country. It is acknowledged that all sources have a bias, it is for decision makers to place a weight on sources, assessing relevance to each individual application.

CORI Country Reports are prepared on the basis of publicly available information, studies and commentaries within a specified time frame. All sources are cited and fully referenced. Every effort has been taken to ensure accuracy and comprehensive coverage of the research issues, however as COI is reliant on publicly available documentation there may be instances where the required information is not available. The reports are not, and do not purport to be, either exhaustive with regard to conditions in the country surveyed, or conclusive as to the merits of any particular claim to refugee status or asylum. Every effort has been made to compile information from reliable sources; users should assess the credibility, relevance and timeliness of source material with reference to the specific research concerns arising from individual applications.

CORI is an independent centre providing specialist research resources to support Refugee Status Determination.

CORI works internationally with all parties to RSD, including governments, legal representatives and NGOs, producing commissioned research reports and providing knowledge management services. CORI works to improve standards of COI production through capacity building and training.

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A. Background and Recent Developments

1. Political Actors and System; Southern Philippines

The official website of the *Autonomous Regional Government* states that President Aquino sought the establishment of the Autonomous Region in Muslim Mindanao (ARMM) by providing for it in the 1987 Constitution and that ARMM formally started to function in 1990.¹

The official website of the *Autonomous Regional Government* describes the legal basis for ARMM as being established by,

“The 1987 Philippine Constitution

The Autonomous Region in Muslim Mindanao (ARMM) was established by virtue of Article X, Section 15 to 19 of the 1987 Philippine Constitution.

Republic act 6734 (August 1, 1989)

The Organic Act for the Autonomous Region in Muslim Mindanao was approved by then President Corazon C. Aquino last August 1, 1989 and ratified through a plebiscite last November 19, 1989 by the constituents of the region.

Republic Act 9054 (Lapsed into law, Mar 31, 2001)

An act to strengthen and expand the organic act for the Autonomous region in Muslim Mindanao, amending the purpose Republic Act No. 6734, entitled “An act providing for the Autonomous Region in Muslim Mindanao” as amended.”²

The official website of the *Autonomous Regional Government* states that,

“The Aquino government, even as the talks failed, sought the creation of the Autonomous Region in Mindanao (ARMM) by providing the 1987 Philippine Constitution and directly ordered to convene the Ad hoc Council of the Regional Consultative Council, the body tasked to draft the Organic Act that would serve as the operations manual of the ARMM.

The Organic Act was signed into law, as Republic Act 6734, by President Aquino on August 1, 1989 and a plebiscite was conducted in the proposed area of the ARMM on November 17, 1989. Of the 13 proposed provinces, only four; Maguindanao, Lanao del Sur, Sulu and Tawi-Tawi joined the ARMM.

The first set of ARMM officials were elected on February 17, 1990. Due to electoral protest, the ARMM formally started to function only on July 9, 1990 following the oath taking of Atty. Zacaria A. Candao as First Regional Governor of ARMM.

By and large, the ARMM could not have taken shape without the blood, sweat and tears; the sacrifices and the hardships the Bangsamoro mujahideen and the Bangsamoro people struggled for self-determination for a more developed and more peaceful place to live.

Thus, the ratification of Republic Act #9054, an act to strengthen and expand the Organic Act for the ARMM amending for the purpose. RA #6734, entitled “An Act Providing for the ARMM” as amended in September 2001 plebiscite paved the way for the expansion of the

¹ Website of the Autonomous Regional Government, ARMM Historical background, undated, http://www.armm.gov.ph/index.php?option=com_content&view=article&id=56&Itemid=143, accessed 5 May 2011; Asian Institute of Journalism and Communication

² Website of the Autonomous Regional Government, ARMM Situationer, Legal Basis, undated, http://www.armm.gov.ph/index.php?option=com_content&view=article&id=191&Itemid=140, accessed 5 May 2011

Autonomous Region in Muslim Mindanao to include the Province of Basilan and City of Marawi.

The Autonomous Region in Muslim Mindanao seeks to fulfill only two general objectives: Development and Peace for its 2.8 million people in the provinces of Maguindanao, Lanao del Sur, Basilan, Sulu, Tawi-Tawi and City of Marawi.

The new expanded ARMM is headed by one (1) Regional Governor, one (1) Regional Vice Governor and twenty four (24) representatives of Regional Legislative Assembly representing the eight districts of the five provinces and one city of the region.”³

The official website of the *Autonomous Regional Government* lists Tawi Tawi, Sulu, Basilan, Lanao del Sur, Maguindanao as part of ARMM, with the following political subdivisions;

“5 Provinces
2 Cities
113 Municipalities
2,470 Barangays”⁴

The *UN Office for the Coordination of Humanitarian Affairs* states that the southern Philippine island of Mindanao has six provinces,

“Maguindanao, Lanao del Sur, Lanao del Norte, Sultan Kudarat, North Cotabato and South Cotabato. The provinces of Maguindanao and Lanao del Sur fall within the Autonomous Region in Muslim Mindanao (ARMM). The provinces of North Cotabato, South Cotabato and Sultan Kudarat fall within Region XII. The province of Lanao del Norte is within Region X.”⁵

According to the *US Department of State* 2010 Philippines country report published in April 2011,

“The Philippines, with a population of 94 million, is a multiparty republic with an elected president and bicameral legislature. On May 10, approximately 75 percent of registered citizens voted in automated elections for president, both houses of congress, and provincial and local governments. The election was generally free and fair, but was marked by some violence and allegations of vote buying and electoral fraud. Long-running Communist and separatist insurgencies affected the country. Security forces reported to civilian authorities.

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The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice.

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The law provides for freedom of assembly, and the government generally respected this right in practice.

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The law provides for freedom of association, and the government generally respected this right in practice.

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³ Website of the Autonomous Regional Government, ARMM Historical background, undated, http://www.armm.gov.ph/index.php?option=com_content&view=article&id=56&Itemid=143, accessed 5 May 2011; Asian Institute of Journalism and Communication

⁴ Website of the Autonomous Regional Government, ARMM Situationer, Political Subdivisions, undated, http://www.armm.gov.ph/index.php?option=com_content&view=article&id=191&Itemid=140, accessed 5 May 2011

⁵ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

In general, political parties could operate without restriction. On April 8, the Supreme Court ruled in favor of party-list accreditation for Ang Ladlad, an organization representing lesbian, gay, bisexual, and transgender (LGBT) persons. COMELEC had rejected the group's petition for accreditation in October 2009 on grounds it "tolerates immorality, which offends religious beliefs."

There were no restrictions in law or practice on participation by women and members of minorities in politics. Many women held positions of leadership and authority. There were three women in the 24-seat Senate and 57 women in the 268-seat House of Representatives. There were six women in the 32-member cabinet, three female associate justices on the 15-member Supreme Court, and 16 women among the 82 governors.

Muslims, indigenous groups, and other citizens argued that electing senators from a nationwide list favored established political figures from the Manila area. Election of senators by region would require a constitutional amendment, which many Muslims and members of other groups underrepresented in the national legislature favored. There were no Muslim or indigenous senators and no Muslim or indigenous cabinet members. There were 11 Muslim members in the House of Representatives, mostly elected from Muslim-majority provinces, and one member of indigenous descent."⁶

In its 2011 World Report covering the events of 2010 *Human Rights Watch* states that,

"The Philippines is a multiparty democracy with an elected president and legislature, a thriving civil society sector, and a vibrant media. But several key institutions, including law enforcement agencies and the justice system, remain weak and the military and police commit human rights violations with impunity."⁷

A further report by the *USDOS* of October 2010 details the country's parliamentary system of governance,

"The Philippines has a representative democracy modeled on the U.S. system. The 1987 constitution, adopted during the Corazon Aquino administration, reestablished a presidential system of government with a bicameral legislature and an independent judiciary. The president is limited to one 6-year term. Provision also was made in the constitution for autonomous regions in Muslim areas of Mindanao and in the Cordillera region of northern Luzon, where many aboriginal tribes still live.

The 24-member Philippine Senate is elected at large, and all senators serve 6-year terms. Half are elected every 3 years. There are currently 278 members in the House of Representatives, 226 of whom represent single-member districts. The remaining House seats are occupied by sectoral party representatives elected at large, called party list representatives. The Supreme Court approved the introduction of 31 additional party list seats in April 2009, in time for May 2010 national elections. All representatives serve 3-year terms, with a maximum of three consecutive terms."⁸

A May 2010 article by *The Guardian* reports on the most recent presidential and municipal elections in the Philippines,

"Scattered violence and glitches with vote-counting machines being used for the first time failed to dissuade millions of Filipinos from voting in today's elections, seeking a clean start following a decade of corruption-tainted politics.

⁶ USDOS, 2010 Human Rights Report: Philippines, 8 April 2011, <http://www.state.gov/g/drl/rls/hrrpt/2010/eap/154399.htm>, accessed 19 December 2010

⁷ Human Rights Watch, World Report 2011: The Philippines, 2011, <http://www.hrw.org/en/world-report-2011/philippines>, accessed 4 May 2011

⁸ USDOS, Background Note: Philippines, 29 October 2010, <http://www.state.gov/r/pa/ei/bgn/2794.htm>, accessed 20 December 2010

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Computer problems and campaign-related violence, which has killed more than 30 people in the past three months, were the main concerns in elections that officials hope will set a new standard for the Philippines' fragile democracy.

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Troops and gunmen exchanged fire in southern Maguindanao province, where 57 people were massacred in the country's worst election-related attack last year, said army Lt Gen Raymundo Ferrer. There were no casualties in Datu Salibo town but in the nearby north Kabuntalan township, two civilians were killed in a clash between armed followers of rival candidates for vice-mayor, Ferrer said.

Even with the more than 30 election-related deaths in the past three months, including three on Sunday, election attacks appear to be down: 130 deaths preceded the 2007 vote.

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A restive and politicised military, weak central government, private armies and political dynasties have stymied democratic institutions for generations. The next leader also will face multiple insurgencies. Muslim and communist rebels and militants linked to al-Qaida have long staged terrorist attacks and hostage raids from jungle hideouts in the south, where US troops have been training Filipino soldiers.

The next leader also faces entrenched corruption - outgoing president Gloria Macapagal-Arroyo has been accused of vote-rigging in 2004 and implicated in several scandals that led to coup attempts and moves to impeach her. Calls for her prosecution have been an important campaign issue. She denies any wrongdoing and is in running for a seat in the house of representatives."⁹

In its 2011 World Report covering the events of 2010 *Human Rights Watch* states that in 2010,

"The national and local elections were considered largely free and fair, though marred by violence, including dozens of killings prior to election day. Political violence continued after the elections as more than 20 activists, journalists, party members, and politicians were killed since Aquino took office on June 30."¹⁰

In May 2004 the *Council on Foreign Relations* reported that Philippine democracy is yet to be consolidated,

"Although the Philippines' restoration of democracy is nearly twenty years old, a generation in human terms, its democracy has yet to be fully consolidated. There is nothing unusual in this; long periods are normally required for genuine democratic consolidation. Despite occasional setbacks, democratic rule has been sustained in the Philippines, and the commitment to democracy is broader in Philippine society than in some other new Asian democracies.

However, periodic military insurrections and mass civil society demonstrations, some of them violent, suggest that the formal system does not accommodate and resolve major disagreements within Philippine society. Increasingly, Filipinos appear to see their government as unable or unwilling to curb corruption and provide efficient, accountable governance.

Dissatisfaction with the present political system has created momentum in the Philippines for constitutional reform that would shift from a highly centralized government with clear separation of powers to a unicameral parliamentary form of government under a federal system.

⁹ The Guardian, Millions vote in Philippines election, 10 May 2010, <http://www.guardian.co.uk/world/2010/may/10/50-million-vote-philippines-election?INTCMP=SRCH>, accessed 20 December 2010

¹⁰ Human Rights Watch, World Report 2011: The Philippines, 2011, <http://www.hrw.org/en/world-report-2011/philippines>, accessed 4 May 2011

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Opponents argue that the present Philippine political system does not have the party discipline necessary to make a parliamentary system work (a problem often observed in those Asian democracies that do have parliamentary systems). This argument underscores the greatest short-term disadvantage to constitutional reform at this time.

The Philippines' tradition of contentious and confrontational politics could destabilize government in the early years of a new parliamentary system with frequent opposition calls for no-confidence votes. As in other Southeast Asian democracies, the concept of a loyal opposition is still weak in the Philippines.

Related to this problem is public distrust in the efficacy of the political system, even a democratic one."¹¹

The *BBC* report notes the 2006 presidential order legalizing informal private armies in the south,

"In 2006, Mrs Arroyo issued an executive order legalising the informal private "armies" being kept by families like the Ampatuans, enabling them to work alongside the regular army - but by extension legitimising their use as a means of local control. In return the Ampatuans openly supported her in election campaigns.

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The Philippine military recently admitted that there were at least 112 private armies around the country - an indication, perhaps, of how many more clans and family groups hold sway over their own private fiefdoms. Whether by chance or design, presidential policies over the past few decades have given certain families the opportunity to amass extraordinary levels of power and influence."¹²

The New York Times states in a May 2007 report that family ties play a strong role in the governance of the Philippines,

"When Julian Resuello, the mayor of San Carlos City in the northern Philippines, was killed by gunmen at a campaign rally on April 28, his brother quickly stepped into his shoes.

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Such swapping of roles is as common in political families as the violence that has afflicted the Philippines in the approach of the elections on Monday, in which more than 17,000 national and local positions are at stake, including all 265 seats in the House of Representatives and half of the 24 seats in the Senate.

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For generations, political dynasties have dominated elections and governments in the Philippines. They are prominent and moneyed clans, like that of President Gloria Macapagal Arroyo, whose father was president in the 1960s and whose son is a congressman. Another son is running for congress. As these clans protect their reign, they often resort to violence to frustrate any attempt by rivals to unseat them. Experts say the influence of these dynasties has grown more pervasive in recent years.

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There are an estimated 250 political families nationwide, with at least one in every province, occupying positions in all levels of the bureaucracy, according to the Center for People Empowerment in Governance, a Philippine nonprofit group. Of the 265 members of Congress, 160 belong to clans, the group says. "These are the same families who belong to the country's economic elite, some of them acting as rule makers or patrons of politicians who conspire together to amass greater economic power," said Bobby M. Tuazon, the center's director. Experts say the dynasties have developed a sense of entitlement

¹¹ Council on Foreign Relations, Challenges for a Post-Election Philippines, 11 May 2004, pp.9-10,

http://www.cfr.org/publication/8279/challenges_for_a_postelection_philippines.html, accessed 17 December 2010

¹² BBC News, The rise of the Ampatuan clan in the Philippines, 8 September 2010, <http://www.bbc.co.uk/news/world-asia-pacific-11139653>, accessed 17 December 2010

regarding public positions, while many ordinary Filipinos have come to accept the arrangement as inevitable, making it harder to change the system.

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A testament to the enduring power of the old order is that even though a provision in the Constitution calls for weakening the dynasties, Congress has never passed any laws that would put the provision into effect. Bills have been proposed, but many of the lawmakers voting on them are part of the very establishment that the Constitution seeks to curb.

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Alex B. Brillantes, who teaches public administration and governance at the University of the Philippines, cited several young politicians from dynasties who had broken with the old ways and shown what he said was a capacity to govern responsibly. "Because of local empowerment, good dynasties are becoming more responsive to the call for good governance and to the issue of accountability," Mr. Brillantes said. But decentralization has its downside too, experts like Mr. Tuazon and Mr. Brillantes say. They say that as provinces, cities and towns have grown richer with the power to impose local taxes, the potential spoils tempt local politicians, fueling the cycle of corruption and violence."¹³

In November 2009 *The National*, an Abu Dhabi news journal, reports on violence used by family dynasties to assert influence,

"From Abra in the far north to Mindanao in the south, the political landscape of the Philippines is dominated by family dynasties that have ruled their particular area of influence for decades like feudal landlords through violence, fear and intimidation. They rule with impunity, knowing national political leaders rely on them for support and votes. Political rivals are usually dealt with through the barrel of a gun rather than the election box.

The political dynasties have amassed vast wealth, businesses and influence in a country of 90 million people where more than half live on less than US\$2 (Dh7.3) a day. Monday's massacre of at least 46 people - including the wife of a candidate running for governor, a number of his relatives and 12 journalists - in Maguindanao on the southern Philippine island of Mindanao was unprecedented even by Philippine standards of political violence. Marites Vitug, a journalist and author of a number of books on Mindanao, said: "The sheer scale of the attack has shocked everyone.

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The dilemma facing the president, Gloria Macapagal Arroyo, is that Governor Ampatuan is one of her most ardent supporters and delivers votes. Analysts say the next 48 hours will be crucial to see whether Mrs Arroyo is true to her word that "no one will be spared" during the investigation. But words and deeds do not necessarily follow, especially in Philippine politics."¹⁴

The National further reports on clan based political dynasties in its November 2009 article,

"The Ampatuan clan has dominated all facets of Maguindanao politics for nearly a decade after effectively "neutralising" the previous ruling family, the Candaos. Andal Ampatuan defeated Zacaria Candao for governor in 2001 in elections said to have been heavily tainted by fraud. Two years later, Candao's brother was killed. The family blamed Andal Ampatuan, but no charges were ever laid against him.

Julkipli Wado, a professor of Islamic studies at the University of the Philippines, said the Ampatuan and Mangudadatu clans were "once very close". "The failure to form a political alliance probably led to Monday's unprecedented attack," he said. "Political dynasties have become the reality of Philippine politics." Vitug said: "The big question now is whether Mrs

¹³ New York Times, Family Ties Bind Philippine Government , 13 May 2010, <http://www.nytimes.com/2007/05/13/world/asia/13filip.html>, accessed 17 December 2010

¹⁴ The National, Violent deaths lay bare Philippines' politics, 25 November 2009, <http://www.thenational.ae/news/worldwide/asia-pacific/violent-deaths-lay-bare-philippines-politics>, accessed 18 December 2010

Arroyo is willing to forgo the political support of the Ampatuans in order to seek justice for those killed."¹⁵

In November 2010 *Human Rights Watch* reported on the political influence of the Ampatuan family,

“Many members of the family, which is headed by Andal Ampatuan, Sr.—Maguindanao’s governor from 2001 to 2009—hold official posts in the province and region. Before the 2007 elections, most of Maguindanao’s 27 mayors were the sons, grandsons, or other relatives of Andal Ampatuan, Sr.”¹⁶

The *BBC* notes in a September 2010 article the culture of impunity surrounding certain political clans,

“The main suspect in the most brutal massacre in recent Philippine history has gone on trial. Andal Ampatuan Junior is accused of orchestrating the murder of 57 unarmed civilians, who were ambushed, killed and clumsily buried in a mass grave in the southern province of Maguindanao last November.

Another 27 members of his family have also been charged in connection with the killings - five are with him in custody - and they all deny the charges against them. But for many Filipinos, this trial is about much more than establishing the guilt or innocence of one man, or even one family. It’s about the huge influence of clans like the Ampatuans, and the culture of impunity surrounding them.

While their involvement in the massacre has yet to be proven, there is no doubt whatsoever that the Ampatuans were - and still are - extremely powerful.

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The situation changed in the mid-1970s, when then-President Ferdinand Marcos declared martial law, and tried to stamp out the growing Islamic separatist movement by selecting a few people he could trust to administer the province. One of those people was Andal Ampatuan Junior’s father, Andal Senior, who is now the undisputed head of the family clan.

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But it was under President Gloria Arroyo, who came to power in 2001, when the Ampatuans really came to prominence. Andal Senior became governor of Maguindanao, a post he has now held for the maximum three terms. Then in 2005 his son Zaldy became the governor of the Autonomous Region of Muslim Mindanao - an influential post controlling the five Muslim provinces that have been given a degree of self-rule from central government.”¹⁷

A report issued by the *United States Institute of Peace* in February 2008 states that the conflict in the southern Philippines essentially stems from political rather than economic or religious issues,

“The roots of conflict in Mindanao are primarily political, not economic or religious. Preference for military “solutions” will likely miss the delicate nuances of inter-group conflict and could even worsen the situation.

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The Philippine government, for its part, will need to muster the political will to address Moro grievances more effectively, especially on land claims, control over economic resources, and political self-governance. When an agreement is reached, implementation will require long-term monitoring by a committed international body. Today’s complex diplomatic

¹⁵ The National, Violent deaths lay bare Philippines’ politics, 25 November 2009, <http://www.thenational.ae/news/worldwide/asia-pacific/violent-deaths-lay-bare-philippines-politics>, accessed 18 December 2010

¹⁶ Human Rights Watch, They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

¹⁷ BBC News, The rise of the Ampatuan clan in the Philippines, 8 September 2010, <http://www.bbc.co.uk/news/world-asia-pacific-11139653>, accessed 17 December 2010

landscape increasingly requires new tools and techniques of conflict management, including quasi- and nongovernmental actors, [].”¹⁸

The *Asian Human Rights Commission* (AHRC) reported in December 2010 that human rights abuses continued with impunity and that effective mechanisms for protection are lacking,

“The Asian Human Rights Commission (AHRC) has documented a range of serious violations of human rights in the Philippines over the last year. Despite some very high profile cases - such as the November 23, 2009, massacre in Maguindanao or the Manila bus hostage incident that left eight Hong Kong nationals dead - assurances by the authorities that investigations would be launched and that justice would be delivered - no significant developments have ensued. The AHRC notes that despite general elections that resulted in a change of leadership, the situation has not improved in any meaningful way. The AHRC has argued in previous years that systemic problems in the country’s institutions that are supposed to protect human rights mean that it is virtually impossible to expect the effective protection of human rights in the Philippines. The following report will examine in detail how the country’s system of impunity is guaranteed by a perverted justice delivery system. Only when serious efforts are made to correct this problem will it be possible to envisage human rights as a reality in the Philippines.”¹⁹

In 2009 *Transparency International* ranked the Philippines 139 out of 179 countries in its global Corruption Perceptions Index.²⁰

2. Peace agreements and autonomy

In November 2010 *Human Rights Watch* described the history and governance structure of Autonomous Region in Muslim Mindanao (ARMM),

“The ARMM officially came into being on November 6, 1990, after plebiscites took place in several provinces and cities in accordance with the Organic Act 1989. Autonomy essentially arose out of the December 23, 2006 Tripoli agreement, which ended the 1971-76 separatist conflict. The ARMM comprises five provinces: Lanao del Sur, Maguindanao, Sulu, Tawi-Tawi, and Basilan, and one city, Marawi. It is the most impoverished region in the Philippines.

Cotabato City, which is predominantly Moro, is located within the boundaries of Maguindanao, but is independent of the province and is not part of the ARMM.

The ARMM government operates with a degree of autonomy. However, the president of the Philippines exercises general supervision over the regional governor to ensure that his acts are within the scope of his powers and functions, and has the power to suspend him. Additionally, the national government provides provincial, municipal, and city governments in the ARMM with the vast share of their annual budget via the internal revenue allocation (IRA), creating a financial dependence that greatly limits autonomy.

Executive power in the ARMM is vested in the elected regional governor, assisted by a cabinet. The regional legislative assembly has the power to legislate “for the benefit of the people and for the development of the region.” This power does not extend to issues such

¹⁸ United States Institute of Peace, *Toward Peace in the Southern Philippines - A Summary and Assessment of the USIP Philippine Facilitation Project, 2003-2007*, February 2008, <http://www.usip.org/publications/toward-peace-southern-philippines-summary-and-assessment-usip-philippine-facilitation-proj>, accessed 20 December 2010

¹⁹ Asian Human Rights Commission, *The state of human rights in the Philippines in 2010*, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

²⁰ Transparency International, *Corruption Perceptions Index 2009, 2009*, http://www.transparency.org/regional_pages/asia_pacific/resources/surveys_and_indices_-_bribes, accessed 17 December 2010

as national security and administration of justice, though it may legislate on matters relating to Sharia (Islamic law).”²¹

A briefing published in 2010 on the website of the *Regional Government of the Autonomous Region in Muslim Mindanao* notes the following historical points with regard to autonomy and the negotiation of peace agreements in the Southern Philippines,

“Looking back into history, it cannot be denied that the people of Mindanao have always looked forward to shaping their destiny through self-determination and self-rule. Mindanao saw the rise of the first political units ruled by the early *datus*. Major socio-political changes however, happened when Sheik Makdum, an Arab missionary, came and introduced Islam in Mindanao in the 13th century and followed by Shariff Kabunsuan in the 15th century. Thus, Islamic communities were formed throughout Mindanao, a situation eventually uniting the Mindanao mainland with its sub-urban islands with the formation of the Islamic Sultanates under one Supreme Council. The greater majority the converted to Islam co-existed peacefully, socially, economically, political and even culturally with their highlander neighbors.

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The influx of settlers, majority of whom came from nearby Visayas, made Mindanao a place of diversified groups whose ethnicity, culture, traditions and beliefs never became a source of misunderstanding, apprehensions and even fears among the early Mindanaons. The situation changed when land grabbing and social injustices were committed by some deceiving groups against the region’s peace-loving people. These reprehensible acts made the people question the motives of the government. In February 1973, the Mindanao problem escalated into an armed conflict, involving the Moro National Liberation Front (MNLF) Mujahideen and the Armed Forces of the Philippines.

The conflict led to the death of thousands of innocent people, the displace of tens of thousands more, and the destruction of billions of pesos worth of property. All these could have been avoided if the government considered the plight of the Mindanaons, which raged on for years even with the conduct of peace talks. Finally, on July 7, 1975, the late President Ferdinand E. Marcos signed Presidential Decree No. 742 and Letter of Instruction 290 creating Western and Central Mindanao regions in Mindanao and establishing the Office of the Regional Commissioner in both regions. Hostilities, however, continued. The military and the MNLF persisted with their armed confrontations.

The Situation attracted the attention of the Organization of Islamic Conference (OIC), which intervened to find solutions to by sponsoring a series of negotiations between the Philippine Government and the MNLF. The intervention lead to the signing fo the Tripoli Agreement between the Philippine Government and the MNLF in Tripoli, Libya on December 23, 1976. Ceasefire was proclaimed in the affected areas of Mindanao, particularly Western and Central Mindanao regions. President Marcos, on March 25, 1977, signed Presidential Proclamation No. 1628 forming an autonomous region in Southern Philippines.

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On July 25, 1979, Batas Pambansa No. 20 was enacted creating the Regional Autonomous Government in Western and Central Mindanao regions. The moves, however, did not stop the hardcore Mujahideen, which had already split up into three groups – the Moro National Liberation Front (MNLF) under Misuari, the Moro Islamic Liberation From (MILF) under Hashim Salamat, and the MNLF-Reformist under Dimas Pundatu – from pursuing their revolutionary goals.

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President Corazon C. Aquino, after fall of the Marcos administration, pursued a more vigorous approach to solve the Mindanao problem. [] The Aquino government, even as the talks failed, sought the creation of the Autonomous Region in Mindanao (ARMM) by

²¹ Human Rights Watch, They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

providing the 1987 Philippine Constitution and directly ordered to convene the Ad hoc Council of the Regional Consultative Council, the body tasked to draft the Organic Act that would serve as the operations manual of the ARMM.

The Organic Act was signed into law, as Republic Act 6734, by President Aquino on August 1, 1989 and a plebiscite was conducted in the proposed area of the ARMM on November 17, 1989. Of the 13 proposed provinces, only four; Maguindanao, Lanao del Sur, Sulu and Tawi-Tawi joined the ARMM.

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Thus, the ratification of Republic Act #9054, an act to strengthen and expand the Organic Act for the ARMM amending for the purpose. RA #6734, entitled “An Act Providing for the ARMM” as amended in September 2001 plebiscite paved the way for the expansion of the Autonomous Region in Muslim Mindanao to include the Province of Basilan and City of Marawi.

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The new expanded ARMM is headed by one (1) Regional Governor, one (1) Regional Vice Governor and twenty four (24) representatives of Regional Legislative Assembly representing the eight districts of the five provinces and one city of the region.”²²

The *Institute for Autonomy and Governance*, an independent Philippine think tank reports that the first peace agreement between the Moro National Liberation Front and the Philippines government was the Tripoli Agreement of 1976,

“The ARMM is a creation of the Organic Act (Republic Act 6734 of 1987) that was intended to address grievances of the Bangsamoro against the national government. Such grievances led to the formation of an armed revolutionary movement among young Moro intellectuals and professionals mainly from the three numerous Moro ethno-linguistic groups. This was the Moro National Liberation Front (MNLF). The MNLF became a rallying symbol of the Moro struggle for self-determination, which aimed to defend the Bangsamoro homeland and Islam as the way of life of its peoples. By 1975 the MNLF had become a popular revolutionary movement, enjoying almost universal support from Muslims in the country and abroad. Two years before (1973), the Bangsa Moro Army (BMA) was formally organized to lead the MNLF’s military engagements with the Armed Forces of the Philippines (AFP).

Prior to the creation of the ARMM, the Philippine national government had already started a process of laying the foundation for an autonomous government in the areas identified by the MNLF as part of the Bangsamoro homeland. This process was the result of a series of negotiations between the GRP and the MNLF that culminated in the signing of the very first Peace Agreement – the Tripoli Agreement of 1976.”²³

The *Institute for Autonomy and Governance* further states that the Tripoli Agreement made provision for autonomy in the southern Philippines,

The Tripoli Agreement of 1976 provided for the establishment of autonomy in southern Philippines “within the realm of Philippine sovereignty and territorial integrity of the Republic of the Philippines...” Consequently, former Pres. Ferdinand Marcos signed Presidential Decree 1618 that formally created two autonomous regions in Mindanao – Regions IX and XII. Region IX was based in Zamboanga City and covered the provinces in the Western Mindanao area (the Zamboanga provinces) as well as the island provinces of Basilan, Sulu and Tawi-tawi.

²² ARMM, Armm History, 2010, http://www.armm.gov.ph/index.php?option=com_content&view=article&id=56&Itemid=143, accessed 17 December 2010

²³ Institute for Autonomy and Governance, ARMM History, undated, <http://www.iag.org.ph/armmhistory.htm>, accessed 5 May 2011

As provided for in the TA, 13 provinces in southern Philippines were identified as the areas of autonomy, namely:

- Basilan
- Sulu
- Tawi-tawi
- Zamboanga del Sur
- Zamboanga del Norte
- North Cotabato
- Maguindanao
- Sultan Kudarat
- Lanao del Norte
- Lanao del Sur
- Davao del Sur
- South Cotabato and
- Palawan

In these specified areas of autonomy, Muslims are to be given the right to set up their own courts that will implement the Islamic Shari'ah laws. Muslims are to be represented in all courts, including the Supreme Court. Moreover, authorities in the areas of autonomy shall have the right to set up schools, colleges and universities as well as their own administrative system in compliance with the objectives of the autonomy and its institutions (Articles 4 and 5). In other words, the Agreement provided for an autonomous arrangement with its own administrative, economic and financial system.

The TA was quite significant in its provisions for the political settlement between the Bangsamoro nation and the Philippine state formation. More importantly, it also provided for the compensation of martyred mujahideen to their widows and orphans and to communities which have been displaced and impoverished as a consequence of the armed struggle. However, as it turned out, this provision along with others in the agreement were not implemented by the Philippine national government. Former Pres. Marcos signed Presidential Decree 1618 that created two autonomous regions, Region IX based in Zamboanga City and Region XII in Cotabato City. PD 1618 ran short of MNLF expectations of genuine autonomy. Instead, Regions IX and XII were just additional bureaucratic layers in the administration of the provinces that were identified as part of the autonomous region. The so-called autonomous regions were just part of a strategy for window dressing for the repressive and dictatorial military rule imposed by then Pres. Marcos throughout the country. In other words, the two regional administrative offices were more autonomous in name rather than in practice.

After President Marcos was ousted from office through a bloodless "People Power" coup in 1982, Cory Aquino, widow of the late Sen. Benigno Aquino, assumed the presidency. Early in her term, Aquino immediately arranged for a meeting with MNLF chairman Nur Misuari and the MNLF in Sulu. This meeting paved the way for a series of negotiations with the MNLF during the Aquino administration. However, it took another ten years to forge an agreement. On September 2, 1996, under the presidency of Fidel V. Ramos, the Final Peace Agreement (FPA) was signed.²⁴

A July 1999 journal article published by the Sri Lanka-based *International Centre for Ethnic Studies (ICES)* details the basis of the 1996 peace agreement between the Philippine government and the Moro National Liberation Front (MNLF),

"The 1996 Peace Agreement between the Government of the Republic of the Philippines (GRP) and the Moro National Liberation Front (MNLF) officially ended the 24-year old

²⁴ Institute for Autonomy and Governance, ARMM History, undated, <http://www.iag.org.ph/armmhistory.htm>, accessed 5 May 2011

struggle waged by the MNLF for independence and later for autonomy. The Agreement contains two major sections.

The first, Phase I, is a three-year transitional period which commits the GRP to a massive programme of socio-economic development for the region encompassed in the Zone of Peace and Development (ZOPAD), through the Southern Philippine Council for Peace and Development (SPCPD).

Phase II of the Agreement envisions the consolidation and expansion of the ARMM beyond the present four provinces, subject to “approval” by the resident population of the provinces affected through a popular vote. During this phase, the economy of the region would be opened up in a more intensified scale to local and foreign developers, investors, and entrepreneurs under the GRP’s neo-liberal policies. Opposition to the Agreement remains strong, particularly from within the Bangsa Moro community as symbolised by the continuing militant struggle by the Moro Islamic Liberation Front (MILF).²⁵

The 1999 *International Centre for Ethnic Studies* article reports that the Moro National Liberation Front and the government of the Republic of the Philippines signed the agreement ending 24 years of war on 2 September 1996,

“In the Philippines, efforts to find a negotiated settlement to the 24-year old secessionist war waged by the Moro National Liberation Front (MNLF) appear to have reached the much sought-for end when rebel leader, Nur Misuari, as Chairman of the MNLF negotiating panel, and Manuel T Tan, Chairman of the Government of Republic of the Philippines (GRP) panel and on behalf of the Philippine President Fidel V Ramos, signed the final draft of the agreement (henceforth referred to as the Agreement) on 2 September 1996. Signed in the city of Manila, the Agreement officially put an end to the 24-year old war that has claimed the lives of over 120,000 persons, caused the displacement and destitution of an estimated 300,000 Muslim refugees and the commitment of as much as 80 per cent of the Armed Forces of the Philippines (AFP) to the Mindanao conflict.

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It should be stated that this Agreement was preceded by several pertinent documents and/or agreements intended to either provide the basic outlines for Muslim autonomy and to clarify or resolve particular issues upon which the Agreement rests. This includes, first and foremost, the Tripoli Agreement of 1976 which was a breakthrough agreement signed through the auspices and the good offices of Libyan President Muammar Khadafi, and signed by Misuari and Carmelo Z Barbero, representing the MNLF and GRP negotiating panels, respectively; and Republic Act No. 6734 of 1988 otherwise known as An Organic Act for the Autonomous Region in Muslim Mindanao. Despite the misgivings by the MNLF leadership about the particular paths to autonomy prescribed by this Act, it nonetheless provided an important stepping-stone towards other measures that would later be taken.”²⁶

The 1999 *International Centre for Ethnic Studies* article notes the following concerns with regard to the 1996 peace agreement,

“Any discerning critique of the Peace Agreement will notice a number of problems with it. Some of these problems are conceptual, others are practical in nature; some are obvious, others are subtle; and some have immediate effects, while some others have long-term consequences. Altogether, it is quite predictable that these problems will worsen in time and that the Peace Agreement as it stands will not bring an end to the conflict—both political and military—that has engulfed the southern region of the Philippines for the past

²⁵ The International Centre for Ethnic Studies (ICES), *The Philippines: The 1996 Peace Agreement for the Southern Philippines: An Assessment*, Ethnic Studies Report, Vol. XVII, No. 2, July 1999, p. 253, available at: http://www.ices.lk/publications/esr/articles_jul99/ESR-Philippines.pdf, accessed 17 December 2010

²⁶ The International Centre for Ethnic Studies (ICES), *The Philippines: The 1996 Peace Agreement for the Southern Philippines: An Assessment*, Ethnic Studies Report, Vol. XVII, No. 2, July 1999, p. 254, available at: http://www.ices.lk/publications/esr/articles_jul99/ESR-Philippines.pdf, accessed 17 December 2010

three decades or so. What makes the situation even worse is that the powerful external and internal forces that coincided to bring this Agreement into being will suffer less from its flawed nature than the real people—the inhabitants—of the region including the present as well as the future generations of men, women, and children who will be virtually helpless to alter things on their own.

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The special character of this region has inadvertently led to the adoption of laws, rules, and procedures which all add up to an unwelcome encumbrance upon the Regional Autonomous Government, an encumbrance which is not common among the rest of provincial governments. The heavy presence of the President is felt in just about every area of the Regional Autonomous Government's life, despite the inclusion of the term "autonomous" in its name.

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The provision in the Peace Agreement concerning the integration of the former guerrillas of the MNLF into the AFP and the PNP symbolically represents the official disbandment of the MNLF military apparatus. Ideally, it should have represented respect for the fighting capability of the guerrillas as well as the cause for which they fought. In reality, however, the process of integration has been one in which the dominant organisation—the AFP or the PNP—figuratively beats down the enemy (or, in this case, the former enemy) under circumstances where the enemy (or former enemy, as the case may be) is in no position to fight back. The term "integration," negative as it already is in its connotation, really means "absorption" of those elements of the former MNLF fighting force where the terms of absorption are defined by, affirm the supremacy of, and attest to the one-sidedness that characterises, the government through its coercive institutions.

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The heart and soul of the Bangsa Moro struggle all throughout history has been the preservation of its distinct Islamic identity, an identity which a succession of enemies—from the period of Spanish colonisation to the present day—have sought, through direct or indirect, or subtle or not-so-subtle means, to destroy, erase, dilute, transform, or eradicate. The MNLF, in its 24-year old struggle, never failed to underscore the centrality of its Islamic basis the most important and most visible symbol of which is the Shari'ah Law.

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Perhaps the most serious flaw of the Peace Agreement, as it stands, is the glaring lack of institutional and legal safeguards for the promotion of a just and equitable socio-economic development that would benefit the vast number of inhabitants of the region. In particular, the most vulnerable of these inhabitants, which include the uneducated, the unemployed, the children, the elderly, the lumads, the tenant farmers, and the small business owners, among others, deserve precisely the kind of safeguards that should have been incorporated, but which are absent, from this Agreement."²⁷

In February 2011 *UN OCHA* described the Joint Coordinating Committee for the Cessation of Hostilities (J-CCCH), established in 1997, and the International Monitoring Team, established in 2004, as key mechanisms within the peace process,

"The Joint Coordinating Committee for the Cessation of Hostilities (J-CCCH) comprising representatives of the Government and the MILF was first established in 1997 as the primary means of monitoring and enforcing the ceasefire. The Joint Coordinating Committee for the Cessation of Hostilities remains as relevant as ever and is actively engaged in conflict resolution at the local level. The International Monitoring Team, comprising unarmed military and civilian observers led by Malaysia and with the participation of Libya, Japan and Brunei, was first established in 2004 as a small observer mission to oversee the ceasefire and build confidence between the parties. It was withdrawn in the middle of 2008 but recommenced operations on 28 February 2010.

²⁷ The International Centre for Ethnic Studies (ICES), *The Philippines: The 1996 Peace Agreement for the Southern Philippines: An Assessment*, Ethnic Studies Report, Vol. XVII, No. 2, July 1999, pp.254, 259-263, available at: http://www.ices.lk/publications/esr/articles_jul99/ESR-Philippines.pdf, accessed 17 December 2010

Associated with the International Monitoring Team is a Civilian Protection Component, which has a mandate to monitor the situation with respect to the protection of civilians. Furthermore, an International Contact Group (ICG) comprising diplomats from various countries has been established to support the peace process.”²⁸

In February 2011 *UN OCHA* described the development of peace agreements between the Moro National Liberation Front and the Government of the Republic of the Philippines as follows,

“The first peace agreement, the Tripoli Agreement of 1976, was unsuccessful in reducing the level of conflict, due in part to the fact that it was implemented unilaterally by the government of President Marcos. The MNLF signed a ‘Final Peace Agreement’ with the GRP during the administration of then President Fidel V. Ramos on 2 September 1996, with a further agreement signed the following year.

To continue with the implementation of the Final Peace Agreement, a Memorandum of Understanding was signed by the Office of the Presidential Adviser on the Peace Process (OPAPP), MNLF and the Organization of the Islamic Conference Peace Committee for the Southern Philippines (OIC-PCSP) on 20 April 2010 in Tripoli.

The MNLF cadres have been incorporated within the structures of the GRP, particularly those of the ARMM, and some of its fighters have been integrated within the Armed Forces of the Philippines (AFP). The MNLF has not fought against the Government since this peace agreement was signed, but the MNLF still exists as a political movement.

During the ARMM Peace Summit of September 2010, the MNLF leadership made clear its concern that successive governments had not implemented fully the Final Peace Agreement, that ARMM was not succeeding (partly due to being underfunded), and that many of the original grievances that had driven the conflict remained unresolved. Although the MNLF does not maintain fighting forces, in Basilan and on the Sulu Islands there are groups claiming to be affiliated with the MNLF that continue to engage in armed conflict.”²⁹

In February 2011 *UN OCHA* described the development of negotiations and peace agreements between the Moro Islamic Liberation Front and the Government of the Republic of the Philippines as follows,

“The first talks between the GRP and MILF began in 1997 and have continued sporadically ever since. Periodically, talks are suspended due to major outbreaks of violence, causing a humanitarian crisis. Most recently, talks restarted in October 2004 and continued up until August 2008, led by the respective ‘peace panels’ of both parties. In August 2008, the Government and MILF appeared to be close to a breakthrough as they agreed a draft *Memorandum of Agreement on Ancestral Domain*, which defined the geographical extent of a plebiscite where the electorate would be asked if they wished to join a putative Bangsamoro Juridical Entity that would form the basis for a revised autonomous Muslim region. The *Memorandum of Agreement on Ancestral Domain* had been initialled by both parties in Kuala Lumpur, where negotiations had been taking place, and was due to be signed formally by the Philippine President and MILF leadership.

In response to a Temporary Restraining Order lodged against it, however, the Supreme Court, ruled that the agreement was unconstitutional. Negotiations ceased and fighting broke out between the Armed Forces of the Philippines and three base commands of the

²⁸ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

²⁹ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

MILF acting independently of the MILF central leadership, resulting in approximately 200 people being killed and 750,000 displaced. According to the Internal Displacement Monitoring Centre, Mindanao produced the highest number of new IDPs for 2008. Although the August 2008 conflict affected Lanao del Sur, Lanao del Norte, North Cotabato and Sultan Kudarat, the fighting was most intense in Maguindanao.

After a year of intermittent fighting between the Armed Forces of the Philippines and these 'renegade' commands, the GRP announced a Suspension of Military Operations (SOMO) on 23 July 2009, followed two days later by an announcement by the MILF of a Suspension of Military Actions (SOMA). The SOMO and SOMA, although not explicitly recognising the de facto control of administrative areas by the MILF, freezes in place the situation that existed at the time. The two parties have undertaken not to encroach on the territory controlled by the other.

In preparation for the resumption of the stalled peace talks between the GRP and the MILF, a fourpoint Joint Statement was forged by the two parties during their two-day meeting in Kuala Lumpur on 28-29 July 2009. The Joint Statement led to the creation and the adoption of the framework agreement on the formation of the International Contact Group on 15 September 2009. Subsequently, the Agreement on the Civilian Protection Component of the International Monitoring Team was signed on 27 October 2009 and peace talks resumed on 8-9 December 2009 in Kuala Lumpur.

Security improved markedly during the second half of 2009, until the Maguindanao Massacre of 23 November caused new displacement and led to major political upheavals in the ARMM, especially in the province of Maguindanao.

The security situation improved again in early 2010 and has continued to be stable throughout the year. The SOMO and SOMA have held, with intermittent talks taking place between the GRP and MILF in Kuala Lumpur, under the auspices of the Malaysian government. Notably, the Declaration of Continuity for Peace Negotiations between the GRP and the MILF was issued during the 19th GRP/MILF exploratory talks of 2-3 June 2010.

As of December 2010, both the GRP and MILF had identified membership of the reformulated peace panels with the renewal of formal talks anticipated to commence in the coming months. It is anticipated that the current security situation will prevail, providing an environment conducive to the recommencement of negotiations."³⁰

The *International Crisis Group* states in a February 2009 article that the task of reaching a formal agreement between the Philippine government and the Moro Islamic Liberation Front (MILF) is daunting,

"Six months after the collapse of autonomy negotiations between the Moro Islamic Liberation Front (MILF) and the Philippines government, low-intensity conflict continues but moves are under way to resurrect talks. It is not clear whether negotiations will resume and if they do, with what agenda. Certainly no settlement is likely during the remaining tenure of President Gloria Macapagal Arroyo; the two sides are too far apart, the potential spoilers too numerous, and the political will too weak.

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The priority should be a ceasefire in central Mindanao that would allow displaced civilians to return home. It would also help to strengthen the structure for talks to ensure that if and when another agreement is reached, it will have a better chance of surviving than the ill-

³⁰ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

fated Memorandum of Agreement on Ancestral Domain (MOA-AD or MOA) that was dead on arrival in August 2008.

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Even if these aims were achieved, the task of reaching a formal agreement is daunting. A Supreme Court ruling in October 2008 that the MOA was unconstitutional makes it impossible to go back to the August text, even though the MILF continues to insist it is a “done deal”. If it decides to resume talks, the MILF will have to decide whether it will go for a revised agreement on land or a final “comprehensive compact” that incorporates key principles from the MOA. Publicly, the MILF insists that a separate agreement on land must come first, but if the right formula were found, it might be more flexible.

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Even then, there will still be conservatives worried about dismemberment of the republic, powerful non-Muslim groups in Mindanao with no desire to come under Moro control, and a military convinced it can crush the guerrillas. The Arroyo government made no effort to bring these groups on board while the MOA was being negotiated, nor did it make any effort to defend the agreement reached by its own peace panel.

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In the meantime, military operations against three “renegade” MILF commanders continue in a large swathe of central Mindanao, with relatively few deaths but large-scale displacement. The military says the operations will cease when the three, whose units were involved in attacks on civilians, are captured or the MILF turns them in; the MILF says it should be up to an international monitoring team to determine whether the men were responsible for ceasefire violations.”³¹

An article published on the website of the *New Zealand Ministry of Foreign Affairs and Trade* in March 2009 comments on the efforts made to secure a peace agreement during the 2000’s,

“Unrest in the south of the Philippines has been a constant feature of the post-independence Philippines.

In 2001 President Arroyo moved to reopen peace talks with the Moro Islamic Liberation Front (MILF), a Muslim separatist group in the south, and with the National Democratic Front (NDF), the front organisation of the communist insurgents who have been fighting the government for 35 years.

With the assistance of the Malaysian government, advancement on MILF issues has been made and a ceasefire was agreed in mid-2003 (although clashes with breakaway factions have continued to occur sporadically). The MILF’s principal demand is that the government address the matter of ancestral domain. The government wants the MILF to cooperate in operations against the international terrorist group Jemaah Islamiyah (JI). Although both sides purportedly want a peace settlement, there are forces on the ground in Mindanao that are hostile to a peace settlement on the terms currently on the table, and are therefore seeking to sabotage the process. Abu Sayyaf will not settle for anything less than an independent Muslim entity. Meanwhile sections of the military and some Christian community groups are opposed to any compromise.

While a peace agreement on the contentious issue of ancestral domain had looked likely, on August 4 2008, just before the agreement was due to be signed, the Supreme Court imposed a temporary restraining order on the agreement. The government has since disbanded its negotiating team, and is now refusing to engage with the MILF until it has disarmed. Government forces have been caught up in fierce fighting with the MILF rebels since the Supreme Court decision, and the outlook is now highly uncertain. However, the fact that both the government and the MILF want a peace agreement suggests that a peace

³¹ International Crisis Group, *The Philippines/ Running in Place in Mindanao*, 16 Feb 2009, <http://www.crisisgroup.org/en/regions/asia/south-east-asia/philippines/B088-the-philippines-running-in-place-in-mindanao.aspx>, accessed 17 December 2010

deal will be brokered at some point, but concessions will be needed if there is to be a return to the negotiating table. In the meantime, the security situation in affected parts of Mindanao is likely to remain unstable. This source of instability is a major drain on the Philippines' economic resources."³²

A 2010 report by *Agriteam Canada*, an organisation funded by the Canadian International Development Agency (CIDA), notes the continued problems experienced in the Autonomous Region in Muslim Mindanao,

"The creation of the Autonomous Region in Muslim Mindanao resulted from a peace agreement between the Government of the Philippines and the Moro National Liberation Front (MNLF). With the exception of 2003, ARMM has had the highest poverty incidence in the Philippines (even higher among women). Civil society is weak and has not been able to demand that government provide needed services; hold leaders and government accountable; and contribute to the development process. Meanwhile, the government lacks the capacity to provide services and be accountable to the people.

Despite the peace agreement between the GOP and the MNLF, the region has witnessed continued armed conflict. Powerful clans play important roles in the region's political structure and community relations. They exert tremendous influence in the distribution of economic benefits, and conflicts between them have undermined peace in the region's communities. Security concerns present local governments with the further challenges of rebuilding destroyed infrastructure and homes as well as meeting the needs of evacuees and internally displaced people."³³

In November 2010 *Human Rights Watch* reported that preparation was being made for further negotiations to enhance ARMM autonomy,

"The Philippine government and MILF peace panels are currently preparing to negotiate an agreement that is expected to enhance ARMM autonomy by increasing both its geographical bounds and its political and economic powers. The peace panels negotiated such an agreement, the Memorandum of Agreement on Ancestral Domain, in 2008. However, prior to the signing, scheduled for August 2008 in Malaysia, the Supreme Court of the Philippines issued a temporary restraining order blocking it, on the petition of local and national Christian political leaders. In October 2008, the court ruled the agreement unconstitutional. The agreement's collapse has been cited as one of the causes of renewed fighting in central Mindanao in 2008 to 2009."³⁴

A report published by the *Manila Bulletin Newspaper Online* in December 2010 states that the Sulu Governor, Abdusakur Tan, called for the abolition of the Autonomous Region in Muslim Mindanao (ARMM),

"Sulu Gov. Abdusakur Tan on Sunday renewed his call for the abolition of the Autonomous Region in Muslim Mindanao (ARMM) for alleged gross mismanagement, incompetence, and the inability to pull the region back on its feets that it can stand proud, shoulder-to-shoulder, with its counterparts in other regions of the country."³⁵

3. Clan feuds

³² New Zealand Ministry of Foreign Affairs and Trade, Philippines Peace Settlements. 25 March 2009, <http://www.asean.fta.govt.nz/philippines-peace-settlements>, accessed 20 December 2010

³³ Agriteam Canada, Local Governance Support Program in Autonomous Region in Muslim Mindanao (LGSPA), 2010, <http://www.agriteam.ca/projects/profile/local-governance-support-program-in-autonomous-region-in-muslim-mindanao/>, accessed 20 December 2010

³⁴ Human Rights Watch, They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

³⁵ The Manila Bulletin Newspaper Online, Sulu official revives call for ARMM, 13 December 2010, <http://www.mb.com.ph/articles/292582/sulu-official-revives-call-armm>, accessed 18 December 2010

In February 2011 the *Centre for Humanitarian Dialogue* reported on the history of political reform in southern Philippines and the role of clan politics in local government,

“The introduction of the Philippine political and judicial systems brought a shift in attitude among clans, away from their traditions and toward power politics and local government. Violent confrontations began to occur, between clans and even within clans, when those in government failed to provide what the laws promised. A weak justice system, a lax security sector and the failure to protect civilians have eroded peace and order. At the same time, clan leaders began seeking positions in local government, viewing these as opportunities to acquire wealth and power, including power to influence the judicial cases. The Local Government Code authored by Senator Aquilino Pimentel Jr in 1987 gave more local governments even more power (even devolving to them authority over the Philippine National Police). The struggle for supremacy in electoral politics subsequently became a game among warlords: whoever has the strongest militias controls the process. The means justifies the ends – civil militias persist because their clan masters remain in power.”³⁶

a. *Rido*

In June 2009 UNOCHA news service, *Integrated Regional Information Networks (IRIN)* reported that clan violence is known as ‘rido’ and that people rarely press charges in relation to clan feuds for fear of incriminating family members,

“Many in Mindanao view 'rido' as more of a threat than the decades-long conflict, which has left thousands dead and many more displaced. A 2005 study by the Social Weather Station, a public opinion body which tracks economic, political and social indicators, indicated that people in the Autonomous Region of Muslim Mindanao (ARMM) were more concerned about 'rido' than armed conflict. According to the survey, 'rido' has been experienced by 28 percent of ARMM families, compared to only 16 percent of families nationwide.

The Philippine National Police in ARMM estimate that 5,500 people have died in 'rido'-related cases over the past three decades - equivalent to about 183 deaths per year.

Police Superintendent Gani Paramata Asira in Marawi City, said there were 218 cases of 'rido' in 2006, but that the numbers are an underestimation.

“It is rare that anyone will press charges or stand as a witness for fear of incriminating other members of their family,” he said, adding that data for more recent years were incomplete.”³⁷

IRIN further reported that,

“Wilfredo Torres, editor of a book entitled *Rido: Clan Feuding and Conflict Management in Mindanao*, defines 'rido' as “armed hostilities between families and kinship groups”.

The Mindanao provinces of Lanao de Sur, Maguindanao, Lanao del Norte and Sulu have been identified as having the highest number of 'rido' cases.

Deeply rooted in the Muslim culture of honour, “'rido' is characterized by a series of retaliatory acts of violence to avenge an affront or injustice - whether real or perceived”, said Torres.

³⁶ Centre for Humanitarian Dialogue (HD) - Armed Violence Reduction Initiative (AVRI), February 2011, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/\\$file/Sihnag+2009-10.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/$file/Sihnag+2009-10.pdf), accessed 22 February 2011

³⁷ IRIN, Philippines; Vendettas and violence on Mindanao - analysis, 24 June 2009, <http://www.irinnews.org/Report.aspx?ReportId=84979>, accessed 22 February 2011

Such acts could be sparked by petty theft or insults, political rivalries, land disputes or more serious matters like homicide. Improper overtures to, or advances on, a woman could also lead to 'rido', he said.”³⁸

In June 2009 *IRIN* reported that the rido code of honour traditionally prohibits the targeting of women and children, however in 2008 a woman was killed,

“The murder of Helen Accoon, a college principal, on the southern conflict-ridden island of Mindanao in 2008, shocked many people as it seemed to mark an escalation in clan feuding, known as 'rido'.

The 'rido' code of honour does not normally allow attacks on women.

Accoon was gunned down by an unidentified assailant while walking in Marawi City, the provincial capital of Lanao del Sur. Her husband, Macadadaya Accon, the son of the mayor of Buadi Puso Buntong Municipality, was involved in politics.”

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“Women, like children and the elderly, are traditionally seen as defenceless and therefore untouchable in 'rido'. They may be collateral damage, but not the target,” Samira Gutoc, a Muslim rights activist and former secretary-general of the Philippine Muslim Women’s Council, told IRIN.

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“What is fearsome is that women like Helen Accoon have become recent targets of this vendetta phenomenon. Killing women is a more powerful way of creating fear,” Gutoc said.³⁹

The New York Times stated in a May 2007 report that clan politics play a strong role in the governance of the Philippines,

“For generations, political dynasties have dominated elections and governments in the Philippines. They are prominent and moneyed clans, like that of President Gloria Macapagal Arroyo, whose father was president in the 1960s and whose son is a congressman. Another son is running for congress.

As these clans protect their reign, they often resort to violence to frustrate any attempt by rivals to unseat them.

Experts say the influence of these dynasties has grown more pervasive in recent years. There are an estimated 250 political families nationwide, with at least one in every province, occupying positions in all levels of the bureaucracy, according to the Center for People Empowerment in Governance, a Philippine nonprofit group. Of the 265 members of Congress, 160 belong to clans, the group says.

“These are the same families who belong to the country’s economic elite, some of them acting as rule makers or patrons of politicians who conspire together to amass greater economic power,” said Bobby M. Tuazon, the center’s director. Experts say the dynasties have developed a sense of entitlement regarding public positions, while many ordinary Filipinos have come to accept the arrangement as inevitable, making it harder to change the system.”⁴⁰

³⁸ IRIN, Philippines; Vendettas and violence on Mindanao - analysis, 24 June 2009, <http://www.irinnews.org/Report.aspx?ReportId=84979>, accessed 22 February 2011

³⁹ IRIN, Philippines; Vendettas and violence on Mindanao - analysis, 24 June 2009, <http://www.irinnews.org/Report.aspx?ReportId=84979>, accessed 22 February 2011

⁴⁰ New York Times, Family Ties Bind Philippine Government, 13 May 2010, <http://www.nytimes.com/2007/05/13/world/asia/13filip.html>, accessed 17 December 2010

A May 2007 report by *The New York Times* notes that the dominance of political dynasties undermines democracy,

“Experts say the rule of the clans has prevented the flowering of genuine democracy. “Continuing clan dominance is a product of the seemingly immutable and unequal socioeconomic structure, as well as the failure to develop a truly democratic electoral and party system,” said Julio Teehankee, a political scientist at De La Salle University in Manila.

The result, he added, was a political system rife with patronage, corruption, violence and fraud, and a vicious cycle that has prevented the base of aspirants and candidates from expanding.

The Asia Foundation, which has been monitoring elections in the Philippines for decades, said in a report last week that “confusion, inefficiency, corruption, and cheating damaged the credibility of elections, and cast doubt on the democratic legitimacy of elected officials.”

Apart from contributing to corruption, the influence of political dynasties can be detrimental in other ways, according to several studies. For example, a family in power might not bother to finance government projects in areas controlled by its rivals.”⁴¹

In a November 2009 article *IRIN* reports aid officials’ concern that clan violence could undermine humanitarian work, *IRIN* further report on the massacre of Mangudadatu clan members and their supporters by Ampatuan clan members,

“A further increase in clan violence on the southern Philippine island of Mindanao could undermine humanitarian work for tens of thousands of internally displaced persons (IDPs), aid officials warn.

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His comments follow the massacre of 57 people, including 30 journalists, on 23 November, just six months before key elections. About 100 armed men - allegedly under orders of an influential local warlord, Andal Ampatuan Jr - kidnapped the group, took them to a grassy hill and systematically murdered them. Authorities say some of the bodies had been mutilated, and there are now fears that more violence could occur in Maguindanao Province and outlying areas as troops and the military go after those responsible for the crime.

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Those killed included the wife of Ampatuan's rival Esmael Mangudadatu, his two sisters and supporters, who were on their way to the provincial capital to file his candidacy for governorship of the impoverished province, a post that Ampatuan is also contesting. The military and police have since relieved their commanders on the ground, and disarmed hundreds of pro-government militiamen under the control of the Ampatuan family to prevent further bloodshed. Ampatuan himself surrendered three days later to Philippine President Gloria Arroyo's chief adviser in the region. The Ampatuan clan is a close ally of Arroyo and has traditionally delivered crucial swing votes to candidates in the ruling administration coalition. But the Mangudadatu family is also an old, powerful clan and it is now feared that they will soon begin revenge killings, which could plunge the region into further crisis.

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"The recent carnage in Maguindanao is an empirical validating of the worsening armed violence in Mindanao," said Rommel Banlaoi, executive director of the think-tank Philippine Institute for Political Violence and Terrorism Research, which has closely followed the Muslim insurgency in the south. "If justice is not served in the Maguindanao massacre, it will set a very bad precedent in other areas [of the Philippines] where private armies and

⁴¹ New York Times, Family Ties Bind Philippine Government, 13 May 2010, <http://www.nytimes.com/2007/05/13/world/asia/13filip.html>, accessed 17 December 2010

clan conflicts exist. This will make the Philippines the epicentre of armed violence in Southeast Asia in the 21st century, an ugly truth that we have to overcome," he told IRIN."⁴²

In a November 2009 article *The Philippine Star* reports conflict between Ampatuan and Mangudadatus clans in the southern Philippines,

"Military and police officials have tagged a town mayor as the leader of the armed men who snatched and butchered 43 people – including journalists and the wife of a vice mayor – in Ampatuan, Maguindanao yesterday. Datu Unsay Mayor Datu Andal Ampatuan Jr., also known as "Datu Unsay," reportedly led the armed men who blocked the group of Genalyn Mangudadatu, wife of Buluan Vice Mayor Ismael Mangudadatu, while they were en route to the provincial capitol in Shariff Aguak to file the vice mayor's certificate of candidacy for governor.

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Sources from the Autonomous Region in Muslim Mindanao (ARMM) police said provincial police director Chief Inspector Sukarno Dicapoy was involved in the murders. "They were brought to a nearby hinterland where they were executed one after another. Some of the victims were beheaded," said a ranking official of the ARMM police. The Ampatuans belong to an old and powerful Moro clan in Maguindanao. Their ancestors fought the Spaniards as well as the Japanese during World War II.

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The Mangudadatus are related to the Ampatuans both by blood and consanguinity. Like the Ampatuans, the Mangudadatus also belong to a warrior clan. Both families are known for stockpiling weapons for protection and as status symbol. Prominent Mangudadatus of Maguindanao include Sultan Kudarat Rep. Pax Mangudadatu and his son, Datu Suharto, who is the governor of Sultan Kudarat."⁴³

In February 2011, *IRIN* reported that a local mayor in Mindanao had fled in fear of his life, stating that a political rival's family were pursuing him and that five of his supporters had previously been killed by the family's assassins,

"Wilson Nandang, 35-year-old mayor of the remote southern Philippine town of Labangan on the island of Mindanao, is in hiding in Manila: He believes gunmen loyal to a political rival, whose family want to take over Nandang's agricultural municipality of 30,000 people, are after him.

Travelling in a sports utility vehicle with tinted windows and accompanied by bodyguards, he said his enemy is known to deploy assassins, the same ones who have killed at least five of his close political supporters and who burned down his home last year. His wife and 10 children have had to move to a safer area.

The feud, preceded by years of clan fighting ('rido'), has not only forced him to abandon local government work in the municipality but fuelled an explosion of social ills: Many children suffer from malnutrition; education, health facilities and other basic services are lacking.

"I fear for my life. I cannot work. I cannot govern," Nandang told IRIN in Manila. "My town needs urgent development, food for the people, medicines for health centres, but I cannot do anything because my hands are tied."

Nandang's plight is not uncommon: Clan wars and political feuds have been hampering development on the mineral-rich island, where a tribal warrior culture - coupled with the proliferation of unlicensed firearms in the hands of so-called private armies controlled by

⁴² IRIN News, Clan violence could undermine humanitarian work - aid officials, 30 November 2009, <http://www.irinnews.org/Report.aspx?ReportId=87236>, accessed 20 December 2010

⁴³ The Philippine Star, Long-simmering feud erupts in violence, 24 November 2009, <http://www.philstar.com/Article.aspx?articleId=526315&publicationSubCategoryId=63>, accessed 20 December 2010

political warlords - has exacerbated a long-running Muslim insurgency which has claimed thousands of lives.”⁴⁴

In February 2011 the *Centre for Humanitarian Dialogue* reported on incidents of rido in areas of Sulu (Jolo, Talipao, Panamao, Siasi)⁴⁵

The *Centre for Humanitarian Dialogue* reported in February 2011, with reference to Sulu, that the government has done little to curb the carrying of firearms by civil militia or clan members and that many government security programmes have increased rather than reduced violence,

“The government has never prohibited the Tausug people of Sulu from carrying firearms (except under martial law in the early 1970s), provided they complied with the law or were authorized under specific government security programs. Thus, authorization under government programs has become an easy way to qualify to carry a gun. Many government security programs tend to exacerbate rather than reduce violence. The designation of authority to civil militia groups is an example. The militias are endorsed by the Government as a response to public insecurity. However, permitting them to carry guns primarily benefits their political patrons, the clan leaders. When militia members break the law, their patrons immediately protect them so that it is hard to bring them to justice.

The Government and the security sector are aware of the proliferation of firearms; there are probably as many guns as households in Sulu. However, there has been no repeat of the house-to-house weapons searches which the province experienced during martial law. In fact there has been no significant initiative to curb the proliferation of arms; the most the Government could do was declare an occasional “gun ban” which only applied during election periods. The presence of large numbers of arms in Sulu – both licensed and unlicensed – affects security and order among the population. Although statistics are difficult to obtain, anecdotal evidence indicates that large numbers of deaths in Sulu are caused by armed violence, whether in clan wars, revenge attacks or battles with insurgents, or in common murders, robberies or acts of terrorism.”⁴⁶

In February 2011 the *Centre for Humanitarian Dialogue* made the following statements regarding rido in Jolo,

“To some extent Jolo has also been affected by *rido* or clan conflict from other LGUs. Clan members from outside Jolo frequently indulge in their feuds in the main town of the municipality. Infrequent/sporadic rido-related violence is also a concern some of the time and/or in some barangays.”⁴⁷

In February 2011 the *Centre for Humanitarian Dialogue* made the following statements regarding rido in Talipao,

⁴⁴ IRIN, Clan violence drags Mindanao down, 3 February 2011, <http://www.irinnews.org/report.aspx?ReportID=91818>, accessed 22 February 2011

⁴⁵ Centre for Humanitarian Dialogue (HD) - Armed Violence Reduction Initiative (AVRI), February 2011, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/\\$file/Sihnag+2009-10.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/$file/Sihnag+2009-10.pdf), accessed 22 February 2011

⁴⁶ Centre for Humanitarian Dialogue (HD) - Armed Violence Reduction Initiative (AVRI), February 2011, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/\\$file/Sihnag+2009-10.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/$file/Sihnag+2009-10.pdf), accessed 22 February 2011

⁴⁷ Centre for Humanitarian Dialogue (HD) - Armed Violence Reduction Initiative (AVRI), February 2011, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/\\$file/Sihnag+2009-10.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/$file/Sihnag+2009-10.pdf), accessed 22 February 2011

“Serious, ongoing rido in the LGU heightened the threat of violence and restricted public movement and LGU activity.”⁴⁸

In February 2011 the *Centre for Humanitarian Dialogue* made the following statements regarding rido in Panamao,

“Serious, ongoing rido in the LGU heightened the threat of violence and restricted public movement and LGU activity.”⁴⁹

In February 2011 the *Centre for Humanitarian Dialogue* made the following statements regarding rido in Siasi,

“Infrequent/sporadic rido-related violence was a concern in some barangays.”⁵⁰

In February 2011 *UN OCHA* reported that rido remains prevalent and that widespread ownership of guns exacerbated violence,

“Armed fights between clans, families and other groupings known locally as ‘rido’ continue to be prevalent. *Ridos* usually concern land disputes, long-standing vendettas, political power and other such matters. Individuals, between whom there is a dispute, often related to a private matter, often resort to violence.

At the time of writing, the Joint Coordinating Committee on the Cessation of Hostilities was tracking 23 unresolved *ridos* in Maguindanao province alone, of which nine were active. Although *ridos* fall outside of the main GRP-MILF conflict, many of the protagonists are affiliated with the MILF or are either elected or appointed government officials. A fight that starts as a *rido* between two individuals therefore has the potential to escalate, and has certainly done so in the past.

Successive governments have supported local politicians in forming Citizen Armed Force Geographical Units or Civilian Volunteer Organisations, most of which are armed militias, and although nominally under the chain of command of the Armed Forces of the Philippines, often operate independently of it.

Ownership of weapons is widespread across conflict-affected provinces of Mindanao, further exacerbating conflict and violence. The rule of law is weak especially in Maguindanao province. Extortion, kidnap for ransom and assassinations are commonplace.”⁵¹

b. *Ampatuan Family*

In November 2010 *Human Rights Watch* reported on the activities of the Ampatuan Family in Mindanao,

⁴⁸ Centre for Humanitarian Dialogue (HD) - Armed Violence Reduction Initiative (AVRI), February 2011, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/\\$file/Sihnag+2009-10.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/$file/Sihnag+2009-10.pdf), accessed 22 February 2011

⁴⁹ Centre for Humanitarian Dialogue (HD) - Armed Violence Reduction Initiative (AVRI), February 2011, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/\\$file/Sihnag+2009-10.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/$file/Sihnag+2009-10.pdf), accessed 22 February 2011

⁵⁰ Centre for Humanitarian Dialogue (HD) - Armed Violence Reduction Initiative (AVRI), February 2011, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/\\$file/Sihnag+2009-10.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/$file/Sihnag+2009-10.pdf), accessed 22 February 2011

⁵¹ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

"Nowhere in Mindanao in recent years have the complexities of these volatile forces [private armies] been as evident as in the case of the Ampatuans, the most powerful ruling family in Maguindanao province. The Ampatuans, who are themselves Muslims, have been a loyal ally of successive national governments against Moro separatists. Fighting between the Ampatuans and MILF leaders has at times been treated as rido, or clan conflict, but the actual situation is more complex. Ampatuan family members and other Maguindanao residents said that the conflict developed because the Ampatuans are identified with the government forces, because the Ampatuans perpetrate human rights abuses, and because they target emerging Moro leaders who are considered a threat to their power."⁵²

A report published in *The Guardian* in December 2009 notes violent clashes between Ampatuan clan supporters and the police,

"Gunmen loyal to a powerful clan accused in the Philippines' worst political massacre have fired at police in the first reported violence since martial law was imposed in the southern region. No casualties were reported and government negotiators were trying to persuade about 2,400 gunmen to surrender peacefully to avoid bloodshed, the interior secretary, Ronaldo Puno, told reporters in the capital, Manila. About 20 to 30 armed followers of the Ampatuan clan, suspected of the massacre in November of 57 people, opened fire on police commandos yesterday while they were patrolling Datu Unsay township, near the site of the massacre, said the national police chief, Jesus Verzosa.

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Government negotiators were trying to convince the gunmen to surrender to avoid civilian bloodshed, Verzosa said. "If they don't, we'll have to look for them," he told reporters. Troops have raided the Ampatuans' mansions, farms, warehouses and offices and discovered a huge arsenal of weapons, including machineguns, grenade launchers and nearly half a million rounds of ammunition. An anti-money laundering agency was assessing whether the Ampatuans, who have built sprawling mansions in a region notorious for appalling poverty, have acquired wealth illegally so those assets can be frozen, according to the justice secretary, Agnes Devanadera.

On 23 November a convoy led by a rival politician was stopped by about 100 gunmen allegedly led by Andal Ampatuan Jr, the mayor of Datu Unsay. The 57 people in the convoy, including 30 journalists, were killed with guns and machetes. Ampatuan, who is being detained in Manila, has been charged with multiple counts of murder, along with other clan members. Prosecutors also plan to file rebellion charges against the clan's patriarch and more than 20 other people tomorrow, Devanadera said. The Ampatuan clan has ruled the region for years and has a large private army. They have been regarded by many as untouchable warlords because of their political alliance with President Gloria Macapagal-Arroyo."⁵³

A *BBC News* report of December 2009 reports the strength of Ampatuan clan armed forces in Mindanao, whose members have been "loyal supporters" of President Gloria Arroyo,

"Philippine armed forces and police say they are pursuing at least 3,000 armed men loyal to the Ampatuan clan in the southern province of Maguindanao. Manila has accused the clan of ordering the massacre of 57 people last week and of fomenting rebellion.

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Police commandos came under fire on Sunday as they patrolled near Datu Unsay, the town controlled by the chief suspect in the 23 November massacre, Andal Ampatuan Jr. "Suddenly they [the police] were fired upon and there was an exchange of gunfire. They

⁵² Human Rights Watch, They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

⁵³ The Guardian, Philippine police clash with Ampatuan clan supporters, 7 December 2010, <http://www.guardian.co.uk/world/2009/dec/07/philippine-police-under-fire-gunmen>, accessed 17 December 2010

were not able to move so they called in reinforcements," said the chief of the Philippines National Police, Jesus Verzosa.

He said there were no casualties among the police.

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But military officials told reporters that many local residents still feared the Ampatuan clan. Prosecutors have drawn up charges of rebellion in addition to those of murder lodged against members of the Ampatuan clan - which has denied involvement in the massacre. The clan has long controlled Maguindanao and its members have been loyal supporters of President Gloria Arroyo. The murders were allegedly carried out to prevent a rival of Andal Ampatuan Jr from running for governor of the province in next year's elections.

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President Gloria Arroyo's critics and human rights groups have criticised the declaration of rebellion because it gives a political gloss to the crimes and allows suspects to be granted bail and presidential amnesty. These same groups are preparing a challenge in the Supreme Court to the declaration of martial law. The security forces say martial law is allowing them the freedom they need to move against the Ampatuan empire."⁵⁴

A January 2010 article published in UK daily newspaper *The Guardian* also reports links between the Ampatuan family and President Arroyo.⁵⁵ *The Guardian* further states that although the Ampatuans are alleged to have been involved in executions no incidents have been investigated,

"In the Philippines, local governments are allowed to form their own paramilitary forces to fight against local insurgents. President Arroyo owed the Ampatuans during her 2004 election because in Maguindanao the administration got sweeping votes against the opposition. Not a single opposition candidate won in Maguindanao. Ever since, the administration has been tolerant of the Ampatuans despite allegations of their 'war-lordism' and private armies.

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The Ampatuans are alleged to have been involved in various summary executions, but not a single incident has been investigated. Their private armies number more than 3,000. They made a monster."⁵⁶

An article published on 9 February 2010 by *The New York Times* details allegations of the Ampatuan clan's involvement in law enforcement matters in Maguindanao Province,

"Prosecutors here in the Philippine capital on Tuesday indicted the patriarch of a powerful political clan and 196 others in connection with the November massacre of 57 people, the worst case of political violence in the nation's history. [] Local government officials, police officers and members of the clan's militia were also indicted.

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The prosecutors added that, based on testimony by witnesses, "it can be deduced that the commission of the crime was planned deliberately by the perpetrators and that, until its consummation, there was an inexorable resolve to kill."

The prosecutors, in their lengthy indictment filed in court and released to the news media, said that the accused "were seen abducting the victims from their vehicles" and that "others repeatedly shot the hapless victims."

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Officials and local residents said that in their time in power, the Ampatuans had used force and violence to consolidate their hold over the province. They are credited with ensuring the victory of Mrs. Arroyo in the 2004 election, which was marred by allegations of large-

⁵⁴ BBC News, Philippine forces target 3,000 clan rebels, 7 December 2009, <http://news.bbc.co.uk/2/hi/asia-pacific/8398549.stm>, accessed 17 December 2010

⁵⁵ The Guardian, Philippines massacre - 'They made a monster', 8 January 2010, <http://www.guardian.co.uk/world/2010/jan/08/philippines?INTCMP=SRCH>, accessed 17 December 2010

⁵⁶ The Guardian, Philippines massacre - 'They made a monster', 8 January 2010, <http://www.guardian.co.uk/world/2010/jan/08/philippines?INTCMP=SRCH>, accessed 17 December 2010

scale fraud. This debt of gratitude, analysts say, is the main reason the Ampatuans exerted such total control over the province as well as the Autonomous Region in Muslim Mindanao, where one of the Ampatuan sons, Zaldy, was governor. The Arroyo administration distanced itself from the clan after the massacre and has vowed to stamp out its militias as well as private armies throughout the nation, especially since national and local elections, which are historically violent, are scheduled to be held in May.

Despite this, however, the Ampatuans are still determined to continue their reign in Maguindanao, a Muslim province where much of the violence and conflict between government and the Islamic separatists has been occurring in the last several years. According to news reports this week, more than 60 clan members are seeking various political positions in the elections."⁵⁷

In a November 2010 report *Human Rights Watch* describes the Ampatuan family's militia as,

"one of the most powerful and abusive state-backed militias in the Philippines."⁵⁸

The *BBC* notes the power attained by the Ampatuan clan in a September 2010 article,

"Andal Ampatuan Junior is accused of orchestrating the murder of 57 unarmed civilians, who were ambushed, killed and clumsily buried in a mass grave in the southern province of Maguindanao last November. Another 27 members of his family have also been charged in connection with the killings - five are with him in custody - and they all deny the charges against them.

But for many Filipinos, this trial is about much more than establishing the guilt or innocence of one man, or even one family. It's about the huge influence of clans like the Ampatuans, and the culture of impunity surrounding them. While their involvement in the massacre has yet to be proven, there is no doubt whatsoever that the Ampatuans were - and still are - extremely powerful.

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Mrs Arroyo's government was good to the Ampatuans, providing funds for the region, and in the process propelling Andal Senior to "undreamed-of heights of power", according to a report by the International Crisis Group. In 2006, Mrs Arroyo issued an executive order legalising the informal private "armies" being kept by families like the Ampatuans, enabling them to work alongside the regular army - but by extension legitimising their use as a means of local control.

In return the Ampatuans openly supported her in election campaigns. There are widespread claims that the family helped rig votes for Mrs Arroyo in the controversial 2004 election, which she narrowly won. Both the Ampatuans and the former president deny the allegations. At the time of the massacre, the clan had an estimated 28 mansions, scores of luxury cars, large amounts of rice-producing land and a heavily armed private army of more than 2,000 men.

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Of course none of this means the Ampatuans are necessarily guilty of the killings, or that all members of the clan act in a similar way. In fact, according to Amina Rasul, director of the Philippine Council on Islam and Democracy, some Ampatuans are very effective and popular community leaders. "They're not all cut from the same cloth. Many are professional, and have real support," she said. But human rights groups are still concerned about the dominance of these family clans, and they warn that the influence and power exhibited by

⁵⁷ The New York Times, Ampatuan Patriarch Charged in Philippine Killings, 9 February 2010, <http://www.nytimes.com/2010/02/10/world/asia/10phils.html?scp=335&sq=Philippines&st=nyt>, accessed 17 December 2010

⁵⁸ Human Rights Watch, They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

the Ampatuans is by no means unique."I don't think this is an isolated incident," said Amina Rasul. "There are other families in other parts of the Philippines that are just as powerful."

The Philippine military recently admitted that there were at least 112 private armies around the country - an indication, perhaps, of how many more clans and family groups hold sway over their own private fiefdoms. Whether by chance or design, presidential policies over the past few decades have given certain families the opportunity to amass extraordinary levels of power and influence.⁵⁹

Human Rights Watch states in a November 2010 report that clan feuding continues while the Philippines government fails to take decisive action,

"One year after the massacre of 58 people in Maguindanao province attributed to the Ampatuan family and their "private army" on November 23, 2009, the Philippine government has failed to seriously investigate atrocities by powerful ruling families, ban abusive militia forces, or curtail access of officials to military weaponry.

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"The Maguindanao massacre was not an aberration, but the foreseeable consequence of unchecked killings and other serious abuses," said James Ross, legal and policy director at Human Rights Watch. "For two decades the Ampatuans committed atrocities with a 'private army' manned by police and soldiers carrying government-supplied weapons."

Following the November 2009 massacre, Human Rights Watch travelled to Mindanao and investigated numerous abuses implicating the Ampatuans, including more than 50 incidents of killings, torture, sexual assault, and abductions. These cases show often unrestrained brutality, such as the torture and killing by chainsaw of individuals suspected to be involved in a bomb attack against an Ampatuan family member in 2002. [] The military and police provided the Ampatuan family with manpower, modern military weapons, and protection from prosecution. Most members of their private army were also members of the police, military, or state-sanctioned paramilitary forces, including Civilian Volunteer Organizations and the Citizen Armed Force Geographical Units (CAFGUs).

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"Families like the Ampatuans have used officially sanctioned paramilitaries as private armies to spread terror and maintain power," Ross said. "The government needs to stop being part of the problem and instead disband the militias and hold abusers to account." Human Rights Watch said that police, the Justice Department, and other government agencies have long failed to investigate crimes linked to the Ampatuans. As a result, family members have acted as if they were above the law and without fear of being held accountable.

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Human Rights Watch expressed concern that the underlying causes of the massacre and the impunity enjoyed by militia forces generally have not been addressed by the Philippine government. The Ampatuans' militia was just one of more than 100 private armies estimated to operate throughout the Philippines. In practice, their size and armament is limited only by local politicians' ability to fund operational costs. Successive administrations have not dismantled and disarmed these militia forces, as stipulated in the 1987 Philippine Constitution, nor have they investigated and prosecuted unlawful activities by those who control, arm, and use them for private ends."⁶⁰

4. Prior history of conflict and violence

A February 2011 report from *UN OCHA* describes the history of conflict in the southern Philippines as follows,

⁵⁹ BBC News, The rise of the Ampatuan clan in the Philippines, 8 September 2010, <http://www.bbc.co.uk/news/world-asia-pacific-11139653>, accessed 17 December 2010

⁶⁰ HRW, Philippines: Local Ruling Family's Abuses Implicate Government, 16 November 2010, <http://www.hrw.org/en/news/2010/11/15/philippines-local-ruling-family-s-abuses-implicate-government>, accessed 17 December 2010

“An estimated 5% of the Philippine population of 88.5 million people are Muslim, referred to as ‘Moro’. Historically the Islamic Moro people formed a majority in much of Mindanao, the second largest of the country’s more than seven thousand islands. Islam had spread to Mindanao from the Molucca Straits in 1380 and was adopted by a number of the distinct ethnic groups of Mindanao, including the Maguindanaoans, the Maranaoans and the Tausug.

From 1565 onwards, the Moro people came into contact with the Spanish, who were in the process of colonising the Philippines. The relationship between the colonisers and the Moro was characterised by a war of attrition interrupted occasionally by temporary truces. During more than 300 years of Spanish control of the Philippines, the Spanish at no time controlled the island of Mindanao, with the exception of its settlement in Zamboanga, from which it commanded the Basilan Straits.

The United States governed the Philippines from 1898 through to its independence in 1946 and consolidated the country under one system of government modelled on that of the United States. Throughout the American colonial period, people from other parts of the Philippines, particularly the Visayas, began to settle in parts of Mindanao. It was only after independence in 1946, however, that migration to Mindanao accelerated. By the 1960s, Muslims formed a majority only in the provinces of Maguindanao, Lanao del Sur and the ‘island provinces’ of Basilan, Sulu and Tawi-Tawi, as well as in specific municipalities of several other provinces.

The unique history of Mindanao within the Philippines is fundamental to understanding the current situation, with the root causes of the conflict stemming largely from the island’s unique circumstances. Currently, the conflict-affected provinces of Mindanao are the poorest in the Philippines and, in addition to the conflict-related humanitarian and early recovery needs, there is widespread unemployment and under-employment. Governance and rule of law face significant challenges and a situation of generalised insecurity and poor human security persists. The PAMANA Programme recognises the following as the root causes of the conflict: (i) poor governance, injustice and abuse; (ii) political marginalisation and “inferiorisation”; (iii) threats to Moro and Islamic identity; (iv) perception of government neglect and absence of government; and (v) exploitation and marginalisation of indigenous and cultural communities.

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Communal fighting between Moro and settlers began shortly after the independence of the Philippines from the United States, with both Moro and Christian settlers forming militias. The Moro formed ‘Blackshirt’ and ‘Barracuda’ militias and settler militias were known as ‘*laga*’. Originally seeking secession from the Philippines, the Moro insurgencies later modified their aims to that of greater autonomy within the Philippines for the Moro people in the areas where they form a majority of the population.

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The first Moro insurgent group, the Moro National Liberation Front (MNLF), was founded in 1968 and launched an armed insurgency against the Government of the Republic of the Philippines (GRP) in 1972.”⁶¹

A report by the *International Crisis Group* issued in July 2004 highlights the background to the history of violence in the southern Philippines,

“Conflict in the southern Philippines has long been susceptible to entanglement in regional and global power struggles. [] With Philippine independence in 1946, the south’s political and economic integration, and Muslim marginalisation, accelerated.

⁶¹ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

In the 1950s, growing numbers of Philippine Muslims came to a new awareness of their identity after winning scholarships to Manila or the Middle East, particularly Cairo's Al-Azhar University. Salamat Hashim, an ethnic Maguindanaon from the Cotabato region, attended Al-Azhar from 1959 to 1969, []. On his return to Cotabato, Hashim became drawn to secessionist politics, and an early contender for the leadership of the Moro National Liberation Front (MNLF), which appropriated the Spanish epithet in an attempt to forge a new identity uniting the south's thirteen Muslim tribes.

Simmering communal conflict in the South became full-scale civil war after President Ferdinand Marcos declared martial law in September 1972, but the MNLF was well prepared. Beginning in 1969, cadres were sent abroad for military training with the assistance of disgruntled Muslim aristocrats.

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Beginning in 1980, Hashim's MNLF faction, by one account, sent up to 500 men to the Afghan-Pakistan border to train alongside other Southeast Asians.

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The return of Hashim and the Afghan veterans gave new impetus to the MILF, which remained the less visible wing of the movement until 1996, when a "final" agreement was struck in Jakarta between the government and Misuari's MNLF. Under the leadership of Afghan alumni like Benjie Midtimbang, an officer training school, the Abdulrahman Bedis Memorial Academy, was established in 1987, and a massive training program undertaken.

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The MILF's extensive network of camps began, in the months after the 1976 Tripoli Agreement, as government-recognised "bivouac" areas of the MNLF's Kutawato Revolutionary Committee []. At the time peace talks broke down and the government launched its largest ever offensive against the MILF in 2000, the movement was pushing for official recognition of thirteen "major" and 33 "minor" camps.

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An "Agreement for General Cessation of Hostilities" reached on 18 July 1997, after almost a year of low-profile meetings in provincial cities around Mindanao, became, together with its implementing guidelines, the anchor reference for all subsequent accords. The implementing guidelines established government and MILF Coordinating Committees for the Cessation of Hostilities (CCCH), with six members on each side. This remains the principal ceasefire monitoring mechanism (there are also Local Monitoring Teams)."⁶²

A January 2009 report issued by the *Council on Foreign Relations* notes the legacy of continued violence in the southern Philippines,

"The southern islands of the Philippines, inhabited by Muslims known as Moros (Spanish for "Moor"), have been in almost perpetual rebellion against the Christian majority ruling in Manila. They fought the Spaniards when they arrived 500 years ago, and they fought the Americans when they arrived more than 100 years ago. The latest rebellion broke out in the early 1970s and has killed well over 120,000 people. It was led initially by the Moro National Liberation Front (MNLF), which challenged a martial-law regime of dictator Ferdinand Marcos. That group began to reach accommodation with Manila in 1975--a process completed by a democratic government in 1996. The MNLF demobilized its fighters, and most of its members melted back into the populace. Some even took positions in the local government or the security forces. But along the way several dangerous splinter factions broke off.

The largest and most moderate of these is the Moro Islamic Liberation Front (MILF), which, as the name would indicate, has a more religious emphasis than its socialist-nationalist forerunner. It, too, has been in negotiations with the government, but the peace process

⁶² International Crisis Group, Southern Philippines Backgrounder: Terrorism and the Peace Process, 13 July 2004, pp. 3-6, <http://www.crisisgroup.org/~media/Files/asia/south-east-asia/philippines/>, accessed 20 December 2010

broke down in August after the Philippine Supreme Court, much to the consternation of President Gloria Macapagal-Arroyo, ruled unconstitutional a plan to grant the Muslim region a large degree of autonomy. (Judicial activism, it seems, is one of many American exports that have taken root here.) While most of the MILF, 8,000-10,000 strong, remained at peace, several of its "base commands," numbering a few thousand fighters, declared war on the Philippine government and the non-Muslim inhabitants of the island of Mindanao, burning Christian villages and slaughtering their inhabitants. An estimated 200 people were killed, and tens of thousands turned into refugees.

The more extremist of these base commands have established a symbiotic relationship with Jemaah Islamiyah, the Indonesian terrorist group that carried out the infamous bombing in Bali that killed over 200 people in 2002, and Abu Sayyaf, a homegrown Filipino jihadist group launched by veterans of the 1980s war against the Soviets in Afghanistan. Those groups, in turn, developed close ties in the 1990s with al Qaeda. Muhammad Jamal Khalifa, Osama bin Laden's brother-in-law, moved to Manila to provide financing and organizational assistance to local radicals."⁶³

In November 2010 *Human Rights Watch* reports the history of violence as follows,

"The Philippines' main southern island of Mindanao has been a focal point for insurgencies and conflict since the beginning of the American colonial period at the turn of the twentieth century. The Muslim population, known as Moros, makes up more than 20 percent of Mindanao, and have long resisted encroachment by the predominantly Christian majority. Since Philippine independence in 1946, armed conflict between Moro armed groups and the Philippine government have continued with varying levels of intensity.

In the 1970s Moro secessionists formed a separatist movement, the Moro National Liberation Front (MNLF), which later splintered, creating the Moro Islamic Liberation Front (MILF). Since then, armed confrontations between the government and Moro armed groups have resulted in the death of an estimated 120,000 people, mostly civilians, and the displacement of some two million more. Negotiations in the 1980s led to the creation of the Autonomous Region in Muslim Mindanao (ARMM) in 1990, discussed below.⁵ After a resurgence of violence in 2008, a shaky ceasefire was forged in 2009. At this writing, the Aquino government and the MILF are preparing to engage in peace negotiations."⁶⁴

In February 2011 the *Centre for Humanitarian Dialogue* reported that peace has not been restored in Sulu since coming under martial law in the 1970's,

"Ever since the 1970s when Sulu came under martial law, peace in the island province has never been restored. Shootouts come in many types: rebels versus government forces, terrorist groups versus police or army, family feuds, clan conflicts and more often clashes between the civil militia of different political warlords. Residents of Sulu, upset that their young people have lived in such a militarized environment during and after martial law, have developed a fear and mistrust of 'foreign' (including non-Sulu or Christian) soldiers. The admiration for local militia commanders is even reflected in fashion, with civilians wearing military-style clothing such as camouflage jackets and trousers."⁶⁵

The *Institute for War and Peace Reporting (IWPR)* notes in a June 2009 report the high number of IDPs resulting from the conflict in the southern Philippines,

⁶³ Council on Foreign Relations, *Treading Softly in the Philippines*, 5 January 2009, http://www.cfr.org/publication/18079/treading_softly_in_the_philippines.html, accessed 17 December 2010

⁶⁴ Human Rights Watch, *They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines*, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

⁶⁵ Centre for Humanitarian Dialogue (HD) - Armed Violence Reduction Initiative (AVRI), February 2011, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%2983147CF618A2E30AC125782D005762C8/\\$file/Sihnaq+2009-10.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%2983147CF618A2E30AC125782D005762C8/$file/Sihnaq+2009-10.pdf), accessed 22 February 2011

[] 600,000 of the world's 4.6 million most recently uprooted people last year were war refugees from Central Mindanao []. Wazan Teng is an incoming third-year high school student who used to dream of being a teacher. Not anymore. The continuing war and his life as an internal evacuee has seriously disrupted his education – just as it has for so many thousands of others.

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Originally from Barangay (village) Ilian in nearby Datu Saudi Ampatuan town, Teng, his parents and his six other siblings sought refuge at the municipal gym here when renewed fighting broke out last August between the military and the Moro rebels. And a fresh wave of refugees hit Datu Piang in the wake of recent army bombardments of positions reportedly still occupied by one of the MILF's renegade commanders - Ameril Umbra Kato. Kato carries a ten million Philippine pesos (212,766 US dollar) reward for allegedly leading the attacks on communities in Central Mindanao last August, following the botched signing of the controversial Memorandum of Agreement on Ancestral Domain (MOA-AD). The homeland deal, the last obstacle towards the forging of a final peace agreement, would have given the MILF wider political and economic powers. At the height of the war last year, some 8,194 families or nearly 50,000 individuals fled here in fear of getting caught up in the crossfire. The intervening months eventually reduced the number of refugees here by about half. The number of evacuation centres in this town now stands at 23, a little lower from 27 at the height of the conflict last year.

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The military pounded suspected MILF rebel lairs with mortar fire and aerial bombardment almost continually for the first two weeks of May. They also reportedly blocked aid organisations including the International Committee of the Red Cross, ICRC, from entering the town to deliver relief. The blockade was only lifted on May 14, allowing some 50 trucks to bring in food to the bakwits. Lieutenant-Colonel Jonathan Ponce, spokesperson of the 6th Infantry Division, denied in a phone interview the military implemented a food blockade. "We're just concerned about the safety of the volunteers so we did not let them in. The situation then was very dangerous so we prevented entry purely for security reasons," said Ponce.

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Citing a report from the locally-led Bantay ceasefire monitoring group, Father Eduardo Vasquez, the parish priest of Datu Piang, complained that 75 per cent of the IDPs in the town did not receive food aid the last time it was delivered. "They have been deprived of food assistance for quite some time because of the military's food blockade and when the time to receive it came many missed out," said the priest. Vasquez also blasted the military because some of the soldiers allegedly covered their uniform nametags as well as their vehicle's identification numbers during operations. Ponce, the military spokesperson, vowed to look into the claim."⁶⁶

A May 2010 article published by *IRIN* reports that more than 700,000 people were displaced in Maguindanao at the height of fighting which broke out in 2008, between MILF and the military,

"Muslim separatists blamed for years of conflict and displacement on the southern island of Mindanao have agreed to help the government rid the area of unexploded ordnance and landmines.

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At the same time, the agreement - signed by both parties earlier this month during closed meetings in Kuala Lumpur - is an important confidence-building mechanism as the 12,000-strong Moro Islamic Liberation Front (MILF) prepares to sit down with the government of president-elect Benigno Aquino when he assumes office in June, chief rebel negotiator Mohagher Iqbal said. "We are expressing our willingness to sit down and negotiate with

⁶⁶ IWPR, Mindanao's Forgotten Refugees, 6 June 2009, <http://iwpr.net/report-news/mindanaos-forgotten-refugees>, accessed 17 December 2010

Aquino. We are open to negotiating with him and believe he will pursue the peace agenda," Iqbal said from an MILF rebel base in southern Maguindanao Province.

The de-mining agreement was meant to allow some 3,000 families displaced from eight Maguindanao towns to return home without fear of accidentally setting off the explosives, he said.

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Thousands of rounds of mortars and artillery were exchanged between the military and MILF positions in Maguindanao when severe fighting erupted in late 2008. The rebels launched coordinated attacks across many towns and villages after the Supreme Court overturned a proposed land deal that would have given them control over vast tracts of what they claim as ancestral land.

More than 700,000 people were evacuated at the height of the fighting, which also destroyed entire villages and left nearly 400 dead on both sides. A ceasefire took effect in July last year, and both sides have since launched back-door negotiations to revive formal talks, although the MILF had said it would wait for a successor to outgoing President Gloria Arroyo before signing any deal."⁶⁷

In June 2010 the *International Displacement Monitoring Centre (IDMC)* reported on displacements of civilians due to hostilities in the southern Philippines,

"Nearly a year after a ceasefire agreement between the government and the rebels of the Muslim Islamic Liberation Front (MILF) put an end to renewed fighting in the southern island of Mindanao, some 26,000 families remain displaced in June 2010. The renewed conflict, ignited by the failure of a land deal in August 2008, had led to the displacement of up to a million people by July 2009. The majority of the remaining internally displaced people (IDPs) are living in 67 evacuation centres in Maguindanao Province, while a smaller number are living in relocation and resettlement sites or with relatives.

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Millions of people in the Philippines have been internally displaced by armed conflict and human rights violations in the last decades. Most of the violence and displacement has taken place on the island group of Mindanao in the southern Philippines, where the government has fought insurgency groups since the 1970s. Mindanao is the poorest region in the Philippines; the conflict there is rooted in under-development, poor governance, the particularly inequitable distribution of wealth, and the political, economical and cultural marginalisation of Muslim (or Moro) and indigenous peoples in an overwhelmingly Roman Catholic country.

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In 1976, the government and the Moro National Liberation front (MNLF) signed the Tripoli Agreement, which established some degree of autonomy to 13 provinces and nine cities in the southern Philippines, but its implementation only stumbled forward. It was not until 1990 that the Autonomous Region in Muslim Mindanao (ARMM) was formally established, covering four majority-Muslim provinces. In 1996 the government and MNLF signed a new accord allowing for the implementation of the Tripoli Agreement. The Moro Islamic Liberation Front (MILF), which broke away from the MNLF in the early 1980s and which had become by then the main Muslim insurgency group, signed a ceasefire agreement in 1997.

In 2000, nearly a million people fled the government's "all-out war" against the MILF. This was followed in 2003 by another major offensive against the Moro rebels which resulted in the displacement of more than 400,000 people. Although recurrent skirmishes continued to cause sporadic displacement in Mindanao, both sides managed to avoid major military confrontations in the following years and worked to find common grounds for a political

⁶⁷ IRIN News, Muslim rebels agree to help de-mine, ready for talks, 21 May 2010, <http://www.irinnews.org/Report.aspx?ReportId=89214>, accessed 17 December 2010

settlement. In all, an estimated two million people were displaced by conflict and associated human rights violations in the Philippines between 2000 and 2007.

The June 2010 *IDMC* briefing further notes the impact of renewed armed hostilities and displacement following an aborted land deal,

“In July 2008, the government and the MILF announced a breakthrough in negotiations with a memorandum of agreement (MoA) on the issue of an autonomous Moro homeland known as the “Bangsamoro Judicial Entity” reflecting the Moro peoples’ “ancestral domain”. However, the MoA attracted strong public criticism, in particular from Christian communities in Mindanao, and it was suspended and later declared unconstitutional by the Supreme Court. In August, MILF combatants responded by launching attacks on Christian communities in Cotabato Province and later in Lanao del Norte Province.

Ensuing fighting with the Armed Forces of the Philippines (AFP) led to the displacement in the following months of hundreds of thousands of people in several provinces of Mindanao, with Muslim-majority provinces such as Maguindanao particularly affected. When fighting ended in July 2009, possibly up to a million people had been displaced and hundreds of thousands were still living in collective centres and camps known by the government as “evacuation centres”, relocation sites and with host communities.”⁶⁸

5. Administration of justice and rule of law

[See also Section C. Human Rights Situation; 1. Treatment of Political Opponents, Critics and Witnesses]

a. Judiciary and law enforcement

Human Rights Watch states in its 2010 report that the judiciary and law enforcement agencies in the Philippines remain weak,

“The Philippines is a multiparty democracy with an elected president and legislature, a thriving civil society sector, and a vibrant media. Several key institutions, including the judiciary and law enforcement agencies, however, remain weak, meaning the military and police still commit human rights violations with impunity. Politically motivated extrajudicial killings and targeted killings of alleged petty criminals continue, with the government failing to acknowledge and address involvement by the security forces and local officials.”

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Meanwhile, optimism over Supreme Court writs to compel military and other government officials to release information on people in their custody was dampened by difficulty in enforcing the writs of amparo and habeas data. In September 2008 the Court of Appeals granted writs for the release of Karen Empeno and Sherlyn Cadapan, abducted allegedly by military personnel in mid-2006. In March 2009, however, the court failed to enforce the writs.

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The armed conflict between the Philippine government and the Moro Islamic Liberation Front intensified in the first half of 2009, but a ceasefire has been in place since July. At this writing the number of internally displaced persons (IDPs) due to the conflict stands at 250,000. In addition to poor humanitarian conditions in IDP camps, civil society groups alleged violations of the laws of war and human rights abuses by both sides, including forced disappearances, extrajudicial killings, torture, and wanton destruction of houses. On June 30, the 6th Infantry Division spokesman Col. Jonathan Ponce referred to IDPs as “enemy reserve forces.”⁶⁹

⁶⁸ IDMC, IDP return still hampered by insecurity and lack of assistance, 28 June 2010, [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/EEB42D3CC3A9D7F3C125775E0052C452/\\$file/](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/EEB42D3CC3A9D7F3C125775E0052C452/$file/), accessed 17 December 2010

⁶⁹ Human Rights Watch, World Report 2010, pp.338-340, <http://www.hrw.org/world-report-2010>, accessed 18 December 2010

In 2010 the *Asian Human Rights Commission (AHRC)* reported a lack of due process in the investigation and prosecution of human rights violations,

“Despite documenting hundreds of cases of grave human rights violations over the years in the Philippines, the AHRC has seen little evidence of effective investigations into these or prosecutions of those thought to be responsible. Investigations and prosecutions of cases are typically performed without any semblance of due process. They are conducted outside the legal framework of the institutions of the rule of law that are responsible for conducting such essential components of justice delivery.

Members of the Philippine National Police (PNP) are not held accountable for illegally arresting and detaining persons or the use of torture in criminal investigations. Prosecutors file cases in court based on evidence that has been gathered using illegal means by the police. Cases are prosecuted without basic legal requirements being met, including standards concerning evidence and whether there is probable cause concerning alleged crimes.

The PNP and the National Prosecution Service (NPS), which is under the Department of Justice (DoJ), enjoy institutional protection that shelters them from any repercussions for their use of illegal methods. Abuses of authority by the police and NPS prosecutors of the NPS, and the vulnerability of these institutions to political control, however, permit the prosecution of human rights and political activists in politically-motivated and fabricated cases. Such individuals and their organizations are targeted by the government's justice system, particularly when the military and the police take a keen interest in prosecuting them. Such prosecutions are usually preceded by the accused being labelled or publicly accused of involvement with communist rebellion - regardless of whether these allegations are supported by any evidence.”⁷⁰

An article published by the *Philippine Daily Inquirer* in November 2010 notes concerns regarding the powers ascribed to police forces as a result of the law creating the Autonomous Region in Muslim Mindanao,

“The Philippine National Police says it would want to see some revisions to the law that created the Autonomous Region in Muslim Mindanao that will allow police commanders in the area to go against unlawful orders from local government officials. [], PNP Director General Raul Bacalzo said Republic Act 9054, which strengthened and expanded the ARMM, should be revisited to prevent future atrocities such as the 2009 Maguindanao massacre.

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The PNP explained that the regional police director may show a degree of “loyalty” to the ARMM governor. Especially since we know that in our culture, we show obedience and some loyalty to our leaders.” But Bacalzo said that particular provision was being used by local leaders as an excuse to use local police forces to maintain their grip on power in their area. He said local police commanders feel helpless and are compelled to follow the orders of local officials. Under the law, officials have a large say on the assignment of their police chiefs.”⁷¹

In December 2010 the *Asian Human Rights Commission* reported that the police ignore routine procedures in undertaking searches, arrests and detention,

⁷⁰ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

⁷¹ Philippine Daily Inquirer, PNP urges amendment to law creating ARMM, 12 November 2010, <http://newsinfo.inquirer.net/breakingnews/regions/view/20101211-308393/PNP-urges-amendment-to-law-creating-ARMM>, accessed 17 December 2010

"Members of the police routinely ignore elementary procedures when carrying out searches, arrests, detention. The nature of crimes that are prosecuted are even legally incoherent at times, as has been shown above. They conduct searches and arrests without considering whether they have court orders. However, there are no effective systems in place at present to hold policemen accountable when they do violate procedures.

Routine arrest without orders: Arrest can only be legal if they comply with Rule 13, section 1 of the Philippine Revised Rules of Criminal Procedures, under which the arresting officer must be in possession of a court order to justify the arrestee's deprivation of liberty. The arrest order must be shown to the person to be arrested, and the specific charges must also be included in the written order.

In reality, members of the police arrests persons without such orders and the charges are often concocted later."⁷²

In one example of the failure to implement due process the *Asian Human Rights Commission* states that three men had been illegally arrested and charged with illegal possession of explosives after evidence was planted by police at their home,

"four men, three of whom were illegally arrested and detained, were acquitted by a local court concerning two charges of illegal possession of explosives. The court found that the case "exhibits a straightforward violation of due process". Jehon Macalinsal, Abubakar Amilhasan and Arsul Ginta were illegally arrested during a police raid on April 24, 2002 in Barangay (village) Calumpang, General Santos City. They were charged with illegal possession of explosives, based on evidence planted in their place of residence by a group of policemen led by Police Superintendent Bartolome Baluyot, the former director of the Regional Police Office (PRO XII). They were later able to post bail.

In a 16-page decision read in open court on October 29, 2010, Judge Oscar Noel Jr., presiding judge of the Regional Trial Court (RTC), stated: "As gleaned from records of these cases the pieces of evidence presented by the prosecution fall short of the constitutional guarantee, the execution of search warrants suffers from several fatal flaws, which is equally deadly."

The due process violations that the policemen committed include:

1. Use of false witnesses: When the police served the court order in order to search the houses where the accused were staying, the two village officials who stood as witnesses were legally unacceptable. The two officials, Sabina Castomayor and Jose Arrojo, who accompanied the policemen, were officials of Barangay Labangal, not from Calumpang. When conducting searches, policemen are required to have village officials from the same village as witnesses.

2. Conspiracy and planting of evidence: The issuance by another court of an order to conduct searches at 3am on April 24, 2002, were found to be the result of a scheme by the police that culminated in their planting evidence.

Firstly, at 11 am on April 23, 2002, a day before the police raid, two gunmen wearing balaclavas entered one of the three houses occupied by the victims. One of them forced Jehon Macalinsal to dial a telephone number written on a piece of paper and to say that "there's a bomb in the front and at the back of your office". The gunmen then left.

The telephone number was later found to belong to the office of Bayan Telecommunications (BayanTel), a local telecommunications company in the city. The

⁷² Asian Human Rights Commission, *The state of human rights in the Philippines in 2010*, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

company had a caller Identification System that enabled them to determine the telephone number and identity of the persons that called them and made the bomb threat. The policemen used this to falsely charge the four accused. In numerous media interviews, Supt. Baluyot declared that these persons were responsible for the bombing of the Fitmart Mall in General Santos City on April 21, 2002. However, none of the accused were charged with murder in relation to the death of civilians in that bombing incident.

Secondly, the policemen managed to successfully apply for search orders from Judge Antonio Lubao of RTC, General Santos City Branch 22, by claiming, without any evidence, that the occupants of the house were keeping M14 and M16 armalite rifles.

3. Arbitrary charges: The court then issued orders for the policemen to search the house owned by Aron Sala. Sala was not physically present during the raid, as he was studying in Marawi City, more than ten hours away from General Santos City, but was included in the charges anyway. Aron Salawas arbitrarily charged in the case for the simple reason that the telephone number used by Macalinsal to make a fake bomb threat upon the instruction of the armed men is registered in his name. The police also searched two other houses that were not part of the court order and prevented three of the accused and other occupants from supervising them during these searches, enabling them to plant evidence.

The policemen who stood as witnesses for the prosecution did not deny or challenge the claim made by the accused that they were not in possession of the evidence used against them, namely a mortar and a grenade. The court ruled that they had been planted by "three persons wearing black bonnets and combat shoes who entered the compound together with the raiding team and who threw a sack full of something in the house of one of the accused persons' mother-in-law."

4. The policemen could not identify where they found the evidence or the accused in court: During the court hearings, the two policemen who served the search orders (Senior Police Officer 1 (SPO1) Rex Diongon and Police Inspector (PI) Harrison Martinez,), "did not point categorically to where in particular they seized the pieces of evidence they presented in support of their cases." Martinez could also not identify in open court which of the accused was Amilhasan and which one was Macalinsal.

5. Police try to extort money in exchange for the dropping of cases: On May 12, 2002, while Arsul Ginta was in custody, he was approached by three persons who introduced themselves as police officers. He was told that they had been given instructions by Supt. Baluyot to negotiate the dropping of charges against him. He was told that they could withdraw the complaint if he paid Php 150,000 (USD 3,500). Ginta refused to do so.

Before Supt. Baluyot retired from service, he had previously been accused of illegal arrests and detention, planting evidence and torturing persons arrested during police operations. He is also one of the policemen the Commission on Human Rights (CHR) found had tortured and otherwise violated the rights of the Abadilla Five while they were in police custody.⁵ Supt. Baluyot enjoyed impunity for all of these acts."⁷³

In November 2010 the *Asian Human Rights Commission* reported concerns regarding the administration of justice in the Maguindanao massacre case in which 57 people were killed and one person disappeared,

"The quest for justice must confront head-on the realities. Witnesses and families of the victims are being bought, over a hundred suspects remain at large, the criminal justice system allows out of court settlements, the continuing lack of protection to families, journalists and persons who are testifying and the repeated delays in court hearings that are

⁷³ Asian Human Rights Commission, *The state of human rights in the Philippines in 2010*, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

endemic in Philippine courts is allowing this to happen. The quest must not also place limits on the punishment imposed upon the perpetrators, but should also have a clear judgement on the certainty that the perpetrators have committed the crime. That they would be convicted based on the evidence that the police and the prosecutors have collected in establishing their guilt; not due to popular demands and the public pressure and political consideration that is prevalent in political cases. In the Maguindanao massacre hearing, the failure and inability of the police and the prosecutors--for example, of having all the accused arrested, the collection of forensic evidence, the DNA of disappeared victim Reynaldo Momay; the failure of the prosecution to admit a murdered witness to the Witness Protection Programme before he was killed, would draw negligible attention. But these failures have already rendered the delays of the trial of other accused due to them not being arrested and read with charges in court. The murder case of Momay could not be filed in court because his family do not have his body. The accounts of the murdered witness will never be heard in court. These types of failures will obviously have a consequence to the prosecution of the case.

Even the failure of the police to arrest the remaining accused is incredible. Part of the province has, for over a year now, been placed under a questionable State of Emergency. It is also in Mindanao where the largest military contingents are often deployed--who also share intelligence information with the police in arresting wanted persons; yet they fail to arrest them. This illustrates the incompetence of the law enforcement agencies. They are capable of arresting in no time at all ordinary persons and file fabricated charges on them in other cases; but they are incapable of arresting an accused in a high profile case."⁷⁴

In November 2010 the *Asian Human Rights Commission* further states that justice is very difficult to obtain, citing that in the cases of the 78 journalists killed since 1986, only two have been partly resolved,

"The reality also remains that this same judicial system has failed to obtain justice and punish the perpetrators of the 78 killings of journalists since 1986. Of these cases, only two--the case of Edgar Damalerio and Marlene Esperat--are known to have been partly resolved. Thus, this outright failure could not simply be described as an elusive justice but illustrates the impossibility of justice being obtained. The manner in which the existing system of justice function reveals that it is not capable of delivering justice. However, there is still the delusion that it exists. The people are trapped in a society where the choice of having nothing still appears plausible."⁷⁵

In December 2010 the *Asian Human Rights Commission* further reported a lack of scrutiny of the credibility of witnesses and the use of false witnesses in cases backed by the military and the police,

"The principle that witnesses must be credible and that their testimonies must be supported by evidence is routinely ignored in the prosecution of cases, notably when the investigation and the prosecution of cases are backed by the military and the police. At the early stages of deciding whether or not a case can proceed to a prosecution in court, in such cases, prosecutors typically fail to exercise their authority to protect the fundamental statutory and Constitutional rights of the accused.

The use by the police and the military of false witness has also been widespread. For example, former rebels and acquaintance of the accused are used to concoct and make false testimonies, which provide the prosecutors with the legal basis to subpoena the accused. These witnesses are persons who enjoy benefits, including money from the

⁷⁴ Asian Human Rights Commission, Philippines: Maguindanao massacre demonstrates the delusion of the existence of a justice system, 24 November 2010, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-234-2010>, accessed 5 May 2011

⁷⁵ Asian Human Rights Commission, Philippines: Maguindanao massacre demonstrates the delusion of the existence of a justice system, 24 November 2010, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-234-2010>, accessed 5 May 2011

military and the police. The prosecutors abdicate from their power to dismiss cases based on a lack of evidence by not thorough examining whether the charges meet acceptable standards.”⁷⁶

According to the *USDOS 2010 Human Rights Report the Philippines’ judiciary was subject to corruption,*

“The law provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency. Personal ties and sometimes bribery resulted in impunity for some wealthy or influential offenders and contributed to widespread skepticism that the judicial process could ensure due process and equal justice. The Supreme Court continued efforts to ensure speedier trials, sanction judicial malfeasance, increase judicial branch efficiency, and raise public confidence in the judiciary. The Supreme Court dismissed or disciplined several judges during the year for various crimes and infractions.

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The law provides that all persons accused of crimes be informed of the charges against them, have the right to counsel, and be provided a speedy and public trial before a judge. Defendants are presumed innocent and have the right to confront witnesses against them, to present evidence, and to appeal convictions. The authorities respected the right of defendants to be represented by a lawyer, but poverty often inhibited a defendant's access to effective legal representation. Skilled defense lawyers staffed the Public Attorney's Office (PAO), but their workload was large and resources were scarce.

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Lengthy pretrial detention remained a problem. Anecdotal evidence suggested that, in practice, trials can take six years or more. Trials take place in short sessions over time as witnesses and court time become available; these noncontinuous sessions created lengthy delays. Furthermore, there was a widely recognized need for more prosecutors, judges, and courtrooms.

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The judiciary is independent and impartial in civil matters. There are administrative remedies as well as judicial remedies for alleged wrongs; however, corruption was widespread in the judiciary, and cases often were dismissed. Complainants have access to local trial courts to seek damages for, or cessation of, human rights abuses.”⁷⁷

In November 2010 the *Asian Human Rights Commission* reports that political trials are common,

“Political trials are common in Philippine courts. The system of justice is not likely to function without pressure being applied. Thus, the more politically known the case is more the likelihood of having the case heard in court according to 'legality'. However, this type of leverage on how the system functions is absent to the ordinary people involved in ordinary criminal cases. Thus, the system of justice itself perpetuates double standards in court cases. This explains the caution of "not to be complacent" and "of being vigilant" because the people know full well the system cannot function on its own.”⁷⁸

A January 2009 press release published by the *Asian Human Rights Commission* notes the lack of independence of the Philippines’s prosecutorial system,

“When the five senior public prosecutors, including the chief of the Office of the Chief State Prosecutor (OCSP), were placed on an indefinite leave on 11 January 2009 to comply with orders from President Gloria Macapagal-Arroyo, it rather exposed the frailties and confirmed

⁷⁶ Asian Human Rights Commission, *The state of human rights in the Philippines in 2010*, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

⁷⁷ USDOS, *2009 Human Rights Report: Philippines*, 11 March 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/eap/136006.htm>, accessed 18 December 2010

⁷⁸ Asian Human Rights Commission, *Philippines: Maguindanao massacre demonstrates the delusion of the existence of a justice system*, 24 November 2010, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-234-2010>, accessed 5 May 2011

the widely acknowledged lack of independence of the country's prosecution system.

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President Arroyo's order forcing Jovencito Zuño, chief prosecutor; Phillip Kimpo, senior state prosecutor; Misael Ladaga, state prosecutor and John Resado, investigating prosecutor, to go on an indefinite leave while investigations take place into allegations of their alleged wrongdoings, which include an attempt to exonerate three wealthy young men from charges of illegal drugs in exchange for a bribe.

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The Asian Human Rights Commission (AHRC) has since been expressing serious concern about the government's actions, in particular the executive, of either subverting or undermining the independence of the country's prosecution service. The very existence of the NSP, whose head and prosecutors are accountable to the DoJ secretary, who is a presidential appointee, has already had its independence undermined."⁷⁹

In 2010 the *Asian Human Rights Commission* further reported a lack of independence by prosecutors,

"Prosecutors are subservient and allow themselves to be co-opted by the police and the military. Prosecutors have been conducting inquest proceedings inside military camps, when the military have illegally arrested persons. This is a violation of section 2 of the Department of Justice's (DoJ) Department Circular No. 61 that stipulates that "(prosecutors) assigned to inquest duties shall discharge their functions during the hours of designated assignments and only at the police stations/headquarters of the PNP". This practice is therefore illegal and undermines the civilian nature of the prosecution service. Prosecutors that act illegally are however not being held accountable."⁸⁰

In 2010 the *Asian Human Rights Commission* reports that the military "routinely" make extra-legal actions which undermine the function of the police and due process,

"Members of the Armed Forces of the Philippines (AFP) routinely take extra-legal actions that undermine the role of the police and the very notion of due process. For example, the military has no legal authority to arrest and detain persons. However, the military frequently abduct and detain persons, and conduct custodial investigations inside illegal detention facilities that they maintain.

The Philippine National Police (PNP) and the National Prosecution Service (NPS) have abdicated their authority, by tolerating the illegal practices of the military establishment.

The Justifications concerning arrests conducted by the military: The military abuse powers granted to them to conduct arrests under rare and specific circumstances to justify routine arrests. Regardless of whether they had court orders to conduct arrest or not, the soldiers could 'legally' routinely justify their actions under various pretexts: a. on counter insurgency and terrorism operations; b. support unit of the police; c. arrest on 'hot pursuit'. Once a person is labelled in public to have been arrested and investigated in any of these three pretexts, their arrest and detention is justified regardless of merit. The legality of the arrest, detention and authority of the soldier could not be challenged before the complaints reaches to court for trial of the case. []

Invitation for questioning: The military also routinely use the pretext of 'invitation for questioning', particularly targeting human rights and political activists, as a prelude to illegally arresting and detaining persons. A person who is 'invited' in this way is placed in a

⁷⁹ Asian Human Rights Commission, Prosecution in the Philippines, 14 January 2009, <http://www.ahrchk.net/ahrc-in-news/mainfile.php/2009ahrcinnews/2449/>, accessed 20 December 2010

⁸⁰ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

difficult situation. There is a dilemma about whether to accept the invitation and risk arrest and worse, or to ignore it, which could also have grave consequences.

Once a person's arrest and detention is linked to countering an insurgency and terrorism, the media and the community do not tend to contest the arrests and go along with the military's story. The military has been labelling persons as 'rebels' or 'terrorists' regardless of whether they have evidence or not, in order to justify any arbitrary and illegal actions they take against these persons.

The military's lack of authority to so invite persons for questioning in this fashion is not being discussed and needs public attention, notably as this practice has become so common in remote areas that it has gained a semblance of legality."⁸¹

The *Asian Human Rights Commission* further states that the military undermines due process by conducting inquests at military camps, which by law can only be conducted at police stations,

"Inquests inside military headquarters: Under section 2 of the Department of Justice's (DoJ) Department Circular No. 61, public prosecutors can only conduct inquest proceedings concerning cases in police stations, not in military camps: "...those assigned to inquest duties shall discharge their functions during the hours of designated assignments and only at the police stations/headquarters of the PNP in order to expedite and facilitate the disposition of inquest cases."

The police and prosecutors routinely disregard this Circular by tolerating the use of illegal inquest proceedings inside military headquarters. They blindly accept justifications by the military that holding these outside the military camps will be a security risk, for example. The accused, with the tacit approval of the prosecutors and the police, are not turned over to the proper judicial authorities and detention facilities, as required by the country's criminal procedures."

A written statement submitted by the *Asian Legal Resource Centre (ALRC)* appearing in the *Mindanao Examiner* in February 2009 highlights the increasing use of the courts to target activists, leaders and lawyers with "questionable" criminal charges,

"While incidents of extra-judicial killings targeting human rights and political activists have declined in recent years, which is welcomed, the authorities are instead now making use of the courts to target such activists, undermining the rule of law in the Philippines. Activists are increasingly facing questionable criminal charges which are produced through the subversion of court procedures and rules on evidence. Most of those charged are known activists and leaders, including lawyers, whose work helping those in need is therefore being hindered.

The Asian Legal Resource Centre (ALRC) and its sister-organization, the Asian Human Rights Commission (AHRC), has documented an ongoing pattern of abuse of individuals' rights in which the prosecutorial power and judicial process in the country are being arbitrarily exploited."⁸²

A *UN General Assembly* report of April 2009, recounting the actions taken by the Philippine government after the UN Special Rapporteur's 2007 visit to the country, notes the grave concerns of the *UN Special Rapporteur on extrajudicial, summary or arbitrary executions* with regard to continuing human rights abuses committed by the Philippines armed forces and law enforcement officials,

⁸¹ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

⁸² Mindanao Examiner, Court rules subverted in filing criminal charges against activists, 28 February 2009, http://www.mindanaoexaminer.com/news.php?news_id=20090228024140, accessed 17 December 2010

"Progress has been mixed on the implementation of the Special Rapporteur's recommendations. Since the Special Rapporteur's visit, there has been a drastic reduction in the number of leftist activists killed. The Supreme Court has promulgated and improved the operation of two important writs. And the Commission on Human Rights is taking serious steps to begin investigations of unlawful killings. However, the Davao death squad continues to operate, and increased numbers of death squad killings have been recorded. Reforms directed at institutionalizing the reduction of killings of leftist activists and others, and in ensuring command responsibility for abuses have not been implemented. Witness protection remains grossly inadequate, and impunity for unlawful killings widespread."⁸³

Human Rights Watch states in an October 2009 report that investigations into the acts of death squads are being undermined by threats and harassment,

"Courts in Davao City and Manila should cooperate fully with investigations into death squad killings, []. Judges have delayed judicial proceedings and denied search warrants, while those leading the investigation have been required to respond to criminal charges. A multi-agency task force that includes the Commission on Human Rights, police, army, and other government agencies has taken evidence in private and searched alleged grave sites, but harassment and judicial delays have hindered efforts to search on land belonging to a former police officer.

"Local authorities and powers are doing their best to stymie investigations into the Davao Death Squad, as the task force looks more closely at local officials' involvement," said Elaine Pearson, deputy Asia director at Human Rights Watch. "They're using intimidation tactics and bureaucratic delays to frustrate justice."

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Death squads operating in Davao City have killed more than 926 people, mostly poor and marginalized victims, such as alleged petty criminals, drug dealers, gang members, and street children.

[]

"Judges are clearly nervous about matters relating to the Davao Death Squad," said Pearson. "In a country where judges themselves have been victims of extrajudicial killings, this is not surprising, but the government needs to protect judges and ensure that they can act without fear or favor."

The former police officer also filed a contempt case against the commission's chairperson, Leila de Lima, in the Davao Regional Trial Court alleging that she made "caustic, insulting, and baseless accusations" in a July 9 statement after the Davao court refused to issue the second search warrant. In the statement, de Lima was quoted as saying, "Are some judges so afraid of the dark forces behind the DDS [Davao Death Squad] that they would not use the might of the bench to fight for what is right? Inaction makes them accessories to the culture of impunity."⁸⁴

A report issued by the *UN Committee Against Torture (UNCAT)* in May 2009 states its concern regarding the routine and widespread use of torture and ill-treatment of suspects in police custody, especially to extract confessions or information to be used in criminal proceedings,

"Notwithstanding the assurances provided by the State party to the Committee that "torture or ill-treatment on suspects or detainees is not tolerated or condoned by the Philippine National Police (PNP) and that erring PNP personnel are dealt with accordingly", the Committee is deeply concerned about the numerous, ongoing, credible and consistent allegations, corroborated by a number of Filipino and international sources, of routine and widespread

⁸³ UN GA, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston Addendum Follow-up to country recommendations - Philippines, 29 April 2009, p.2, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/130/39/PDF/G0913039.pdf?OpenElement>, accessed 20 December 2010

⁸⁴ HRW, Philippines: Stop Hampering Death Squads Investigation, 6 October 2009, <http://www.hrw.org/en/news/2009/10/06/philippines-stop-hampering-death-squads-investigation>, accessed 17 December 2010

use of torture and ill-treatment of suspects in police custody, especially to extract confessions or information to be used in criminal proceedings. Furthermore, despite the enactment of the Law on the Rights of Persons Arrested, Detained or under Custodial Investigation (RA 7438), there are insufficient legal safeguards for detainees in practice, including:

- a) Failure to bring detainees promptly before a judge, thus keeping them in prolonged police custody;
- b) Absence of systematic registration of all detainees, including minors, and failure to keep records of all periods of pretrial detention; and
- c) Restricted access to lawyers and independent doctors and failure to notify detainees of their rights at the time of detention, including their rights to contact family members, [].⁸⁵

The *UNCAT* report of May 2009 further states,

“The Committee is deeply concerned that credible allegations of torture and/or ill-treatment committed by law enforcement and military services personnel are seldom investigated and prosecuted and that perpetrators are either rarely convicted or sentenced to lenient penalties that are not in accordance with the grave nature of their crimes. The Committee reiterates its grave concerns over the climate of impunity for perpetrators of acts of torture, including military, police and other State officials, particularly those holding senior positions that are alleged to have planned, commanded or perpetrated acts of torture.”⁸⁶

Human Rights Watch states in an April 2010 report that presidential candidates should make ending impunity for extrajudicial killings central to their campaigns,

“Recent unsolved killings of regional and local candidates, party activists, and relatives of witnesses raise concerns that perpetrators are emboldened by the Arroyo administration's failure to hold those responsible to account.

[]

There have been numerous apparently politically motivated killings in the lead up to the elections, scheduled for May 10, in which the authorities have been slow to respond. On April 6, unidentified men fatally stabbed and shot Mohamadisa Simpang Sangki, 51, in front of the Cotabato City Plaza on the island of Mindanao. Mohamadisa was the brother of Ampatuan town mayor Zacaria Sangki and uncle of Ampatuan Vice Mayor Rasul Sangki. Both had testified against Mayor Andal Ampatuan Jr., the principal suspect in the November 2009 Maguindanao massacre, which left at least 57 dead, including relatives and supporters of a candidate for provincial governor and media personnel.

At least two people connected to the Sangki family had earlier been shot and killed. Additionally, in February, the brother of a suspect-turned-witness, police officer Rainier Ebus, was shot multiple times in Datu Piang in Maguindanao and severely wounded.

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According to the Criminal Investigation and Detection Group (CIDG), between January 10, when the official election period began, and April 14, it has received 71 reports of violent incidents targeting elected officials and candidates, involving 86 victims. Thirty-eight people have been killed.

The CIDG public information officer, Felix Vargas, told Human Rights Watch that suspects include "guns for hire," political opponents, and members of paramilitary forces. To date, one suspect has been charged, eight suspects have been cleared, and investigations are continuing in the remainder of the cases. Vargas said that to date, no candidates for office have been interviewed during investigations as it is difficult to link them to the crime.”⁸⁷

⁸⁵ UNCAT, Concluding observations of the Committee against Torture, 14 May 2009, p.3, <http://www2.ohchr.org/english/bodies/cat/docs/cobs/CAT.C.PHL.CO.2.pdf>, accessed 17 December 2010

⁸⁶ UNCAT, Concluding observations of the Committee against Torture, 14 May 2009, p.4, <http://www2.ohchr.org/english/bodies/cat/docs/cobs/CAT.C.PHL.CO.2.pdf>, accessed 17 December 2010

⁸⁷ HRW, Philippines: Candidates Should Propose Plans to End Killings, 15 April 2010, <http://www.hrw.org/en/news/2010/04/15/philippines-candidates-should-propose-plans-end-killings>, accessed 17 December 2010

An article published in May 2010 by *The New York Times* details the difficulties of those seeking justice in the southern Philippines,

“AMPATUAN, PHILIPPINES — Maguid Amolan and his family were asleep when the blast went off over their heads. [] For weeks, starting in March, this town was under siege, repeatedly shelled by grenade launchers and 60-millimeter mortars, the police say.

[]

No one has claimed responsibility for the shelling, and the police have not publicly named suspects or made arrests. But the attacks began shortly after the deputy mayor testified in a murder case against members of the family for which the town is named: the Ampatuans, long one of the most powerful political clans in the Philippines.

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Relatives and colleagues of the victims see a larger effort to intimidate witnesses and prevent them from testifying against the suspects, who include Andal Ampatuan Sr., the family patriarch who was the governor of the southern province of Maguindanao at the time of the killings, and his son Andal Jr., whom he was grooming as his successor. But if the attacks are evidence of the persistent power of the Ampatuan family, some analysts said, they may also signal desperation over mounting threats to that power.

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Before the election, relatives of the victims feared that the Ampatuans would be able to use their political clout — they were key allies of the departing administration of President Gloria Macapagal Arroyo — to escape prosecution, especially after the Justice Department recommended dropping charges against two of the Ampatuans. The department has since backtracked.

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Senior Superintendent Alex Lineses, police chief of Maguindanao Province, said in April that militiamen belonging to the Ampatuans may have been behind some of the attacks. Apart from the shelling and shootings, the Ampatuans also have been accused of trying to silence the families of the massacre victims by bribing them. Jaime Espina, vice chairman of the National Union of Journalists of the Philippines, said his organization had received reports of attempted bribery but added that “no family has come out publicly to denounce or expose it.”⁸⁸

b. *Corruption*

A report by *The Guardian* in June 2010 notes the incoming President’s promise to end corruption in government agencies,

“Benigno Aquino III, sworn in as the Philippines’ 15th president today, promised to prosecute the corrupt and end poverty as he urged Filipinos to help him in a job he likened to a biblical burden.

[]

He promised to fight corruption, particularly in the notoriously graft-ridden bureaus of customs and internal revenues, and pledged a new era of good governance, reforms and a bureaucracy sensitive to the needs of ordinary citizens.

His cabinet unveiled yesterday has mostly Aquino allies and defectors from Arroyo's government. Aquino said he would immediately form an independent “truth commission” to investigate corruption allegations against Arroyo and other scandals during her presidency.

[]

Aquino ordered the new justice secretary, Leila de Lima, to deliver “true and complete justice for all”. In his first order as president, Aquino dismissed officials who are non-career officers to stop the practice of using presidential appointments as rewards. It was not clear how many

⁸⁸ The New York Times, *Justice Is Elusive, but Not Fear*, in Philippine Town, 27 May 2010, <http://www.nytimes.com/2010/05/28/world/asia/28phils.html?scp=225&sq=Philippines&st=nyt>, accessed 20 December 2010

officials would be affected.

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Adding to the shopping list of promises for his presidency, Aquino has vowed to restore the credibility of the judiciary and congress, which he says have been seriously eroded under Arroyo's rule."⁸⁹

The International Federation for Human Rights (FIDH) states in an October 2010 article that impunity for certain government agents undermines justice,

"The International Federation for Human Rights (FIDH) and its member organization, the Philippine Alliance of Human Rights Advocate (PAHRA), have been closely monitoring the progress of a crucial case on the enforced disappearance of six contractual workers of the Paper Industries Corporation of the Philippines (PICOP) in October 2000. More than a decade later, a pre-trial hearing was scheduled today but was postponed due to an official function called by the regional prosecutor's office.

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Bringing the perpetrators of these disappearances to justice will be a major breakthrough in the context of persistent impunity for serious crimes, especially those implicating members of the armed forces and the police. There is currently no special law defining and criminalizing enforced disappearances in the Philippines while a number of bills on enforced disappearances are pending before the 15th Congress.

FIDH and PAHRA are deeply concerned by reports of threats and harassment, by soldiers and other unidentified persons, against former Sgt. Duyogan, his family, the families of the victims and human rights activists working on the case. Such acts not only undermine the legal proceedings but also illustrate the danger for all those fighting against impunity in the country: the potential risk of witnesses being eliminated or silenced is high. This risk is aggravated by the on-going lack of independence, funding and credibility of the Witness Protection Program, a serious weakness identified by FIDH, PAHRA and the International Rehabilitation Council for Torture Victims (IRCT) in their joint report in 2008."⁹⁰

The Committee to Protect Journalists states in a November 2010 article that the Philippines judicial system is faltering and subject to corruption,

"The prosecution of dozens of defendants in the 2009 Maguindanao murders is testing a faltering judicial system in the Philippines. Bribes, intimidation, attacks, and flawed detective work already threaten to undermine the government's case.

[]

"After the massacre people were afraid to talk, but after the Ampatuans were arrested and placed behind bars many local residents and others started to work together for justice," said Zonio, a local reporter who traveled to the site with CPJ on a recent day, a military patrol in escort to protect against the dozens of suspects still on the loose. Then again, Zonio added, "They are so rich and so powerful, there is still a chance they'll go unpunished."

[]

But a CPJ investigation has uncovered a disturbing repetition of the pattern seen in previous cases, one that has allowed the killers of Philippine journalists to go free time and again. Even as the Maguindanao case is being described by a top government official as a "litmus test" for the judicial system, CPJ has found that victims' families have been approached with bribes, witnesses have been intimidated and subjected to deadly violence, law enforcement officials have failed to coordinate activities, and forensic investigations have been deeply flawed. The government was dealt another blow this month, when one of the lead prosecutors, Leo Dacera, 54, was found dead in his home from what initial news reports described as a heart attack.

⁸⁹ The Guardian, Benigno Aquino III vows to end corruption and poverty in Philippines, 30 June 2010, <http://www.guardian.co.uk/world/2010/jun/30/benigno-aquino-philippines-president?INTCMP=SRCH>, accessed 20 December 2010

⁹⁰ FIDH, Decade-long impunity undermines justice in the Philippines, 29 October 2010, <http://www.fidh.org/Decade-long-impunity-undermines-justice-in-the>, accessed 20 December 2010

The highly anticipated trial was moved from Maguindanao to Manila at the order of the Supreme Court to guard against political interference at the local level.⁹¹

In a November 2010 report *Human Rights Watch* reports that investigations into the November 2009 massacre have lacked transparency and independence,

“One year after the Maguindanao massacre, the Ampatuans remain a powerful and dangerous force with which to be reckoned. For more than two decades, the Ampatuans operated unchecked by the national police, the military, and the Department of Justice, which have not only failed to seriously investigate crimes allegedly committed by the family’s militia, but have even armed and worked alongside its members. Despite an initial flurry of activity after the November 23 killings, including some arrests, 126 suspects remain at large and the government’s prosecution remains woefully slow and limited. Senior police and military officers who failed to act upon knowledge of Ampatuan crimes have not been investigated; investigations into the source of the family’s weapons have lacked transparency and independence; and the national institutions responsible for accountability—the Justice Department, the Ombudsman’s Office, and the Commission on Human Rights—have done nothing significant to address the situation. “What can we do?” asked one police officer. “This is an influential family.”⁹²

In November 2010, NGO *Article 19* reported that more than 100 suspects in the massacre are still at large,

“Of 196 suspects in the massacre, 19 are now on trial while more than 100 remain at large. Of those at large, 10 are police and four are soldiers. Intimidation, bribery and compromised forensic evidence threaten the prosecution of the perpetrators.”⁹³

In November 2010 *Amnesty International* also reported that one year after the massacre justice had still not been served,

“Leading members of the powerful local Ampatuan clan have since been charged in connection with the killings, however the trials have been marked by delays and no prosecutions have been concluded.

Former Maguindanao governor Andal Ampatuan Sr., and his sons Andal Ampatuan Jr. and Zaldy Amapatuan are on trial for the killings. Of the other nearly 200 people implicated in the killings, news sources report that 82 have been detained, and another 114, including private militia members, clan members and police and government soldiers, remain at large.

The Maguindano trials have been marked by delays and judicial wrangling. Earlier this month Justice Secretary Leila de Lima said she would accelerate the proceedings, but admitted that the trials could take six more years.”⁹⁴

c. *Witness protection*

⁹¹ Committee to Protect Journalists, Impunity on trial in the Philippines, 10 November 2010, <http://cpi.org/reports/2010/11/impunity-on-trial-in-the-philippines.php>, accessed 17 December 2010

⁹² Human Rights Watch, They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

⁹³ Article 19, International Partnership Meeting Statement: Philippines, 23 November 2010, available from <http://www.unhcr.org/refworld/docid/4cf4d8b02.html>, accessed 22 February 2011

⁹⁴ Amnesty International, Philippines: Justice still not served one year after massacre, 22 November 2010, available from <http://www.unhcr.org/refworld/docid/4cf4f75dc.html>, accessed 22 February 2011

[See also Section C. Human Rights Situation, Treatment of political opponents, critics and witnesses]

In November 2010 *Human Rights Watch* reported that witnesses and victims were suspicious of the police and lacked trust in the country's "haphazard" witness protection programme, fearing retaliation for speaking out.⁹⁵

In 2010 the *Asian Human Rights Commission* reported a systematic failure to provide effective witness protection,

"Beyond the lack of investigations and prosecutions, another systemic failure that is preventing the protection of human rights and upholding impunity is the lack of effective witness protection. In many cases that the AHRC documented in 2010, one significant obstacle preventing the justice delivery system from functioning has been the unwillingness of witnesses to come forwards and testify in court. This is understandable given the lack of adequate protection provided to them by the State. The government has failed to implement the Witness Protection Security and Benefit Act (RA 6981).

[] the law must be amended to enable interim protection to be provided to witnesses while their application for coverage under the witness protection program is being decided. Witnesses have been killed due to a lack of protection while waiting for extended periods while their applications are being considered.

Furthermore, under the Witness Protection Law, a witness can only be provided with protection once the case they are testifying in has been filed in court. During the lengthy period while the police conduct an investigation and before the prosecutors are able to file charges in court, witnesses are exposed to unnecessary risk. This lack of interim protection allows the State to claim that it is not responsible for the witnesses, as they have not yet entered the witness protection system, and the State can therefore not be held accountable for anything that happens to them during this time. This is effectively acting as a green light for perpetrators to intimidate or even kill witnesses before they have had a chance to testify and represents a significant blockage to the justice system, as this system is overly dependent on witness testimony as part of court cases. A lack of witnesses equates with a lack of effective prosecutions and continuing impunity."

In December 2010 the *Asian Human Rights Commission* reported that within criminal investigations "the police use torture as part of routine investigations and [] abuses are conducted with impunity."⁹⁶

The *Asian Human Rights Commission* cites the following example of Anuar Hasim who was tortured in order to force an admission that he was a commander within MILF,

"Anuar Hasim was arbitrarily arrested by the police in General Santos City on April 4, 2010. When carrying out the arrest, the police did not show him their order to arrest him or inform him of the charges motivating his arrest. Anuar had been riding his motorcycle, when two plain-clothed persons riding on another motorcycle stopped him. One of them grabbed his left arm and told him to, "Come with us, do not attempt to run otherwise you will be killed". When Anuar asked the two men what he had done wrong and why he was being arrested, they simply told him to "just come with us". The police brought him to the GSCPO's Police Station No. 6 located in Barangay (village) Bula, where they tortured him for seven days following his arrest in order to force him to admit to being a commander of the Moro Islamic Liberation Front (MILF) rebel group. He was He was kicked in the chest, was burned with lit

⁹⁵ Human Rights Watch, They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

⁹⁶ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

cigarettes, was suffocated with cellophane wrapped around his face and head. He was also blindfolded and strangled and forced to squat, while handcuffed and punched and kicked in this position.

Anuar was finally remanded in custody at the Provincial jail in Alabel, Sarangani Province on April 12, 2010. He later learned that he had been charged with murder, arson, robbery with violence, and intimidation of persons, before the Regional Trial Court (RTC) Branch 38 in Alabel, Sarangani Province. .⁹⁷

According to the *Asian Human Rights Commission* reporting in December 2010, an investigator from the Commission on Human Rights was sent to visit Hasim, but prior to this meeting he was visited by two police officers who made him sign an affidavit that he will no longer testify about his torture complaint. His lawyer was not present at this time. Further the *Asian Human Rights Commission* state that physical evidence of his torture was ignored by the medical health officer who examined him.⁹⁸

In 2010 the *Asian Human Rights Commission* reported that human rights abuses occur with impunity due to institutional failures,

“As things stand at present, the country's system of justice had been used to violate human rights or to provide impunity and justify such violations, allowing the perpetrators of the worst forms of violations to go unpunished. The rights of victims have been systematically denied, not because the country lacks laws or that its system of justice is structurally incapable of holding perpetrators to account, but because its institutions are perverted. The police, the prosecution and the judiciary, all allow grave human rights violations to take place with impunity, and as such are responsible for the continuing high incidence of grave violations that plagues the country.

State agents, including the military, the police and government officials, make use of the State institutions that should be working to protect human rights to instead protect the perpetrators of such violations. The justice system in reality rarely functions to uphold human rights, even though structurally it carries the tradition of rule of law and human rights. Where violations of human rights are concerned, it mainly functions to preserve perpetrators rather than to protect the rights of victims.

The country's system of impunity is permitting the continuation of numerous grave human rights, including: the routine of filing fabricated and politically-motivated charges against human rights defenders and political activists; the reoccurrence of extra-judicial killings of human rights and political activists, a phenomenon that has drawn worldwide condemnation over the last decade; enforced disappearances; and the widespread use of torture by the police as part of routine criminal investigations.”⁹⁹

The *Asian Human Rights Commission* further states that impunity for extra judicial killings is aided by legal loopholes,

“Investigations into extra-judicial killings by the police, military, paramilitary groups and individuals working for all of these, have not resulted in successful prosecutions of alleged perpetrators. The failure of such prosecutions is due to the inability of the justice system to effectively identify perpetrators and due to lacuna in the law and its implementation. Specifically, the prosecution of cases cannot take place if the police cannot identify the

⁹⁷ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

⁹⁸ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

⁹⁹ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

crime under the penal code. Legal loopholes allow the police to dodge cases of extra-judicial killings.”¹⁰⁰

Further *the Asian Human Rights Commission* states that justifications given by state agents for deaths in custody or armed encounters are taken at face value and not investigated,

“When a person dies in custody or is killed in an armed encounter with the police or the military in the Philippines, such deaths are typically not investigated. The country’s criminal justice system takes at face value the justifications given by the involved State agents and the deaths are not considered to have resulted from any crime. The AHRC condemns this practice, as it provides impunity to possible perpetrators of torture and extra-judicial killing, and completely side-steps the judicial process. It therefore also encourages the use of torture and extra-judicial killings by the State.”

The *Asian Human Rights Commission* reports 2010 ‘legitimate encounter’ killings as including,

“On June 2, 2010, three brothers - Eric Miraflores, 27; Raymond, 23; and Rosmil, 16 – were shot at their farm in Sitio (a sub-section of the village) Hobol, Masinloc town, Zambales.

After less than an hour of having left to the farm they were returned to their parents, Roosevelt and Mila, in a hearse. Their faces were barely recognizable because they were badly bruised and had suffered numerous gunshot wounds. The bodies of the victims showed visible signs of torture. When the corpses were returned, they were wearing camouflage uniforms, clothes which the three were not wearing when they were last seen alive. It is believed that the corpses were dressed in camouflage uniforms to create the impression that they were members of an illegal armed group.

The Miraflores couple were later been told that their three sons were killed by the policemen attached to the Zambales Provincial Mobile Group (ZPMG) of the Philippine National Police (PMG-PNP). Inspector Rolando Delizo of the PMG-PNP announced that the three victims were killed in an ‘encounter’ during a police operation. The Miraflores couple argued that their sons could not be members of an illegal armed group and had never been affiliated with any organizations or owned guns.

[O]n September 7, 2010, at around 12:30pm neighbours Vicente Flores, Richard Oliva and Melecio Monacillo and his son, Jonathan, were resting at the house of Eliseo and Rosie Albao after having been hunting near Barangays (village) Mapuyo and Mabuhay, in Mobo, Masbate. An undetermined number of soldiers, reportedly attached to the 9th Infantry Battalion of the Philippine Army (IBPA), were passing by Rosie’s house, and suddenly open fired on the house, instantly killing three of the occupants, Vicente, Melecio and his son, Jonathan. The soldiers shot at the house even though they had in no way been provoked.

Richard, who initially suffered gunshot wounds from the first volley of gunfire, tried to run for his life by jumping out the window. The soldiers finished him off after seeing him escaping. Rosie and her children, shocked by the assault ran for their lives away from their house. Vicente had his genitalia smashed by the impact of the bullets; his abdominal area also burst open and one of his hands was almost severed. One of Melecio’s shoulders was shattered, and his leg bore gunshot wounds. Jonathan suffered gunshot wounds to his jaw, which pierced his skull, and to his back.

¹⁰⁰ Asian Human Rights Commission, *The state of human rights in the Philippines in 2010*, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

The soldiers, who left the area after ensuring that the victims were all dead, proceeded in the direction of Barangay Sta. Maria. Upon arriving there, they informed village officials that they had killed four New People's Army (NPA) rebels during an encounter.¹⁰¹

The *Asian Human Rights Commission* states that the lack of investigations into extra-judicial killings by state authorities hinders prosecutions and that families and colleagues may have to gather evidence and protect witnesses themselves in order to build a case,

“These defects within the structure of the police investigation mechanisms do not only affect the investigation and prosecution of cases involving human rights and political activists, but also the killings of ordinary, poor persons. In fact, political killings are more likely to at least receive some form of cursory investigation, due to the greater attention that they receive. In cases of killings of poor persons, with no political party or organizational affiliations, no legal aid or persons to document their cases, there is little chance of even getting basic investigations.

Even concerning the killings of persons with organizational affiliations and political connections, their relatives find it difficult to have their cases investigated by the police. The families and colleagues often have to gather evidence themselves, locate witnesses and provide them with protection in order to build a case.”¹⁰²

¹⁰¹ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

¹⁰² Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

B. Security Situation in Southern Philippines

1. Violence and clan conflict in recent years

In October 2009 the *Internal Displacement Monitoring Centre (IDMC)*, reported that violence in Mindanao is rooted in under development and the marginalisation of Muslim and indigenous peoples and is fuelled by the presence of armed groups and easy access to weapons,

“Conflict in Mindanao in the southern Philippines is rooted in under-development, the particularly inequitable distribution of wealth, and the political, economical and cultural marginalisation of Muslim (or Moro) and indigenous peoples in what is an overwhelmingly Roman Catholic country. The Moro and indigenous peoples share a widespread belief that they have been deprived of their land and resources by a government more inclined to defend its economic interests and those of its clients than to protect their rights.

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Insecurity in Mindanao is fuelled by two main factors: the presence of a large number of armed groups and the easy access to small arms and ammunition.

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Conflict and human rights violations continued into the new millennium, in particular fighting between government forces and MILF rebels in the majority-Muslim areas of Mindanao. In 2000, nearly a million people fled President Estrada’s “all out war” against the MILF. This was followed three years later by another major military offensive against the Moro rebels which resulted in the displacement of more than 400,000 people. In all, an estimated two million people were displaced by conflict and associated human rights violations in the Philippines between 2000 and 2007 [].”¹⁰³

The *IDMC* reported on a recent cycle of violence and displacement which broke out in August 2008,

“Maguindanao Province and Lanao del Sur in ARMM, Cotabato and Sultan Kudarat in Central Mindanao, and Lanao del Norte Province in neighbouring North Mindanao, were severely affected by a new cycle of conflict and displacement which began in August 2008.

In July 2008, the government and the MILF, by now the largest Muslim rebel group with an armed wing numbering between 11,000 and 12,000 combatants, announced a breakthrough in negotiations with a memorandum of agreement (MoA) on the issue of an autonomous Moro homeland known as the “Bangsamoro Judicial Entity” reflecting the Moro peoples’ “ancestral domain”.

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However, the MoA, which would have represented a major step towards the finalisation of the long peace process, attracted strong public criticism, and it was suspended and later declared unconstitutional by the Supreme Court. In August 2008, MILF combatants responded by launching attacks on Christian communities in Cotabato Province and later in Lanao del Norte Province. Ensuing fighting with the Armed Forces of the Philippines (AFP) led to the displacement in the following weeks of hundreds of thousands of people in several provinces of Mindanao.

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Low-intensity conflict continued in the first months of 2009, causing further displacement on a smaller scale. Peace talks remained stalled with neither side conceding ground towards a compromise. In April, the government dropped demands for the surrender of three MILF commanders held responsible for the 2008 attacks as a precondition for the resumption of talks, but also intensified military operations in Maguindanao Province to find them. The

¹⁰³ IDMC, Cycle of conflict and neglect - Mindanao’s displacement and protection crisis, October 2009, p.8, [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/2EDA9427248043D2C125764A00433082/\\$file/Phil_SCR_Oct09.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/2EDA9427248043D2C125764A00433082/$file/Phil_SCR_Oct09.pdf), accessed 18 December 2010

escalation in the conflict led to new large-scale displacements which only ended with a ceasefire agreement in July 2009.

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In September 2009 the two sides announced a breakthrough in the discussions by agreeing an international contact group (ICG) to facilitate the resumption of formal peace talks to be hosted by Malaysia.”¹⁰⁴

In October 2009 the *IDMC* reported that following the outbreak of conflict in Mindanao in August 2008 the government faced difficulties in aiding civilians impacted by the violence,

“In August 2008, the suspension of an agreement on the issue of an autonomous Muslim (Moro) homeland between the government of the Philippines and the rebels of the Moro Islamic Liberation Front (MILF) led to the collapse of the peace talks and triggered renewed fighting throughout the southern island region of Mindanao. Over a year later, between 330,000 and 400,000 people remain displaced, roughly one third of the estimated 950,000 people who were forced from their homes by the fighting.

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The July 2009 ceasefire and the commitment of both sides to resume peace talks provide some hope for the return of IDPs to their homes, their integration in areas of displacement or their resettlement elsewhere. However, military and police operations against renegade MILF commanders held responsible by the government for the August 2008 escalation, and relatively poor prospects of a final political settlement in the coming months, have limited the scope for optimism in a region that has witnessed repeated conflict and displacement in the past decades.

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The government’s response was quick and substantial in the immediate aftermath of the August 2008 fighting. However, as the emergency dragged on and resources dried up, efforts deployed by the government failed to match the extent of needs and the response appeared lacking consistency and a long-term strategy.”¹⁰⁵

In February 2011 the *Centre for Humanitarian Dialogue* reported that local police in Sulu do not have the capacity to tackle violence, kidnapping and other crimes,

“The province of Sulu is severely affected by armed violence, kidnapping and other types of crime and the local police have insufficient capacity to provide security and law enforcement. The kidnapping of three International Committee of the Red Cross (ICRC), workers in January 2009 led to the development of a comprehensive anti-crime strategy based on all community stakeholders sharing the responsibility for maintaining peace and order. Part of this self-policing strategy was the establishment of the BPATs [Barangay Peacekeeping Action Teams] and PAUs [Police Auxiliary Units].”¹⁰⁶

Several sources report the massacre of 57 political rivals and journalists in Maguindanao in 2009, in which the killings were suspected to have been carried out by the Ampatuan clan and their supporters.¹⁰⁷ According to sources, members of the Mangudadatu family and journalists

¹⁰⁴ IDMC, Cycle of conflict and neglect - Mindanao’s displacement and protection crisis, October 2009, p.9, [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/2EDA9427248043D2C125764A00433082/\\$file/Phil_SCR_Oct09.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/2EDA9427248043D2C125764A00433082/$file/Phil_SCR_Oct09.pdf), accessed 18 December 2010

¹⁰⁵ IDMC, Cycle of conflict and neglect - Mindanao’s displacement and protection crisis, October 2009, p.8, [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/2EDA9427248043D2C125764A00433082/\\$file/Phil_SCR_Oct09.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/2EDA9427248043D2C125764A00433082/$file/Phil_SCR_Oct09.pdf), accessed 18 December 2010

¹⁰⁶ Centre for Humanitarian Dialogue (HD) - Armed Violence Reduction Initiative (AVRI), February 2011, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/\\$file/Sihnaq+2009-10.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/$file/Sihnaq+2009-10.pdf), accessed 22 February 2011

¹⁰⁷ The Philippine Star, State of emergency in Maguindanao, 25 November 2009, <http://www.philstar.com/Article.aspx?articleid=526583>, accessed 17 December 2010; Newsbreak Online, New clan war erupts in Maguindanao. 23 November 2009, http://newsbreak.com.ph/index.php?option=com_content&task=view&id=7128&Itemid=88889051, accessed 17 December 2010; BBC News, Philippines lifts martial law in 'massacre' province, 12 December 2009, <http://news.bbc.co.uk/2/hi/asia-pacific/8409366.stm> accessed 17 December 2010

accompanying them were attacked as Genalyn Mangudadatu, the wife of Buluan vice mayor Ismael Mangudadatu went to file his certificate of candidacy to contest the governorship of Maguidanao, a position previously held by Andal Ampatuan Sr., a patriarch of the Ampatuan family.¹⁰⁸

In November 2009 *The Philippine Star* reported on the 2009 massacre, reporting that at least 46 people were killed, including rival political figures from the Mangudadatu family and journalists accompanying them as they went to file candidacy to contest the governorship of Maguidanao,

“The military launched air and ground operations yesterday as President Arroyo placed the provinces of Maguindanao and Sultan Kudarat and Cotabato City under a state of emergency in the wake of the gruesome massacre that claimed the lives of at least 46 people.

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At the same time, the President ordered the “immediate, relentless pursuit” of the perpetrators and vowed that they would be brought to justice for their “dastardly act.”

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Remonde said the state of emergency declaration would allow the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP) to undertake measures to prevent a possible full-blown war between the followers of the two political families in the region.

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Police said the convoy of more than 40 people, including 12 journalists, were accompanying Genalyn Mangudadatu, the wife of Buluan vice mayor Ismael Mangudadatu, to file his certificate of candidacy to run for provincial governor when they were stopped by some 100 heavily armed men and taken hostage on a remote highway in Barangay Salman near the town of Ampatuan.

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The identity of the attackers was unclear, but the military said it is believed the motive of the attack was political. The Mangudadatus blamed the Ampatuan family for the incident.

Genalyn was to file her husband’s certificate of candidacy to contest the governorship of Andal Ampatuan Sr., the patriarch of the Ampatuan family. Ampatuan has been elected governor of Maguindanao three times previously, always unopposed, although he resigned from the post earlier this year, apparently to circumvent the term limits of elected officials. Ampatuan has survived a dozen attacks on his life. He has blamed those assaults, one of which claimed the life of his son, on political rivals.”¹⁰⁹

The Philippine Star further stated that the Ampatuan clan and their followers were suspected of carrying out the murders,

“Armed Forces of the Philippines (AFP) spokesman Lt. Col. Romeo Brawner said helicopter gunships, bomber planes and armored personnel carriers were sent to the area to go after the suspects. Roadblocks manned by the police and military had been increased to block possible retaliatory attempts by the followers of the two political families. “We have deployed more troops to go after the criminals,” he said.

Brawner said the troops would augment the 3,000 troops already based in the region. He said the troops are under orders to arrest the followers of the Ampatuan family, who are suspected to have carried out the murders. The military said the Ampatuan clan, which has a political lock on the areas of Maguindanao where the murders took place, is the prime

¹⁰⁸ The Philippine Star, State of emergency in Maguindanao, 25 November 2009, <http://www.philstar.com/Article.aspx?articleid=526583>, accessed 17 December 2010; Newsbreak Online, New clan war erupts in Maguindanao. 23 November 2009, http://newsbreak.com.ph/index.php?option=com_content&task=view&id=7128&Itemid=88889051, accessed 17 December 2010; BBC News, Philippines lifts martial law in 'massacre' province, 12 December 2009, <http://news.bbc.co.uk/2/hi/asia-pacific/8409366.stm> accessed 17 December 2010

¹⁰⁹ The Philippine Star, State of emergency in Maguindanao, 25 November 2009, <http://www.philstar.com/Article.aspx?articleid=526583>, accessed 17 December 2010

suspect. "The suspects are bodyguards of Ampatuan, local police aides, and certain lawless elements. We maintain the Ampatuans are the suspects," Brawner said.

Puno added the investigation would be completed within a couple of days and arrests will be made. "There are no sacred cows," Puno told reporters. "It is going to be a direct investigation of the crimes committed. We have some information about specific names, not just those who ordered this thing, but also those who committed it." Justice Secretary Agnes Devanadera ordered the National Bureau of Investigation (NBI) to help in the investigation. She said the NBI is expected to confirm the identities of the suspects behind the massacre and help the police and military in tracking them down."¹¹⁰

In December 2009 *BBC News* reported the lifting of a week long period of martial law following the clan-related killings of 57 people in Mindanao,

"Philippines President Gloria Arroyo has lifted martial law in a southern province where 57 people were killed in political violence, aides have said. Martial law was imposed in Maguindanao a week ago to quell what the government said was a rebellion by the Ampatuan clan, blamed by police for the deaths.

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Separately, gunmen holding dozens of people hostage in the southern Philippines have agreed to free them. A government spokesman said the gunmen had decided to surrender after the state said it would consider some of their demands, []. The kidnapers, who belong to a gang of former government-armed militia, seized 75 people from a school on Thursday. More than a third have already been released.

In the past week, police and military personnel have carried out a major operation in Maguindanao against those suspected of involvement in the massacre last month. Twenty-four people have been charged with rebellion, including several figures from the Ampatuan clan. Maguindanao's governor, Andal Ampatuan Sr, was among them. His son, clan leader and local mayor Andal Ampatuan Jr, has been charged with multiple counts of murder. Large quantities of weapons and ammunition were also seized in the operation."¹¹¹

A *BBC News* report of January 2010 reports that a member of the Ampatuan family who is also a Mayor was seen shooting people at close range during the Maguindanao massacre which killed 57 people,

"Ampatuan town Vice-Mayor Rasul Sangki said he had seen Mayor Andal Ampatuan Jr shoot people at close range. Mr Ampatuan denies multiple charges of murder over the attack, which killed members of a rival political family, as well as reporters travelling with them. Mr Sangki said Mr Ampatuan asked him to keep quiet about what he had seen.

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The national police headquarters in Manila, where a bail hearing is being held, was under heavy security as he was escorted in for the day's proceedings. The bodies of 57 people were found in a mass grave in a secluded mountainous part of Maguindanao last November. Some had been brutalised - many of them were women.

Many of the victims were buried in hastily dug mass graves. Among the victims was the wife of a rival political family member, Toto Mangudadatu. According to the BBC's Asia correspondent, Alastair Leithead, it was an act of violence that profoundly shocked people - even in an area of the country used to executions and killings by rival groups. Armed militia acting like private armies are common in Maguindanao, where family rivalries and

¹¹⁰ The Philippine Star, State of emergency in Maguindanao, 25 November 2009, <http://www.philstar.com/Article.aspx?articleid=526583>, accessed 17 December 2010

¹¹¹ BBC News, Philippines lifts martial law in 'massacre' province, 12 December 2009, <http://news.bbc.co.uk/2/hi/asia-pacific/8409366.stm> accessed 17 December 2010

overlapping insurgencies make for a complex picture of violent clashes, our correspondent says.”¹¹²

In September 2010 *The New York Times* reported that a witness has testified that the Ampatuan clan planned the 2009 political massacre, the New York Times further reports that at least five witnesses to the massacre have been killed,

“The clan accused of orchestrating the Philippines’ worst political massacre — also considered the single worst killing of journalists on record — plotted the attack over a family dinner, a longtime housekeeper testified Wednesday at the start of a long-delayed trial here.

The patriarch of the clan that has long controlled the province of Maguindanao in the southern Philippines, Andal Ampatuan Sr., gathered his sons, brothers and other guests at the dinner table six days before the killings of 57 political rivals and journalists last November, said the witness, Lakmudin Salio.

Mr. Ampatuan asked how they could pre-empt a political rival, Esmael Mangudadatu, from challenging them for the post of governor, according to Mr. Salio, who said he was serving food at the dinner as the family hatched the plan. Mr. Salio testified that Mr. Ampatuan’s son Andal Ampatuan Jr. replied by saying: “That’s easy. If they come here, just kill them all.”

The father asked his other children if they agreed, Mr. Salio said, adding, “Everybody laughed, saying, ‘It’s O.K. for everybody to be killed.’ ”

Six days later, a convoy of Mr. Mangudadatu’s relatives and journalists traveling to the provincial capital to file his candidacy papers was ambushed on a highway by as many as 100 gunmen. The 57 victims, including Mr. Mangudadatu’s wife, Genalyn, and about 30 journalists, were driven to the top of a hill, separated into groups of men and women and then shot and buried there in mass graves. Two vehicles, one belonging to UNTV, a local television network, were buried on another side of the hill.

When the police arrived on the scene they found cooking pots, indicating the gunmen had been waiting there for some time, and a backhoe with its engine still running. Blood-smeared pages of newspapers blew about in the wind.

Mr. Mangudadatu later said that he had sent his wife and other female relatives accompanied by the journalists to file papers for his candidacy because he believed the Ampatuans would not dare hurt the women, particularly in the presence of the journalists. Mr. Mangudadatu was later elected governor, but the Ampatuans still hold important political positions in the province.

The Ampatuans, including the father, the son, three other sons and a brother of the patriarch, have been charged with 57 counts of murder. Some 190 accomplices have also been charged.

The Ampatuans, who had one of the country’s biggest private armies, have denied the charges. Most members of the militia are still at large and are believed to be behind the deaths of at least five witnesses in the killings.

Philippine politics have long been dominated by clans, which are often backed by private armies. With millions of dollars in jobs, federal contracts and other benefits riding on control

¹¹² BBC News, Philippines massacre victims 'begged for lives', 13 January 2010, <http://news.bbc.co.uk/2/hi/asia-pacific/8456146.stm>, accessed 17 December 2010

of local offices, political campaigns have often been treated as blood feuds. Violence has been endemic, though not previously on the scale of the Maguindanao killings.”¹¹³

In November 2010 *Human Rights Watch* reported that members of the Ampatuan family had been charged with the killings of 57 people in the November 2009 massacre targeting a political opponent and his supporters,

“Andal Ampatuan, Jr., who stands charged with 57 counts of murder in connection with the 2009 massacre. Ampatuan, Jr. is currently on trial in Manila for the killings, together with 16 police officers and two alleged militia members. Currently, 195 people have been charged, including 29 members of the Ampatuan family and their allies; over half of those charged remain at large.”¹¹⁴

The Philippine news agency *Newsbreak Online* reported in November 2009 that Andal Ampatuan has also been accused of killing members of other rival families and further reports that he has a close relationship with the military,

“The sensational killing of members of the Mangudadatu clan and members of the media is not the only act of violence attributed to Maguindanao governor Andal Ampatuan. The Ampatuan family patriarch has long proven to locals that he has the capacity to sow terror.

Back in 2003, another rival family, the Candaos, also accused him of murdering one of their own—Abdulkadir Candao, elder brother of former Maguindanao governor Zacaria Candao. In the gubernatorial race 2 years earlier, Ampatuan defeated Zacaria, then the incumbent governor of the province.

There were other acts of violence attributed to the old man. In 1988, Surab Abutasil, who ran against Andal for Mayor of Maganoy, was gunned down inside a restaurant in Shariff Aguak shortly before the elections. Abutasil was a relative of Andal's first wife. Andal was the primary suspect in the case; charges were filed against him but these did not prosper. Locals say the manner by which the early killings were committed has resulted in a climate of fear in the province. In Maguindanao, they say, nobody in his right mind would dare go against the Ampatuans.

[] Andal Ampatuan owes his rise to power in part to his cozy ties with the military. The relationship started way back during the Marcos regime when he was still vice-mayor of Maganoy (now Shariff Aquak) in Maguindanao. At the time when the town of Maganoy was almost about to be overrun by the Moro National Liberation Front (MNLF), Ampatuan placed his bet with the military. The military, in turn, cultivated the alliance by supporting Ampatuan and arming his vigilantes. The relationship was such that when the Estrada government waged all out war against the Moro Islamic Liberation Front (MILF) in the late 90s, Ampatuan was picked as the ideal candidate to beat Candao, a suspected MILF supporter.

[] A military source privy to local political dynamics in Maguindanao said the support continues to this day. Ampatuan, the source said, has a virtual army of at least 500 armed civilians. This includes 2 special auxiliary units of the Citizen Armed Forces Geographical Units (CAFGU) that the army in the area detailed to the provincial governor and hundreds of armed civilian volunteers.

[] Military spokesperson Romeo Brawner earlier said that militiamen deputized as government guards by Ampatuan's family were the ones who staged the kidnapping of the

¹¹³ The New York Times, *Clan Planned Philippine Massacre Over Dinner, Witness Says*, 8 September 2010, <http://www.nytimes.com/2010/09/09/world/asia/09phiils.html?scp=103&sq=Philippines&st=nyt>, accessed 17 December 2010

¹¹⁴ Human Rights Watch, *They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines*, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

Mangudadatu clan members. Prior to the reported abduction, CVOs and CAFGUs under Ampatuan's control were reported to have been detailed along the road from Shariff Aguak to the municipalities of Ampatuan and Datu Sangki, supposedly to secure the route for those filing candidacy."¹¹⁵

A *BBC News* report of November 2010 notes the kidnapping of 11 people in the southern Philippines,

"At least 11 people have been kidnapped in the southern Philippines, in what police say is probably a feud between rival clans. The hostages are fishermen from the island of Basilan. The gunmen are demanding ransom money and weapons in return for their release.

The 11 villagers were intercepted by a group of gunmen when they returned from a fishing trip.

Police say they were taken out of the town of Ungkaya Pakan at gunpoint. The Islamic militant group Abu Sayyaf is active in the area, and is known to kidnap people for ransom. But investigators think clan rivalry is a more probable motive. Family feuds can cause deep divisions in the southern Philippines."¹¹⁶

In January 2011 *Voice of America News* reported that five police officers were killed in an attack which officials suspect was carried out by communist rebels,

"Officials say five police officers, including a town police chief, were killed in an attack by suspected communist rebels in the northern Philippines.

Chief Superintendent Francisco Villaroman said Monday that two officers were also wounded in the ambush late Sunday in Cagayan province, 360 kilometers north of Manila.

Villaroman said the police vehicle was first hit by at least one explosion and that suspected New People's Army rebels then opened fire on the car.

The attack took place days after communist and government negotiators agreed to resume peace negotiations in February in Norway."¹¹⁷

In February 2011 *AFP* reported that six civilians had been killed during fighting between the MNLF and MILF which erupted in January over control of rice farming land,

"Six civilians including a four-year-old boy were killed as a feud between two Muslim rebel groups escalated in the lawless southern Philippines, police said Monday.

The deaths bring to 19 the number of people killed since the clashes erupted a month ago, with commanders from the rival groups battling for control of valuable rice farming land on Mindanao island.

However the latest casualties, which occurred over the weekend, were the first time civilians had been killed.

The six villagers died as the warring groups fired mortars and rifles at the each other in the remote town of Kabacan, said local police chief Superintendent Joseph Semillano.

¹¹⁵ Newsbreak Online, New clan war erupts in Maguindanao. 23 November 2009, http://newsbreak.com.ph/index.php?option=com_content&task=view&id=7128&Itemid=88889051, accessed 17 December 2010

¹¹⁶ BBC News, Gunmen kidnap 11 in Philippines, 30 November 2010, <http://www.bbc.co.uk/news/world-asia-pacific-11873982>, accessed 17 December 2010

¹¹⁷ Voice of America News, Suspected Philippine communist rebels kill 5 police, 24 January 2011, <http://www.voanews.com/english/news/asia/Suspected-Philippine-Communist-Rebels-Kill-5-Police-114472509.html>, accessed 22 February 2011

"Civilians in the area told us there were already six fatalities as of Sunday, including the boy," he told reporters.

The violence has pitted hundreds of guerrillas from a unit of the separatist Moro Islamic Liberation Front (MILF) against a faction of the Moro National Liberation Front (MNLF).

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About 6,500 villagers, mostly impoverished Muslim farm hands, had already fled the fighting, she said, but some people had remained to guard their farms."¹¹⁸

In February 2011 the *Mindanao People's Caucus* reported that negotiations on 3 February had failed to find a solution to fighting which broke out in the Cotabato region between rival rebel groups in October 2010,

"The fighting between forces of Datu Dimalao Ambel and the forces of Kineg Inalang in the villages of Semone and Nangaan, Kabacan, Cotabato started in October 2010.

The conflict also affected neighboring barangays of Simbuhay, Tamped 1, Pedtad, parts of Pisan all in Kabacan and Tamped 2 in Matalam. Thousands of civilians were displaced. These civilians scamper to safer areas of neighboring barangays to bring their families out of harm way. Inadequate relief food supplies and non food goods such as tarpaulin tents to cover the children from extreme heat at day time and cold at night time made the lives of the evacuees more miserable in the evacuation centers.

Provincial Government of North Cotabato and LGU Kabacan extended relief but limited assistance to the evacuees. The International Committee of the Red Cross-ICRC also extended relief assistance but only to the first batch of evacuees in Lanoon and Pebpuluan.

Effort to address the problem to bring the two conflicting parties to the negotiating table for possible resolution was also undertaken. Mayor Tan of Kabacan called for a multi-stakeholders meeting last February 03, 2011. The meeting intends to come up with a possible solution to the problem. The initiative failed to bring the parties together."¹¹⁹

In January 2011 *Voice of America News* reported that a bomb attack on a passenger bus in Manila killed 5 people and injured 13,

"Officials say the remotely-detonated improvised bomb used in the attack was similar to those used by Muslim insurgents who have been fighting a decades-long battle for a separate homeland in the southern Philippines, but did not mention any specific group.

No group has claimed responsibility for the Manila attack so far. Abu Sayyaf, a group linked to al-Qaida, has been linked to terrorist attacks in the region for years. The group has also been blamed for a similar bus bombing in Manila in 2005 on the same road as Tuesday's bombing. Four people were killed in that attack.

This week's incident occurred about three months after the United States and other nations issued travel advisories to their citizens, warning of a potential terrorist attack in the Philippines, including Manila."¹²⁰

2. Role of government backed forces and actors

¹¹⁸ AFP, Six civilians killed in Philippines rebel feud, 7 February 2011, available from <http://www.reliefweb.int/rw/rwb.nsf/db900SID/ASAZ-8DUJAB?OpenDocument>, accessed 22 February 2011

¹¹⁹ Mindanao Peoples Caucus, Bantay ceasefire field report, 10 February 2011, http://mpc.org.ph/documents/bc_reports/2011-02-14%20BC%20%20Report%20Kabacan%20Mission.pdf, accessed 22 February 2011

¹²⁰ Voice of America News, Philippine officials see link to Islamic Militants in bus explosion, 26 January 2011, <http://www.voanews.com/english/news/asia/Philippine-Officials-See-Link-to-Islamic-Militants-in-Bus-Explosion--114633709.html>, accessed 22 February 2011

Human Rights Watch states in its 2010 report that death squads, backed unofficially by law enforcement officers, exist in the southern Philippines,

“So-called death squads operating in Davao City, General Santos City, Digos City, Tagum City, and Cebu City continue to target alleged petty criminals, drug dealers, gang members, and street children. Police officers and local government officials have been implicated in the decade-old killing spree that has plagued Davao City: according to human rights groups, more than 89 Davao residents were murdered in death squad killings from January to early September 2009, bringing the total to more than 926 victims since 1998. In May 2009 President Arroyo ordered the Department of Interior and Local Government and the police to “get to the bottom” of the killings.

The national Commission on Human Rights (CHR) has spearheaded efforts to investigate the death squads, holding three public hearings in Davao City since March 2009, and in June setting up a multi-agency taskforce involving police, military, and other government agencies to conduct investigations. The taskforce has uncovered human remains, guns, and ammunition on land belonging to a former police officer, but in the courts it has faced obstructions and unnecessary bureaucratic delays.”¹²¹

According to the *USDOS* 2010 Human Rights Report on the Philippines government forces routinely committed human rights abuses,

“The Department of National Defense directs the AFP, which shares responsibility for counterterrorism and counterinsurgency operations with the PNP. The Department of Interior and Local Government directs the PNP, which is responsible for enforcement of law and order and urban counterterrorism; however, governors, mayors, and other local officials have considerable influence. The 125,000-member PNP has deep-rooted institutional deficiencies and suffered from a widely held and accurate public perception that corruption remained a problem.

The PNP's Internal Affairs Service remained largely ineffective. Members of the PNP were regularly accused of torture, soliciting bribes, and other illegal acts. Efforts were underway to reform and professionalize the institution through improved training, expanded community outreach, and pay raises. During the year there were 177 administrative cases filed against members of the police force, including administrative officials and police officers, for various human rights violations. By year's end of the 177 cases filed, 137 were resolved and 40 were undergoing summary proceedings. In response to these cases the PNP dismissed 240 of its personnel. The deputy ombudsman for the military received 71 cases involving alleged human rights abuses by the military and law enforcement officers during the year, the majority of which were filed against low-ranking police and military officials.

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The police and military routinely provided human rights training to their members, augmented by training from the CHR. The CHR noted that senior PNP officials appeared receptive to respecting the human rights of detainees, but rank-and-file awareness of the rights of detainees remained inadequate. The Commission on Appointments determines whether senior military officers selected for promotion have a history of human rights violations and solicits input from the CHR and other agencies during the course of its background investigations. In some instances a promotion can be withheld indefinitely when the commission uncovers a record of human rights abuses. Negative findings do not, however, preclude promotion, and there were no reports of promotions withheld on human rights grounds during the year.

The AFP did not aggressively pursue internal investigations into alleged serious human rights abuses by some of its members. As of August the AFP Human Rights Office

¹²¹ Human Rights Watch, World Report 2010, pp.339-340, <http://www.hrw.org/world-report-2010>, accessed 18 December 2010

monitored no new cases of killings, disappearances, or torture during the year. Government-armed civilian militias supplemented the AFP and the PNP. Some politicians and clan leaders maintained their own private armies, particularly in Mindanao.”¹²²

The *USDOS 2010 Human Rights Report* further states that the government acknowledged that civilians and police officers were killed by the military during operations against the MILF,

“Government forces acknowledged the deaths of civilians in the course of military operations against the MILF, whose forces also killed civilians as well as police officers.

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NGOs alleged that government security forces abducted, tortured, or killed civilians during military operations against the MILF. NGOs also reported that indiscriminate shelling of villages by security forces led to civilian deaths.”¹²³

In March 2007 the *UN Special Rapporteur on extrajudicial, summary or arbitrary executions* reported grave concerns with regard to human rights abuses committed by the Philippines armed forces,

“In a nutshell, my visit was prompted by reports of a large number of extrajudicial killings, especially of leftist activists and journalists, over the past six years or so. While the estimates vary from 100 to 800 or more, I concluded that it is not productive to play the numbers game and seek to confirm any definitive number. No one disputes that large numbers have been killed. Especially problematic is the fact that the impact has been to intimidate vast numbers of civil society actors, to send a message of vulnerability to all but the most well connected, and to severely undermine political discourse.

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The most dramatic illustration is the “order of battle” approach adopted systematically by the Armed Forces of the Philippines (AFP), and in practice often by the Philippines National Police (PNP). In military terms an order of battle is defined as “an organizational tool used by military intelligence to list and analyze enemy military units’ ”.

The AFP adopts an order of battle in relation to the various regions and sub-regions in which they operate. A copy of a leaked document of this type, from 2006, was provided to me and I am aware of no reason to doubt its authenticity. The document, co-signed by senior military and police officials, calls upon “all members of the intelligence community in the [relevant] region ... to adopt and be guided by this update to enhance a more comprehensive and concerted effort against the CPP/NPA/NDF (Communist Party of the Philippines/New People’s Army/National Democratic Front)”. The document, some 110 pages in length, lists hundreds of groups and individuals who have been classified, on the basis of intelligence, as members of organizations which the military deems “illegitimate”.

Newspapers carry almost daily reports of senior military officials urging that such groups be neutralized and calling upon the populace to recognize that to support their candidates in the upcoming elections would be to support the enemy. This practice was openly and adamantly defended by nearly every member of the military with whom I spoke.”¹²⁴

The *UN Special Rapporteur on extrajudicial, summary or arbitrary executions* expresses further concern in the March 2007 report with respect to the culture of impunity toward military officials,

¹²² USDOS, 2009 Human Rights Report: Philippines, 11 March 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/eap/136006.htm>, accessed 19 December 2010

¹²³ USDOS, 2009 Human Rights Report: Philippines, 11 March 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/eap/136006.htm>, accessed 19 December 2010

¹²⁴ UN GA, Preliminary note on the visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, to the Philippines, 22 March 2007, available from http://www.unhcr.org/refworld/category_COI...PHL_462390f62_0.html, accessed 20 December 2010

“There is a passivity, bordering on an abdication of responsibility, which affects the way in which key institutions and actors approach their responsibilities in relation to such human rights concerns. For example, in discussions with me, the chair of the Senate Committee on Justice and Human Rights insisted that there was no role for Congress because no new legislation was required, given that murder was already a punishable offence.

He openly denied that Congress should play any proactive oversight role regarding the executive’s execution of the law. He added that military promotions of those widely suspected of human rights violations were no concern of his Committee and had not been held up by the Congressional Commission on Appointments because no witnesses had come forward to object. He had not and did not intend to hold hearings into the widespread problem of extrajudicial killings because it was a matter for the executive, rather than the Congress.

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The Secretary of Justice, and his colleagues, were perplexed at the proposition that prosecutors, whose role is absolutely central in the Philippines justice system, had some broader responsibility to take steps to uphold respect for human rights. Instead, their role was seen as a passive one.

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The Ombudsman’s office, despite the existence of a separate unit designed to investigate precisely the type of killings that have been alleged, has done almost nothing in recent years in this regard. The Government itself acknowledges that, of 44 complaints submitted from 2002 to 2006 alleging extrajudicial executions attributed to State agents, the Ombudsman’s office concluded that it was unable to act on even a single case.

While such a result in relation to five or even ten cases might be justifiable, when it reaches the level of 44 cases the conclusion must be that the office is failing in its responsibilities. Many explanations were offered for its inactivity, but none were convincing. Moreover, in at least some situations the office operates as a de facto subsidiary of the Department of Justice.”¹²⁵

The news agency *Journal Online*, based in Manila, notes in a January 2009 that the Philippine National Police intends to improve its human rights record,

“The Philippine National Police is determined to make a lasting impression in upholding human rights as it vowed to further improve its human rights record this year.

PNP chief Director General Jesus A. Verzosa reminded all police personnel that one of the basic tenets of policing is respect for human rights.

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Lawyer and police Senior Supt. Benjamin Delos Santos recalled that the PNP last year received several emails from the Asian Human Rights Commission (AHRC) requesting concerned advocates to urge the PNP to discontinue such practice, stressing that Section 14 (2) of the 1987 Philippine Constitution recognizes the principle of “presumption of innocence. Delos Santos explained that parading suspects had sent a strong message to the general public that the practice is acceptable and that suspects do not deserve certain rights when it is alleged that they have been involved in a crime.

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Delos Santos also said that cops being deployed in protest rallies usually take a crash course on human rights courtesy of the Commission on Human Rights. “We have to commend the PNP leadership for initiating changes in the area of human rights protection. We have made a dent,” he said. According to Delos Santos, the PNP chief also vowed to

¹²⁵ UN GA, Preliminary note on the visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, to the Philippines, 22 March 2007, p.5, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/120/95/PDF/G0712095.pdf?OpenElement>, accessed 20 December 2010

address complaints against cops such as illegal arrests, arbitrary detention and excessive use of force.”¹²⁶

A *UN General Assembly* report of April 2009, recounting the actions taken by the Philippine government after the UN Special Rapporteur’s 2007 visit to the country, notes concerns with regard to continuing human rights abuses committed by both the Philippines armed forces and law enforcement officials,

“Davao City continues to be a hotbed of extrajudicial killings, and the vigilante-style death squad killings in Davao have significantly worsened since 2007. Both federal and local government continue to vehemently deny the existence of the death squad, despite reliable reports of up to 28 such killings within the first month of 2009 alone.

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Since 2007, the Government has successfully prosecuted just one perpetrator of an extrajudicial execution. And not a single member of the armed forces has been convicted for killing leftist activists. In its own defence the Government says it needs to take its time and not “force quick convictions simply for the sake of announcing achievements”. However, the Government simultaneously notes its ability to progress quickly and effectively on other prosecutions, citing cases involving the killings of journalists.

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Presidential orders have lacked substance, the Commission for Human Rights (CHRP) has only recently begun to play a more substantial role (under new leadership), and crucial reforms of relevant government agencies have yet to take place. Additionally, neither the Armed Forces of the Philippines (AFP) nor the Philippine National Police (PNP) have significantly stepped up their investigations of the killings of leftist activists. Impunity for past killings, combined with a green light for future killings, will prevail unless there is a sharp change in course in efforts to implement the Special Rapporteur’s recommendations.

The decline in the number of killings of alleged leftists since the Special Rapporteur’s visit has been accompanied by encouraging statements by some senior AFP officers. However, the AFP has not, to the Special Rapporteur’s knowledge, changed its counterinsurgency techniques in such a way as to eliminate the likelihood that leftist activists will be killed. Moreover, forced disappearances and illegal detentions remain all too common, as does the bringing of trumped up charges against Filipino activists and human rights abuse victims.

AFP Chief of Staff, General Yano, has emphasized respect for human rights and vowed to hold military personnel accountable for violations. But despite these good intentions, numerous statements continue to be made via print, television, and broadcast media by other military officials identifying and vilifying members of civil society organizations. Such statements continue to be justified by reference to President Arroyo’s order that the AFP should end the insurgency “once and for all” by 2010. Whatever may have been conveyed in private, the Special Rapporteur is not aware of any public statement by the President instructing the security forces to stop the targeting and public labelling of political and civil society organizations as fronts for NPA operations.”¹²⁷

In May 2009 the *Committee to Protect Journalists* reported an accusation made by a journalist that his name appeared on a 2007 official Armed Forces “order of battle,” alleged to be a list of targeted individuals,

¹²⁶ Journal Online, PNP vows to intensify protection of human rights, 6 January 2009, <http://www.journal.com.ph/index.php?issue=2009-01-06&sec=4&aid=82191>, accessed 17 December 2010

¹²⁷ UN GA, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston Addendum Follow-up to country recommendations - Philippines, 29 April 2009, pp. 5-6, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/130/39/PDF/G0913039.pdf?OpenElement>, accessed 20 December 2010

"The Committee to Protect Journalists calls on the Philippines government and the Armed Forces of the Philippines to clarify an accusation made by freelance journalist Carlos Conde that his name appeared on a 2007 official Armed Forces "order of battle" document.

Conde said he is concerned that the official document amounts to a "hit list" that contains more than a hundred names, mostly and members of anti-government groups. The names, Conde said, are classified as "organized," "dominated," or "targeted," categories that are not explained. Conde said he is the only journalist on the list, and he is classified as "targeted." Orders of battle are usually extensive military plans that include tactics to be used and can identify specific individuals as targets.

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Now based in Manila, Conde worked for a long time in Southern Mindanao, covering the military's decades-old conflict with Muslim and communist rebels.

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The National Union of Journalists of the Philippines (NUJP) issued a statement Tuesday saying they had also seen a copy of the "order of battle," which they called "a list of what the military considers to be enemy targets." "At least one person in the [document] has been murdered," Davao peasant leader Celso Pojas. The statement did not specify whether the killing was related to the list. "Others have been threatened and harassed," the NUJP statement said.¹²⁸

In May 2009 the *IWPR* reported accusations that the Philippine military may have been responsible for civilian deaths in Kamanikan,

"For two months since military operations began in their neighbourhood, Manuel's family and 40 others had been taking refuge in Kamanikan, a small upland village that can only be accessed via a 20-kilometre rough road and a collapsed bridge. "Life is so difficult there, we may not be killed by bullets but we could just die there of hunger," Manuel's sister Miraflor (not her real name) recalled him saying. It was the start of Holy Week and the Philippine army had advised villagers that it was safe to go back to their upland farms. Everyone was fearful that fighting may still erupt between the New People's Army, NPA, and government troops, but having failed to secure much in the way of food for his family on a trip to Gingoog City, [].

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Two days after on April 9, Manuel, Jocelyn and their children, Mary Joy, 5, Junmark, 4, Jean, 2 and Niño, 2 months old, were dead; their hut burned down; and their charred bodies riddled with bullets. There were no witnesses to the crime. A neighbour living close by heard gun shots around midday but did not check on the Suarez family till the next morning.

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Gingoog City police chief Leonroy Ga says they were the first to reach the site to help Bobong recover the bodies. "It was an NPA area so we were very careful. We could not just go there immediately," he said.

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"It is obviously an NPA-infested area, so we suspect they have something to do with it," said Ga. And the army's 4th Infantry Division spokesperson Major Michel Anayron agrees. He says the rebels may have been irked by the decision of village residents, including the Suarez family, to evacuate and leave them without a "civilian cover or buffer". "You know the NPA uses the community to screen them from military operations," said Anayron in an interview.

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But the rebels dismiss this claim and in a statement posted on the website of the Communist Party of the Philippines, a spokesperson for the insurgents, Cesar Renerio, said the military was responsible and is trying to "deceive" the public. In an interview

¹²⁸ Committee to Protect Journalists, Philippine journalist alleges he is on military 'hit list', 20 May 2009, <http://cpj.org/2009/05/philippines-journalist-alleges-he-is-on-military-h.php>, accessed 17 December 2010

broadcast on the radio in Gingoog City on April 30, Renerio said, "The revolutionary forces and people of North Central Mindanao, condemn the customary dirty practice of the [army] of killing and massacring people and passing these off to us." Renerio claims the NPA are conducting their own investigation into the crime and has identified the perpetrators as members of the Bulif Bungkatol Liberation Front or BULIF. Bulif Bungkatol is a Higaonon term loosely translated as "golden light".

According to Renerio, BULIF is a paramilitary group founded by the army's 30th Infantry Battalion in the late 1990s. Renerio claims that officers from the National Commission on Indigenous Peoples, NCIP, helped to set up BULIF to stem the resurgent revolutionary movement during the 90s. BULIF has figured in several criminal activities in Agusan del Norte, including the kidnapping of 30 persons in Las Nieves town two years ago.

And the indigenous peoples' organisation Kalumaran has also issued statements condemning BULIF's human rights abuses. Anayron, meanwhile, categorically denies that the army is overseeing BULIF. Caught between the claims of the warring camps, police remain unsure as to real motives for the killings and the identity of the perpetrators. No case has been filed and an investigation is stalled for a lack of witnesses and any material evidence collected."¹²⁹

Philippines-based *GMA News* reported in August 2009 on allegations of police torture,

"Relatives of the five men detained for the killing of Rolando Abadilla, a former Constabulary colonel, in 1996 pushed Thursday night for the filing of charges against policemen who they said tortured their loved ones. Hong Kong-based Asian Human Rights Commission (AHRG) said the relatives relayed their message in protests held at two government offices dealing with the victim's complaint.

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Cherelyn de Jesus, wife of Joel de Jesus; Marilou Lumanog, wife of Lenido Lumanog; and Lolita San Felipe, grandmother of Augusto Santos, had a brief dialogue with CHR Chairman Leila de Lima. The CHR had filed a complaint with the Department of Justice (DOJ) for violation of the Abadilla 5's rights under custodial investigation.

"However, the prosecutor investigating the case, Marilyn Campomanes, neglected the complaint by not having it resolved and filed in court for five years. Had Campomanes not been charged and punished for neglecting her duties, the DOJ would have not referred the case to other prosecutors," AHRG said [].

AHRG said the CHR's findings showed there was enough evidence to prosecute the policemen responsible for torturing the Abadilla 5. These included Superintendents Romulo Sales and Bartolome Baluyot and the members of the defunct Task Force Rolly."¹³⁰

In August 2010 the Philippine human rights NGO *Karapatan* raised concerns over the actions of the Armed Forces of the Philippines (AFP),

"Speaking at a press conference on the report of the Ecumenical Solidarity Mission which was conducted on August 24 to 28, Karapatan Deputy Secretary General Jigs Clamor expressed alarm over the Mission's findings which shows a characteristic pattern of the Armed Forces of the Philippines (AFP) in its counter-insurgency campaign.

"Karapatan has documented a number of cases wherein the victims are vilified as members or sympathizers of armed revolutionary groups, such as the New People's Army; harassed and intimidated by state security forces, prior to graver human rights violations," Clamor

¹²⁹ IWPR, Accusations fly in wake of Suarez family killing, 28 May 2009, <http://iwpr.net/report-news/accusations-fly-wake-suarez-family-killing>, accessed 17 December 2010

¹³⁰ GMA News, Kin accuse cops of torturing Abadilla 5, 1 August 2009, <http://www.gmanews.tv/story/143267/Kin-accuse-cops-of-torturing-Abadilla-5>, accessed 17 December 2010

deplored. He also added that these victims are human rights defenders themselves, opposing projects and activities that are detrimental to the lives and livelihood of community members.

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Clamor also said that time and again, the AFP remains in a state of denial of the violations committed against human rights. "It is also deplorable that the Oplan Bantay Laya counter-insurgency campaign, the reason behind more than a thousand victims of extrajudicial killings, is still enforced under the administration of Pres. Benigno Aquino III, and still continues to take the lives of innocent civilians."

On August 25, another Bayan Muna member was shot and killed at his home in Balangiga, Eastern Samar. Casiano Abing, who was also a Regional Trial Court sheriff in Balangiga, actively campaigned for Bayan Muna in this year's elections."¹³¹

In August 2010 the *BBC* reported the suspension of police officers following allegations of torture,

"The authorities in the Philippines are investigating mobile phone footage that appears to show police torturing a man. In the video, the suspected thief is seen lying naked on the floor, while a plain-clothed policeman pulls sharply on a rope tied to his genitals.

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Manila's chief of police has suspended all the officers at a police station in the capital's Tondo district, where the incident is believed to have happened. Allegations of torture in the Philippines are nothing new, but rarely is there such graphic evidence. The video clearly shows the victim lying on the floor of a police station, in a foetal position. A plain-clothed policeman whips him and tugs at a cord around his penis, while another officer looks on.

National police chief Jesus Verzosa said the violence was disgusting and totally unwarranted. The alleged torturer has now been removed from his post - and may face criminal charges - and every member of the police station concerned has been suspended, pending an inquiry. The mobile phone footage came to light when an unnamed informant handed it to a local television station."¹³²

In December 2010 the Philippines human rights NGO *Karapatan* highlights alleged human rights abuses committed by the Armed Forces of the Philippines (AFP),

"Nothing has changed under Aquino. Social injustice persists. Civil and political rights are under attack. The Aquino government legitimizes continuing state violence and repression, absconding its responsibility to release the Morong 43 and all political detainees.

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The "war on terror" launched by the past regime is being continued by Aquino with the US government's full financial, political and military support under a "new" counter-insurgency strategy. Trumped-up charges filed by members of the Armed Forces of the Philippines (AFP) against leaders, organizers and members of progressive organizations are becoming the norm and are utilized to conduct actual raids of offices and arrests. Harassments and surveillance of human rights defenders are intensifying under this new administration that is supposed to be determined to take the *matuwid na landas* (straight or righteous path).

There were 18 victims killed during the last six months of Macapagal-Arroyo. There are now at least 25 victims of extra-judicial killings (EJK's) barely five months after Aquino took over (July 1 – November 30, 2010).

No amount of redefining to "de-politicize" the extrajudicial killings could hide the truth that political killings in the Philippines continue. These have even worsened under Aquino.

¹³¹ Karapatan, Karapatan condemns continuing rights violations - calls for an end to OBL, 31 August 2010, <http://www.karapatan.org/node/375>, accessed 17 December 2010

¹³² BBC News, Philippines police suspended over 'torture' video, 18 August 2010, <http://www.bbc.co.uk/news/world-asia-pacific-11015121>, accessed 20 December 2010

Civilians have been killed in the AFP's version of "crossfires" with New People's Army (NPA) rebels where there were really none. We grieve for the loss of the country's top botanist, Leonard Co, his two assistants and other victims of indiscriminate firing justified by the military as "legitimate military operations".¹³³

In February 2011 the *Centre for Humanitarian Dialogue* reported that in Sulu a new government backed civilian force was inaugurated in 2009,

"A new entity consisting of armed civilians has been formed to help the police maintain peace and order in local communities in Sulu. The Barangay Peacekeeping Action Teams (BPATs) and Police Auxiliary Units (PAUs) take orders from the Philippine National Police (PNP) who in turn come under the supervision of municipal mayors.

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The official inauguration of the BPATs and PAUs took place in front of the provincial capitol on September 28, 2009 with Governor Abdusakur Tan and National Defense Secretary Gilbert Teodoro presiding over the inauguration. On September 25, 2009, the Department of Interior and Local Government (DILG) issued Memorandum Circular 2009-145 explaining the BPATs and PAUs to provincial Governors, city and municipal Mayors, Punong Barangays, DILG Regional Directors and others."¹³⁴

3. Insurgent groups

The USDOS Country Report on Terrorism 2009 published in August 2010 notes the various insurgency groups fighting in the southern Philippines,

"Terrorist groups active in the Philippines included the Abu Sayyaf Group (ASG), Jemaah Islamiya (JI), the New People's Army (NPA), and the Rajah Solaiman Movement (RSM). Philippine security forces continued to make progress against terrorist groups. The Armed Forces of the Philippines (AFP) reported that it killed 10 ASG members and 165 NPA members in 2009. The Philippine National Police (PNP) claimed that its personnel killed 14 NPA members in 2009.

Those apprehended included an RSM cofounder and two bomb makers in Mindanao. U.S. intelligence, reconnaissance, and surveillance continued to support AFP operations against terrorist elements in the southern Philippines. Additionally, U.S. Department of Justice criminal investigation, police development, and counterterrorism programs trained approximately 1,600 police, supported professional development efforts of the Philippines National Police at 12 sites throughout the country, and provided opportunities for cooperation between law enforcement officials of the Philippines, Malaysia, and Indonesia."¹³⁵

The USDOS Country Report on Terrorism 2009 reports that terrorist groups activities in the southern Philippines indiscriminately target civilians,

"Data on terrorist incidents is limited and incomplete; many kidnappings or other acts of violence that indiscriminately target innocent people go unsolved, and some shootings and bombings occur in the course of criminal activity unrelated to terrorism. The Philippines estimated that the NPA began 2009 with 5,240 members, and the ASG began the year 400-strong. These organizations' memberships fell to an estimated 4,700 and 390,

¹³³ Karapatan, Human Rights Violations In The Philippines Continue With Impunity Under President Benigno Aquino III, 10 December 2010, <http://www.karapatan.org/Dec1-HRday-statement>, accessed 17 December 2010

¹³⁴ Centre for Humanitarian Dialogue (HD) - Armed Violence Reduction Initiative (AVRI), February 2011, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/\\$file/Sihnag+2009-10.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/83147CF618A2E30AC125782D005762C8/$file/Sihnag+2009-10.pdf), accessed 22 February 2011

¹³⁵ USDOS, Country Reports on Terrorism 2009 East Asia and Pacific Overview, 5 August 2010, <http://www.state.gov/s/ct/ris/crt/2009/140884.htm>, accessed 20 December 2010

respectively, by the end of the year. Kidnappings, associated with both criminal and terrorist groups, continued during the year in Mindanao and the Sulu Archipelago. On January 15, ASG members kidnapped three International Committee of the Red Cross workers in Jolo, Sulu. All either escaped or were released. The ASG reportedly abducted numerous other individuals, including an Irish priest.

While the NPA continued to disrupt public security and business operations with intermittent attacks on communication and transportation infrastructure throughout the Philippines, it continued to decline in personnel and effectiveness. However, the NPA remained steadfast in its refusal to accept President Arroyo's broad amnesty overtures, turning down offers to negotiate unless its U.S. and international designations as a terrorist organization were rescinded. RSM maintained close links to ASG and JI, and was alleged to have participated in several attacks in the Philippines.

During the year the long-running separatist insurgency in Mindanao boiled over in violence, resulting in thousands of internally displaced persons. Subsequently the government and the insurgents agreed to renew negotiations and the violence waned. Late in the year an election-related violent episode involving two rival Mindanao clans resulted in the massacre of over fifty civilians, including a number of journalists. While not the activities of international terrorism, these developments are indicative of the instability and conflict in the southern Philippines that complicated the government's efforts during 2009 to combat the terrorist groups harboring there."¹³⁶

In its 2011 World report covering the events of 2010 *Human Rights Watch* reports that the army was fighting Abu Sayyaf in Sulu and Basilan,

"A ceasefire remained in place between the Philippine government and the Moro Islamic Liberation Front and peace talks are expected. However, at this writing more than 100,000 people remained displaced after the escalation of the conflict in 2008 and 2009.

The army continued to fight Abu Sayyaf, an armed group implicated in numerous attacks and abductions against civilians, particularly in Sulu and Basilan."¹³⁷

In a February 2011 report *UN OCHA* describes the background to the formation of MILF and the Bangsamoro Islamic Armed Forces (BIAF),

"The Moro Islamic Liberation Front (MILF) broke away from the MNLF in 1977 (over questions of strategy and personality differences between its leadership¹³) and was officially launched in 1984. The MILF maintains that the Moro people have been unfairly treated by successive governments, disenfranchised of their land and subjected to economic and political discrimination. They seek recognition of the Moro peoples' status as a 'first nation' supplanted by settlers, as well as redress for perceived injustices in the treatment of the Moro people by the GRP, especially with respect to land titling. The MILF does not accept the present governance and security arrangements and rejects the ARMM or any form thereof as a solution.

On breaking away, the MILF absorbed many of the fighters from the MNLF who were based on Mindanao and rapidly built its armed wing, the Bangsamoro Islamic Armed

¹³⁶ USDOS, Country Reports on Terrorism 2009 East Asia and Pacific Overview, 5 August 2010, <http://www.state.gov/s/ct/ris/crt/2009/140884.htm>, accessed 20 December 2010

¹³⁷ Human Rights Watch, World Report 2011: The Philippines, 2011, <http://www.hrw.org/en/world-report-2011/philippines>, accessed 4 May 2011

Forces (BIAF). Low-intensity conflict persisted between the BIAF and the Armed Forces of the Philippines throughout the second half of the 1980s and the 1990s”¹³⁸

The *IDMC*, reporting in October 2009, reports the background to MNLF, the MILF and the Abu Sayyaf Group activity in Mindanao,

“An armed separatist group was formed during the 1970s, the Moro National Liberation Front (MNLF). In 1976, the government and the MNLF signed the Tripoli Agreement, which established some degree of autonomy in 13 provinces and nine cities in the southern Philippines, but its implementation only stumbled forward. In 1990 the majority-Muslim Autonomous Region in Muslim Mindanao (ARMM) was formally established after four provinces decided in a referendum to join the new region; two more provinces followed 11 years later.

In 1984, the Moro Islamic Liberation Front (MILF) broke away from the MNLF and launched its own armed struggle aimed at creating a separate Islamic state in the southern Philippines. In 1996 the government and MNLF signed a new peace accord, allowing the implementation of the Tripoli Agreement, and the MILF signed a ceasefire agreement in 1997. The ceasefires were, however, repeatedly violated in the following years.

In addition to the MILF and the MNLF, armed groups in Mindanao include the Abu Sayyaf Group (ASG), which is notorious for its kidnapping activities and mostly active in Western Mindanao, and the communist rebels of the New People’s Army (NPA), the oldest insurgency group in Asia. Other sources of violence include clan wars (or rido), and political and economic rivalries.”¹³⁹

In January 2009 *The Council on Foreign Relations* reports on the ongoing rebellion in the southern Philippines,

“The southern islands of the Philippines, inhabited by Muslims known as Moros (Spanish for "Moor"), have been in almost perpetual rebellion against the Christian majority ruling in Manila. They fought the Spaniards when they arrived 500 years ago, and they fought the Americans when they arrived more than 100 years ago. The latest rebellion broke out in the early 1970s and has killed well over 120,000 people. It was led initially by the Moro National Liberation Front (MNLF), which challenged a martial-law regime of dictator Ferdinand Marcos.

That group began to reach accommodation with Manila in 1975--a process completed by a democratic government in 1996. The MNLF demobilized its fighters, and most of its members melted back into the populace. Some even took positions in the local government or the security forces. But along the way several dangerous splinter factions broke off.

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The Philippines has a smaller Muslim minority than France, but it is overwhelmingly concentrated in a few places. The largest island in the Muslim region is Mindanao, with a population of 18 million, 30 percent of them Muslims. (The percentage was considerably higher a century ago, back when young Captain Jack Pershing was fighting Moro rebels, but in the 20th century the Philippine government resettled millions of Christians from other islands here.) There is also a string of smaller, heavily Muslim islands in the Sulu archipelago stretching through azure-blue waters to the borders of Malaysia and Indonesia.

¹³⁸ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

¹³⁹ IDMC, Cycle of conflict and neglect - Mindanao’s displacement and protection crisis, October 2009, p.8, [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/2EDA9427248043D2C125764A00433082/\\$file/Phil_SCR_Oct09.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/2EDA9427248043D2C125764A00433082/$file/Phil_SCR_Oct09.pdf), accessed 18 December 2010

What all these areas share, in addition to their Muslim populations, is inaccessible terrain, with lots of triple-canopy jungles, treacherous swamps, and soaring mountains that provide ideal hideouts for outlaws. The surrounding waters are plied by countless small boats that operate with little scrutiny from the Philippines' tiny navy, which has only 62 patrol boats to cover thousands of miles of coastline. Smuggling terrorist operatives, arms, and drugs in and out is all too easy.

The rebels have another advantage. They can tap into a widespread sense of alienation among some of the Philippines' poorest inhabitants. [] Officials at the stately U.S. embassy in Manila told us that in the Philippines as a whole life expectancy is over 70 years, but in Mindanao it's only 52 years. Nominal GDP per capita in the entire country is \$1,600; in Mindanao it's less than \$700. More than 55 percent of families in the Muslim region are living below the poverty line, double the share nationwide."¹⁴⁰

In April 2009 *Human Rights Watch* reported on the insurgent activities of Abu Sayyaf, the Armed Forces of the Philippines, the Philippine National Police, the New People's Army, the Civilian Home Defense Force and the Citizen Armed Forces Geographical Units,

"Since the early 1970s, the Philippine government also has been engaged in an intermittent armed conflict with Muslim separatist groups in Mindanao. The conflict has resulted in the death of an estimated 120,000 people, mostly civilians, and displacement of some two million more. A shaky peace currently exists.

More radical groups such as the Abu Sayyaf Group emerged in the 1990s and have been responsible for numerous bombings and other attacks on civilians, primarily in Mindanao and other southern islands. The Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP) have for many years been implicated in insurgency-related human rights violations.

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To fight the NPA insurgents, the government has long relied on the use of poorly trained paramilitary forces such as the Civilian Home Defense Force and its successor, the Citizen Armed Forces Geographical Units (CAFGU). These armed militias have tortured and murdered people they believed support or sympathize with the NPA. By operating outside the military chain of command, they also have given the armed forces a level of "deniability" for serious abuses they commit. The government has also actively enlisted so-called vigilante groups to fight the NPA. By popular legend, the birth of modern vigilantism in the Philippines traces back to Davao City.

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Human Rights Watch is also worried by the news of targeted killings of suspected criminals in cities outside of Mindanao. Among the cities of particular concern is Cebu City. The media in Cebu City treat the existence of a death squad in the city as a matter of fact, just as their counterparts in Davao City do. News archives from as early as 2003-2004 show articles on apparent targeted killings of suspected criminals.

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For over a decade, death squad killings have plagued Davao City on the southeastern coast of Mindanao. In recent years, similar targeted killings have been reported in General Santos City, Digos City, and Tagum City in Mindanao and even Cebu City in the central island of Cebu. While the exact number of victims of such killings is hard to establish, available data suggest an alarming trend."¹⁴¹

In December 2010 the *Jamestown Foundation* reported that Abu Sayyaf members are hiding in Basilan and MILF is located in Central Mindanao. A rise in kidnappings and requests from the local business community prompted armed forces to realign from Basilan province to Central Mindanao,

¹⁴⁰ Council on Foreign Relations, *Treading Softly in the Philippines*, 5 January 2009, pp.9-10, http://www.cfr.org/publication/18079/treading_softly_in_the_philippines.html, accessed 17 December 2010

¹⁴¹ HRW, "You Can Die Any Time": Death Squad Killings in Mindanao, 6 April 2009, pp. 11, 18, <http://www.hrw.org/en/reports/2009/04/06/you-can-die-any-time>, accessed 17 December 2010

“The Philippine military’s new operational strategy in Mindanao involves the transfer of Marines from Basilan to Central Mindanao as part of a realignment of forces. Armed Forces of the Philippines (AFP) chief-of-staff Lieutenant General Ricardo David confirmed on November 4 that a Marine brigade is being transferred from Basilan province, where Abu Sayyaf members are hiding, to Central Mindanao, where the Moro Islamic Liberation Front (MILF) is located. The combat units moving to Cotabato City are part of the “national maneuver forces” and are thus capable of being deployed anywhere in the Philippines (GMA News TV, November 4).

The new counter-insurgency plan is set to be implemented in January 2011. As a result of the plan, the Army will become the dominant force in Basilan. The retirement in November of Wesmincom (Western Mindanao Command) commander Lieutenant General Benjamin Dolorfino, a former Marine commandant, may also pave the way for an Army general to be appointed as the next Commander of Wesmincom. Wesmincom covers the two main Abu Sayyaf hideouts, Basilan and Sulu Provinces, and also Tawi-Tawi Province and the Zamboanga Peninsula.

The rise of kidnapping incidents in Central Mindanao prompted the Cotabato City business community and prominent locals to request the return of the Marines to the area. The Marines were stationed in Cotabato City in 2002, but moved to Basilan in order to conduct an offensive against Abu Sayyaf. AFP chief Ricardo David denies that the transfer of the 1st Marine Brigade back to Central Mindanao represents a shift in operational focus from Abu Sayyaf to the MILF. National Defense Secretary Voltaire Gazmin maintains that the transfer is a response to requests for more security from local people and that the move has support from religious and government leaders”¹⁴²

In December 2010 the *UN News Centre* reported on the use of child soldiers by insurgency groups,

“An Islamic rebel group in the Philippines will stop recruiting child soldiers and return to civilian life those already in their ranks, according to an action plan announced by a United Nations official who wrapped up a five-day mission in the country today.

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During her visit, which was requested by the Security Council, Ms. Coomaraswamy sought the release of children recruited by both the MILF and the Maoist New People's Army (NPA), raised concern over the alleged abuse of children by members of the Government forces and paramilitary groups, and called for stronger protections for children caught up in the civil conflict.

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During her meetings with the Government, Ms. Coomaraswamy also raised concerns regarding alleged involvement of children in the paramilitary Citizens Armed Force Geographical Units (CAFGU) and Community Volunteer Organizations (CVOs) operating in some conflict areas, according to a press release from her office.

The Government agreed to immediately issue a directive that all local units must strictly adhere to existing national legislation that no one under 18 shall be recruited or used in security forces, Ms. Coomaraswamy said.

The Special Representative also urged the Government to take all necessary measures to investigate and take firm action against those within the Philippines Security Forces allegedly responsible for grave violations against children. She welcomed the Government's nomination of focal points within the forces to deal with these issues.

¹⁴² Jamestown Foundation, *Terrorism Monitor*, Volume VIII, Issue 44, 2 December 2010, available from <http://www.unhcr.org/refworld/docid/4d1c5e7a2.html>, accessed 22 February 2011

At the press conference, Ms. Coomaraswamy complimented the Government on its strong framework of laws and policies on children and armed conflict, but said she felt implementation was lagging in some areas. She welcomed, in particular, upcoming legal changes that would exclude from prosecution children who are arrested for reasons related to armed conflict, considering them as victims instead of perpetrators, but said that the Government needed to strengthen its ability to return children associated with armed groups to civilian life.”¹⁴³

a. *Moro National Liberation Front (MNLF) and Moro Islamic Liberation Front (MILF)*

In February 2008 the *United States Institute of Peace* reported that the formation of the Moro National Liberation Front was triggered by, amongst other factors, political disenfranchisement, the inability of the Moro to protect their way of life and a massacre of Moro recruits within the Philippine army in 1968,

“The Moros’ inability to protect their culture and way of life, along with the Moro elites’ discontent over political disenfranchisement, fueled a violent rebellion and calls for independence in the early 1970s. The beginnings of the current conflict hark back to 1968, when a massacre of Moro recruits in the Philippine army, combined with other factors, triggered the formation of the MNLF. Full-scale war with the government followed in the early 1970s, interrupted by a peace agreement in 1976.

But the 1976 agreement failed to address Moro grievances, and intermittent clashes between Moro forces and the army continued for the next two decades. In 1996, after lengthy negotiations facilitated by Indonesia and the Organization of the Islamic Conference (OIC), the GRP and the MNLF signed a “Final Peace Agreement.” Heralded as a breakthrough, the agreement gave MNLF leaders the chance to govern several Moro-majority provinces within the Autonomous Region of Muslim Mindanao (ARMM).

However, an Organic Law later passed by the Philippine congress to implement the agreement weakened many of the concessions given by the executive branch to the MNLF. MNLF leaders, for their part, proved to be ineffective stewards of the ARMM and had little positive impact on Moro lives. Today the MNLF is split into factions, with many of its leaders continuing to assert that the government has not complied fully with the terms of the 1996 agreement. Some factions threaten to resume rebellion if their grievances are not addressed.”¹⁴⁴

In 2008 the *United States Institute of Peace* reported that led by Salamat Hashim, the Moro Islamic Liberation Front split from the Moro National Liberation Front in the early 1980’s,

“The Moro Islamic Liberation Front (MILF) is a group that formally split from the MNLF in the early 1980s, advocating a more Islamic–identity–based approach to the Moro struggle. Led by Islamic scholar Salamat Hashim, the MILF refused to sign the GRP-MNLF peace agreement in 1996. Its leaders instead began their own talks with the government in 1997, but these were suspended after President Joseph Estrada launched an “all-out war” against the MILF in 2000. Peace talks restarted under President Gloria Macapagal-Arroyo in 2001, with the Malaysian government, at the request of both the GRP and the MILF, agreeing to serve as host and facilitator of negotiations.

Progress has occurred in the substance of GRP-MILF talks, with both sides announcing in late 2007 that they had resolved some of the thorniest issues on “ancestral domain,” the

¹⁴³ UN News Centre, Philippine rebels agree to stop fielding child soldiers, UN official says, 12 December 2008, <http://www.un.org/apps/news/story.asp?NewsID=29284&Cr=Child&Cr1=Soldiers>, accessed 20 December 2010

¹⁴⁴ United States Institute of Peace, *Toward peace in the Southern Philippines*, February 2008, <http://www.usip.org/files/resources/sr202.pdf>, accessed 17 December 2010

third and final agenda item in GRP-MILF negotiations. Although the MILF later accused the GRP of reneging on the consensus points, an interim agreement on ancestral domain is still possible, which could lead to the conclusion of a comprehensive peace agreement between the Philippine government and the MILF in 2008.”¹⁴⁵

In 1999 the Sri Lanka-based *International Centre for Ethnic Studies (ICES)* reports that the MILF, which emphasises its Islamic character, opposed the 1996 peace agreement, the reasons for which stem from the splintering of MILF from MNLF decades earlier. The International Centre for Ethnic Studies (ICES) further report that MILF is estimated to have 120,000 guerilla fighters,

“Opposition by the Moro Islamic Liberation Front (MILF) to the Agreement has been the most militant and most enduring thus far. This opposition has its roots early on when, in the mid-1970s, due to either personality or ideological differences, the MILF leader, Hashim Salamat, and MNLF rebel leader, now Governor Misuari, experienced a falling out. Salamat organised his faction into a formidable fighting force.

Today, the MILF’s military strength is estimated at 120,000 guerrillas, roughly equivalent to six divisions in a regular army. However, it is also estimated that only about 80 per cent of this force is considered “well-armed.” Nonetheless, it can count on the support of at least 300,000 militiamen to fulfil other functions including intelligence gathering, propaganda, and maintenance of vital source of food and other needed provisions. The MILF emphasises its Islamic character as explained by its current Chair of the Committee on Information of the Central Committee, Mohagher Iqbal “as part of the struggle for self-determination. Its goal is an independent Islamic state.”¹⁴⁶

In December 2010 the *BBC* reported that the MILF insurgency is not a religious struggle but a fight to retain land and cultural identity, the *BBC* further reports that MILF no longer demands a separate state but is fighting for the Moro to self govern within the republic of the Philippines,

“The MILF is often described as an Islamic separatist group, but strictly speaking neither of these adjectives apply any longer. The group is Islamic in that it is run by Muslims, but according to Ghadzali Jaafar, this is not a religious struggle but a fight to retain land and cultural identity. And the MILF has also given up its demand for a separate state. “We just want to govern ourselves and our homeland, and that government will still be under the republic of the Philippines. We can take the example of Hong Kong to China,” Mr Jaafar said.

The government also knows it needs to make some serious concessions. “Certainly it could mean some adjustments in territorial boundaries,” said Secretary Deles. “It would mean adjustments in our legal system, financial system.” Both agree that the issue of the Bangsamoro ancestral domain, and what exactly should be included in an expanded autonomous region, is at the heart of the discussions. And those close to the talks know there is now a vital window of opportunity.

A key reason for past failures is opposition from other Filipinos - Christians living in the affected areas, and people in the rest of the country who will mourn the loss of such ready access to the rich natural resources of western Mindanao. A quick look at the votes in this year's presidential election clearly shows the depth of feeling in Mindanao's Christian areas.

Joseph Estrada, a former leader who led a campaign of all-out war against the MILF, won the most votes in every Christian province in Mindanao, even though he lost nationally to Mr Aquino by a huge margin. “A peace agreement will not be popular in many parts of the

¹⁴⁵ United States Institute of Peace, *Toward peace in the Southern Philippines*, February 2008, <http://www.usip.org/files/resources/sr202.pdf>, accessed 17 December 2010

¹⁴⁶ The International Centre for Ethnic Studies (ICES), *The Philippines: The 1996 Peace Agreement for the Southern Philippines: An Assessment*, Ethnic Studies Report, Vol. XVII, No. 2, July 1999, p. 263-264, available at: http://www.ices.lk/publications/esr/articles_jul99/ESR-Philippines.pdf, accessed 17 December 2010

Philippines," said Father Jun Mercado, a regional peace advocate. "I believe we can only have an agreement when the national leader enjoys a lot of public support."

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When asked whether he thought there could be a return to violence if the talks did not start soon, Ghadzali Jafaar thought carefully before saying: "It's a very dangerous situation." For those who could be caught - yet again - in the crossfire, it could be a very dangerous situation indeed."¹⁴⁷

In October 2009 *the Congressional Research Service* reported that the Moro Islamic Liberation Front has links with Jemaah Islamiyah,

"The U.S. focus on Abu Sayyaf is complicated by the broader Muslim issue in the southern Philippines, including the existence of a larger insurgent-terrorist group, the Moro Islamic Liberation Front (MILF). The MILF, with an estimated armed strength of 10,000-12,000, broke away from another Muslim group, the Moro National Liberation Front (MNLF) in the late 1970s. Its main political objective has been separation and independence for the Muslim region of the southern Philippines. Evidence, including the testimonies of captured Jemaah Islamiyah leaders, has pointed to strong links between some elements of the MILF and JI, including the continued training of JI terrorists in MILF camps and the planning of terrorist operations. MILF senior leaders have described local commanders as younger and more militant and radical. This training appears to be important to Jemaah Islamiyah's ability to replenish its ranks following arrests of nearly 500 cadre in Indonesia, Malaysia, and Singapore. The Philippine National Intelligence Coordinating Agency estimated in mid-2009 that there were 30 to 40 JI cadre on Mindanao."

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The MILF and the Philippines government reached a cease-fire agreement in 2003. A team of international observers led by Malaysia began to monitor the cease-fire in October 2004. However, negotiations for a permanent settlement stalemated over the issue of the MILF's proposal for the establishment of a "Bangsamoro" autonomous state covering much of western Mindanao, the Sulu islands, and part of the island of Palawan. The outlook worsened in April 2008 when Malaysia announced that it would withdraw from the international cease-fire monitoring group. The Malaysian government criticized the Philippine government for lack of flexibility in the negotiations with the MILF."¹⁴⁸

In October 2009 *The Congressional Research Service* reported that a Memorandum of Agreement was signed by the Philippine government and MILF in August 2008, outlining a settlement to end the MILF insurgency and recognising the ancestral lands of Filipino Muslims, however this agreement later failed and fighting broke out displacing hundreds of thousands, a new ceasefire was negotiated in July 2009,

"In August 2008, the Philippine government and the MILF signed a Memorandum of Agreement laying out a framework for a settlement to end the MILF insurgency and recognition of the ancestral domain of Filipino Muslims. The Memorandum of Agreement provided for the establishment of a Bangsamoro Juridical Entity (BJE), comprising a substantial area of Mindanao. The inclusion of some villages and towns would be determined through plebiscites. The BJE would have an "associative relationship" with the Philippine government, including "shared authority and responsibility." It would be able to create its own government, election system, banking system, schools, judicial system and police and internal security forces.

The economic resources of the region would be allocated between the Philippine government and the BJE on a 75-25 percent basis favoring the BJE. The BJE could enter into trade and economic relations with foreign countries and would control the resources of

¹⁴⁷ BBC News, Negotiating peace with the Philippine MILF, 7 December 2010, <http://www.bbc.co.uk/news/world-asia-pacific-11925641>, accessed 20 December 2010

¹⁴⁸ Congressional Research Service, Terrorism in Southeast Asia, 16 October 2009, p. 18, <http://www.fas.org/sqp/crs/terror/RL34194.pdf>, accessed 17 December 2010

waters extending 15 kilometers from its coast. Immediately after the conclusion of the Memorandum of Agreement, Christian politicians and elected officials on Mindanao filed a suit with the Philippine Supreme Court, calling for the Court to block the Memorandum.

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Renewed fighting between the AFP and the MILF broke out following the collapse of the accord, reportedly resulting in the displacement of over 600,000 villagers and dozens of deaths. Several MILF "rogue" commands attacked Christian villages. The AFP launched operations against these "rogue" groups but not the MILF as a whole. Malaysia withdrew its troops from the International Monitoring Team (IMT), which had been created in 2004 to solidify the 2003 cease-fire.

The government and the MILF managed to negotiate a new cease-fire agreement in July 2009. They also agreed in September 2009 on a new round of peace negotiations that would include the establishment of an International Contact Group, made of invited foreign governments, that would act as a "facilitator." The MILF argued strongly for the International Contact Group. However, prospects for renewed negotiations are poor in the near to medium term.

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Distrust of the MILF, Malaysia's role, and renewed negotiations is strong in the Philippine Congress and the elite media."¹⁴⁹

In November 2010 *IRIN News* reported that MILF has been fighting for an Islamic state and that more than 150,000 have been killed during their insurgency, IRIN reported tensions between the Moro Islamic Liberation Front and the Philippine government in preparation for peace negotiations,

"Negotiations between the Philippines government and the main Muslim separatist group appear in danger of collapsing barely five months after President Benigno Aquino vowed renewed peace efforts.

Up to 4,000 troops have now been deployed in and around Maguindanao, a province of the southern island of Mindanao where the Moro Islamic Liberation Front (MILF) maintains rebel fronts that could launch attacks at any time, the military says. The 12,000-strong MILF has been fighting for an independent Islamic state in the southern Philippines, a predominantly Catholic country, for decades. The rebellion has left more than 150,000 dead over the years and delayed development on the mineral-rich island.

Peace talks brokered by Malaysia over the past seven years have been frequently dogged by violence, notably in 2008, after the Supreme Court declared as unconstitutional a proposed government deal that would have given the MILF control over areas claimed as "ancestral domain". More than 750,000 people were displaced and some 400 died in the violence.

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Renewed talks were due this month, but the MILF accused the government of insincerity after it arrested Eduard Guerra, a member of its central command, in September just as both sides were preparing to resume negotiations. The rebels also warned they would not restart talks if Manila did not retain Malaysian facilitator Othman Razak, whom the government wanted to replace, allegedly because he was biased in favour of the rebels. In addition, the rebels demanded the government retract a statement by its defence department blaming them for an October bus bombing that left nine people dead, despite police saying it could have been done by an extortion gang.

"These moves on the government part tend to undermine the MILF and the peace process," MILF spokesman Von al Haq told IRIN. "We deny any involvement in the attack, we demand that Mr Guerra be released and we ask that they agree to have Mr Othman

¹⁴⁹ Congressional Research Service, *Terrorism in Southeast Asia*, 16 October 2009, p. 17, <http://www.fas.org/sqp/crs/terror/RL34194.pdf>, accessed 17 December 2010

retained as a peace facilitator." MILF forces continue to respect a truce signed by both sides and would remain on the defensive, although any offensive on the part of the military would be met with heavy retaliation, he said."¹⁵⁰

In January 2010 the *Mindanao Examiner* reported the breakdown of peace talks held between the Philippine government and the Moro Islamic Liberation Front in January 2010,

"The Philippines and Moro Islamic Liberation Front ended peace talks abruptly in Kuala Lumpur without new agreement that would put an end to decades of bloody fighting in the restive region of Mindanao. Peace negotiators exchanged drafts on the comprehensive compact agreement on Wednesday, but the MILF said Manila had offer nothing new that would lead to a political settlement of the fighting in Mindanao.

The MILF peace panel headed by Mohagher Iqbal said Manila was offering the Autonomous Region in Muslim Mindanao instead of what was previously agreed upon. "The GRP draft essentially offers the Autonomous Region in Muslim Mindanao," Iqbal said, referring to the Philippine government.

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Peace talks was stalled in 2008 after both sides failed to sign any agreement on the most contentious issue — ancestral domain – which refers to the rebel demand for territory that will constitute a Muslim homeland. The failed agreement triggered deadly rebel attacks in Mindanao after the Supreme Court stopped the formal signing of the peace accord.

Politicians and lawmakers opposed to the ancestral domain deal filed their petitions to the High Court and asked Manila to make public the rest of the agreement. They claimed the accord was made without public consultations, an accusation strongly denied by government leaders.

The MILF said it will not renegotiate the ancestral domain agreement. "It is already a done deal; we have already initialed the memorandum of agreement on the ancestral domain. We will not revisit or renegotiate the agreement," Iqbal said in the past. But despite the deal, there is still a need to amend the Constitution to allow plebiscite on areas under the ancestral domain that would make up the so-called Bangsamoro Juridical Entity and give Muslims their own homeland.

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Ancestral domain is the single most important issue in the peace negotiations before the rebel group can reach a political settlement with the Philippine government. It covers the whole of the Muslim autonomous region – Sulu, Tawi-Tawi-, Basilan, Maguindanao and Lanao, including Marawi City. And some areas in Zamboanga Peninsula, North Cotabato, Sultan Kudarat and Sarangani provinces in Mindanao where there are large communities of Muslims and indigenous tribes. And also Palawan Island, off Mindanao."¹⁵¹

IRIN reported that talks between MILF and the government were due to resume on 9 February 2011, however according to IRIN the chief government negotiator, Marvic Leonen, said that a MILF splinter group could potentially lead to insecurity,

"said the government viewed with apprehension an admission by MILF leader Murad Ebrahim that one of his top commanders, Ameril Umbrakato, had formed his own armed unit composed of hardliners who were against the peace talks.

"The government is seriously concerned about this development," Leonen said, adding that the MILF negotiating panel had promised to clarify the situation during the talks.

¹⁵⁰ IRIN News, Government-MILF standoff threatens peace bid, 24 November 2010, <http://www.irinnews.org/Report.aspx?ReportID=91178>, accessed 17 December 2010

¹⁵¹ The Mindanao Examiner, Philippines peace talks with MILF end with no new agreements, 29 January 2010, <http://zamboangajournal.blogspot.com/2010/01/philippines-peace-talks-with-milf-end.html>, accessed 20 December 2010

The splinter group could lead to overall insecurity for civilians in Mindanao, as well as undermine the leadership of Ebrahim, he said.

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Ebrahim insisted, however, that he remained in control of the entire rebel force.

"The MILF is solid. The leadership has complete control over all the men both in the political and military wings of the movement," he said.

Splinter group

Umbrakato, who is believed to be in his 70s, is said to be among the toughest hardliners in the MILF.

In 2008 he and another commander, Abdulrahman Macapaar, launched a series of raids on mostly Christian communities in Mindanao, leaving nearly 400 dead and displacing over 750,000 for months.

The attacks were in retaliation for a Supreme Court rejection of a proposed deal that would have given the MILF political and economic control over 700 villages and towns they claim as part of their ancestral heritage.

Most of the displaced have since returned to their homes or were relocated, although various humanitarian agencies say about 60,000 remain displaced.

Security analysts and at least one senior military official have warned that Umbrakato's Bangsamoro Islamic Freedom Fighters - believed to number over 1,000 - could cause trouble, but not enough to erode the peace process."¹⁵²

In February 2011 Voice of America News reported that 13 people were killed and nine injured in a month of fighting in Mindanao between Moro National Liberation Front and the Moro Islamic Liberation Front and was related to a long running land dispute.¹⁵³

b. Abu Sayyaf

The *Jamestown Foundation* details the capacities of the militant Abu Sayyaf Group in a January 2009 report,

"Through the combined efforts of the United States Joint Special Operations Task Force in the Philippines (JSOTF-P) and the newly updated, trained and active Armed Forces of the Philippines (AFP), some semblance of law, order and normalcy has returned to the Muslim-dominated Sulu Island archipelago and the southern island of Mindanao. However terrorist activities, including kidnappings for ransom and beheadings of captives for effect, have recently been conducted by the most notorious terrorist group in the Philippines – the Abu Sayyaf Group (ASG). According to several sources, ASG has recently resurfaced despite claims that the organization had been dealt a crippling blow by the U.S.-trained AFP.

Cracks in the apparent success of JSOTF-P and the gains made by the AFP in the Sulu Islands began to appear in the fall of 2009. Abu Sayyaf conducted a series of successful kidnappings and terrorist bombings in October, the latter aimed at infrastructure, including the important commerce artery of the Tandan-Tandan Bridge in Barangay Taung, Paktil.

¹⁵² IRIN, Philippines; 8 February 2011, Mandanao separatist hardliners against peace talks with government, <http://www.irinnews.org/report.aspx?ReportID=91864>, accessed 22 February 2011

¹⁵³ Voice of America News, Clashes in Philippines kill 13, 3 February 2011, <http://www.voanews.com/english/news/asia/Clashes-between-Philippine-Muslim-Groups-Kill-13---115173259.html>, accessed 22 February 2011

The attacks followed a September roadside bombing that killed two members of the U.S. Special Forces and wounded several members of the AFP. By November, indigenous terrorism experts concluded that ASG was operating at a very high level and that the group had reorganized at an alarming rate. Rommel Banloi, the head of the Philippine Institute for Political Violence and Terrorism Research, reckons that ASG is firmly entrenched in the jungle and more than capable of conducting future terrorist attacks.

With the situation on the Sulu Islands in a state of deterioration, terrorist attacks perpetrated by ASG are now aimed at four operational and strategic objectives:

- An increase in terror and fear among the local populace to reduce public support for counterterrorism efforts.
- The destruction of infrastructure in order to decrease economic development and, in turn, the legitimacy of the government. The ASG has continued to conduct coordinated attacks against infrastructure targets, showing a preference for schools and bridges. Four bridges were recently attacked in an obvious bid to undermine economic development and the legitimacy of the civilian government. It is likely that these infrastructure attacks will continue, perhaps expanding in the future to include a more diverse target set.
- An attempt to fund operations through kidnap- for-ransom schemes. On the island of Basilan, the ASG successfully kidnapped three workers from a plywood factory. The local courts immediately tagged ASG-Basilan leader Furuji Indama and twenty-seven other ASG members as the perpetrators of the crime and vowed to use paramilitary police in a cordon and search operation with an aim to rescue the hostages and bring the perpetrators to justice [].
- Breaking out fellow terrorists from local prisons in a bid to swell numbers and delegitimize the local judicial process. Perhaps the most audacious attack of late was the December 13, 2009 attack on a Basilan jail in the provincial capital of Isabela. The pre-dawn attack involved over 100 gunmen who were able to breach the outer walls of the prison and help 31 individuals escape, including hardened criminals, five members of the Moro Islamic Liberation Front (MILF) and 12 members of the ASG [].

It is unlikely that such a coordinated and reinvigorated terror campaign is an indication of a terrorist group in its last throes. Instead, it appears that ASG is re- establishing its presence in the Sulu Islands. Despite the fact ASG has been diminished by over half since the U.S. forces in JSOTF-P first began building host nation capacity in 2001, it appears that ASG is able to conduct multiple terror operations on multiple fronts threatening both infrastructure and governmental legitimacy.”¹⁵⁴

A May 2009 briefing on the Abu Sayyaf Group by the *Council on Foreign Relations* reports that the group is seeking a separate Islamic state for the Muslim minority,

“Abu Sayyaf, whose name means "bearer of the sword" in Arabic, is a militant organization based in the southern Philippines. It seeks a separate Islamic state for the country's Muslim minority. The U.S. State Department designates Abu Sayyaf as a terrorist organization that boasts of ties to Osama bin Laden's al-Qaeda network, as well as the Indonesian network of Jemaah Islamiyah.

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In the early 1990s, Abu Sayyaf split from the Moro National Liberation Front, one of the two major Muslim separatist movements in the southern Philippines, which were then trying to come to terms with the central government in Manila. The group's first major attack came in 1991, when an Abu Sayyaf grenade killed two American evangelists.

¹⁵⁴ Jamestown Foundation, Abu Sayyaf Resurgent in the Philippines, Terrorism Monitor - Volume VIII, Issue 1, 7 January 2009, pp.3-4, http://www.jamestown.org/uploads/media/TM_008_1_03.pdf, accessed 20 December 2010

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Its first leader was Abdurajak Janjalani, a Philippine Muslim who fought in the international Islamist brigade in Afghanistan during the Soviet occupation. Mohammed Jamal Khalifa, a Saudi businessman living in the Philippines, provided crucial financing and organizational support for Abu Sayyaf in its early years. From 1998 to 2006 the group was led by Khadaffy Janjalani, who took over the leadership position when his older brother Abdurajak was killed.

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Abu Sayyaf suffered major losses of leadership in 2006 and 2007. In September 2006 Khadaffy Janjalani was killed in a clash with troops on Jolo Island. In January 2007, U.S.-backed Philippine troops killed Abu Sulaiman, a senior Abu Sayyaf commander and Janjalani's likely successor. Romeo Ricardo, chief of the Philippine National Police Intelligence Group, said that the two leaders were the main contacts (AP) to Middle Eastern donors who provided funding to the group and to Islamic militants in Indonesia.¹⁵⁵

The *Council on Foreign Relations* reports that Abu Sayyaf activities have included bombings, assassinations, kidnapping and extortion and that they have made attacks against civilians. The *Council on Foreign Relations* reports that Abu Sayyaf's main areas of operation are the Sulu archipelago and Mindanao,

"Radullan Sahiron, a one-armed septuagenarian and senior leader in the group, was promoted to the top leadership position in January 2007. However, it was unclear how active a role he would play in Abu Sayyaf's operations. In a June 2008 article, Zachary Abuza, a leading scholar on terrorism in Southeast Asia, writes that Abu Sayyaf now lacks "any semblance of central leadership".

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Historically, Abu Sayyaf has engaged in bombings, assassinations, kidnappings, and extortion. The Philippine government currently in the middle of a military offensive against Abu Sayyaf rebels in the south in efforts to quell the group's attacks against civilians.

Abu Sayyaf mostly operates in the southern Philippines, specifically in the Sulu Archipelago and the easternmost island of Mindanao. But the group has acted in other parts of the Philippines, and in 2000, its members crossed the Sulu Sea to Malaysia for a kidnapping. Since 2001, Philippine military operations, supported by the United States, have weakened Abu Sayyaf on Basilan Island and in the Sulu islands southwest of Basilan.

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Counterterrorism efforts by the Philippine government seem to have pressured the group in recent years: In 2007, the government killed 127 members of Abu Sayyaf and captured an additional thirty-eight. But Abu Sayyaf has been improving ties with regional organizations, like Jemaah Islamiyah and the Moro Islamic Liberation Front, an Islamic separatist group dating from the 1970s located in the southern Philippines. Thus, even though Abu Sayyaf's armed strength fell from an estimated one thousand in 2002 to between two hundred and four hundred in 2006, the capabilities of the organization may be growing. The 2008 U.S. State Department estimates the group to consist of between two hundred and five hundred members.¹⁵⁶

In February 2011 *UN OCHA* reported that Abu Sayyaf has no political agenda and that negotiations have not been entered into,

"The Abu Sayyaf Group is fighting against the GRP and has a small presence in Sulu and Basilan but is believed to have little presence in Central Mindanao. With little or no

¹⁵⁵ Council on Foreign Relations, Abu Sayyaf Group, 27 May 2009, http://www.cfr.org/publication/9235/abu_sayyaf_group_philippines_islamist_separatists.html, accessed 18 December 2010

¹⁵⁶ Council on Foreign Relations, Abu Sayyaf Group, 27 May 2009, http://www.cfr.org/publication/9235/abu_sayyaf_group_philippines_islamist_separatists.html, accessed 18 December 2010

professed political agenda and engaging primarily in kidnapping for ransom, Abu Sayyaf is regarded as a terrorist group with which no negotiations are entertained.”¹⁵⁷

A report by *The New York Times* in September 2009 states that new recruits are said to be motivated less by radical Islamist ideology than by banditry, especially the lucrative kidnappings for ransom for which it has become known,

“Early this decade, American soldiers landed on the island of Basilan, here in the southern Philippines, to help root out the militant Islamic separatist group Abu Sayyaf.

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Still, despite seven years of joint military missions and American development projects, much of the island outside main towns like Lamitan remains unsafe. Abu Sayyaf members, sheltered by sympathetic residents, continue to operate in the interior’s dense forests, even as the United States recently extended the deployment of troops in the southern Philippines.

Last month, Abu Sayyaf guerrillas killed 23 Philippine soldiers in a battle in the south of Basilan. This month, on the neighboring island of Jolo, Abu Sayyaf members, reinforced by a contingent from Basilan, killed eight soldiers in fierce fighting that displaced thousands of civilians.

More than 40 insurgents were killed, though at least 10 were believed to have belonged to a different Muslim separatist group. “We haven’t been able to eliminate the root cause of the problem,” said Maj. Arnel Tolato, the commander of a Philippine Marine battalion here, explaining why Abu Sayyaf had not been eradicated. “It cannot be addressed alone by the military. It’s derived from the dynamics here, political and cultural. It’s very complex.” In an interview at a base shared with American troops, he said: “We’re just dealing with the armed elements. We might kill them. But there are young ones to take their place.”

Basilan, like many other Muslim and Christian areas in the southern Philippines, has a long history of political violence, clan warfare and corruption. Experts believe that Abu Sayyaf has been protected not only by friends and family, but also by friendly political and military officials. It received support from Al Qaeda in the early 1990s and is believed to be sheltering leaders of the Indonesian terrorist group Jemaah Islamiah. But as most of its original leaders have been killed or captured, Abu Sayyaf and its new recruits are said to be motivated less by radical Islamist ideology than by banditry, especially the lucrative kidnappings for ransom for which it has become known.”¹⁵⁸

In February 2010 UK daily newspaper *The Guardian* reported the death of an Abu Sayyaf militant commander with al-Qaida links,

“Philippine marines killed a top Al Qaida-linked militant commander and five other extremists today in an assault on a rebel camp on a southern island, a senior military officer said.

Albader Parad, a wanted militant leader was among the dead following a raid on a camp belonging to the Abu Sayyaf group outside Maimbung township on Jolo island, said Lieutenant General Benjamin Dolorfino, head of the military’s western Mindanao command.

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The Abu Sayyaf, which has about 400 fighters, has been blamed for numerous bombings, beheadings and kidnappings of Filipinos and foreigners. It is believed to have received funds from al-Qaida and is on a US list of terrorist organisations. Parad is accused of the

¹⁵⁷ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

¹⁵⁸ The New York Times, Curbed in Towns, Philippines Islamists Take to the Forests, 25 September 2009, <http://www.nytimes.com/2009/09/26/world/asia/26phils.html?ref=abusayyaf>, accessed 20 December 2010

abduction of three International Red Cross workers on Jolo early last year. The three – a Filipino, a Swiss and an Italian – were eventually freed by the militants.”¹⁵⁹

In December 2010 *The Jamestown Foundation* reported that the AFP will no longer engage in large scale operations against Abu Sayyaf, which cause large displacements,

“In Basilan, for example, the strategy involves surgical military operations enhanced by civil-military economic development programs that are intended to separate public support from Abu Sayyaf and keep the fighters on the run (*Sun Star* [Zamboanga], May 26). No longer will the AFP engage in large-scale military operations in Basilan or comb the jungles searching for Abu Sayyaf members concealed among the local population. Such operations are “counter-productive” because they lead to large displacements of people and cause locals to have negative perceptions of the military (Asia Times, June 19).”¹⁶⁰

c. *New People’s Army*

In February 2011 the *International Crisis Group* reports that,

“The Communist Party of the Philippines (CPP) and its New People’s Army (NPA) launched their armed struggle against the Philippine government in 1968.”¹⁶¹

In February 2011 the *International Crisis Group* reported that the communist insurgency has strong roots in its areas of operation and that the government has been unable to destroy the organisation,

“The Philippine government is unable to control and develop large parts of the country because of the longstanding communist insurgency. The conflict has lasted more than 40 years and killed tens of thousands of combatants and civilians. Planning their attacks and securing weapons and funds locally, the insurgents have strong roots in the different regions where they operate and have proved hard to defeat. The government’s counter-insurgency strategy has diminished their numbers but has not been able to destroy the organisation. Neither side will win militarily.”¹⁶²

According to the *International Crisis Group* the CPP – NPA is most active in mountainous and typhoon hit areas,

“The CPP-NPA is most active in mountainous and typhoon-hit areas. It is strongest in Central and Northern Luzon, CALABARZON, Bicol, Eastern Visayas, Negros Occidental and eastern and southern Mindanao (Caraga, Davao and the Compostela Valley).”¹⁶³

¹⁵⁹ The Guardian, Philippine marines kill militant commander with al-Qaida links, 21 February 2010, <http://www.guardian.co.uk/world/2010/feb/21/philippines-militant-leader-killed?INTCMP=SRCH>, accessed 17 December 2010

¹⁶⁰ Jamestown Foundation, Terrorism Monitor, Volume VIII, Issue 44, 2 December 2010, available from <http://www.unhcr.org/refworld/docid/4d1c5e7a2.html>, accessed 22 February 2011

¹⁶¹ International Crisis Group, The communist insurgency in the Philippines: Tactics and talks, 14 February 2011, <http://www.crisisgroup.org/~media/Files/asia/south-east-asia/philippines/202%20The%20Communist%20Insurgency%20in%20the%20Philippines%20Tactics%20and%20Talks.ashx>, accessed 22 February 2011

¹⁶² International Crisis Group, The communist insurgency in the Philippines: Tactics and talks, 14 February 2011, <http://www.crisisgroup.org/~media/Files/asia/south-east-asia/philippines/202%20The%20Communist%20Insurgency%20in%20the%20Philippines%20Tactics%20and%20Talks.ashx>, accessed 22 February 2011

¹⁶³ International Crisis Group, The communist insurgency in the Philippines: Tactics and talks, 14 February 2011, <http://www.crisisgroup.org/~media/Files/asia/south-east-asia/philippines/202%20The%20Communist%20Insurgency%20in%20the%20Philippines%20Tactics%20and%20Talks.ashx>, accessed 22 February 2011

The *International Crisis Group* further reports on the history of the communist insurgency,

“The organisation was strongest in the 1980s, as the repressive government of Ferdinand Marcos fell and was replaced by the Cory Aquino administration. The insurgency had become a social movement, with an array of above-ground groups intertwined with an underground guerrilla army. Counterinsurgency operations coupled with an internal split crippled the organisation and cost it many of its supporters in the early 1990s. By 2000, the CPP-NPA had regained strength and has since proved remarkably resilient. It remains active in mountainous and neglected areas countrywide. Without altering its communist ideology, the organisation set up political parties that successfully stood for congress and re-engaged in peace negotiations with Gloria Macapagal-Arroyo’s government. Talks fell apart in 2004, and the Philippine military intensified operations against the guerrillas but failed to wipe them out by June 2010, when President Benigno “Noy” Aquino was sworn into office.”¹⁶⁴

In December 2010 the *BBC* reported that the New People’s Army is estimated to have 4000 armed fighters and that in 2004 the United States designated the New People’s Army a terrorist organisation,

“Representatives of the Philippines government and of country’s Communist Party are meeting in Hong Kong to find a way to reopen peace talks. The government’s chief negotiator Alexander Padilla is meeting with Luis Jalandoni of the National Democratic Front, or NDF. The NDF is an umbrella group of leftist organisations including the Communist Party of the Philippines (CPP). The party, founded in 1968, still poses a threat in parts of the country. Some of its former leaders hold seats in the Senate and Congress while others, such as Mr Jalandoni, face arrest warrants in the Philippines. The talks are being held in Hong Kong to assuage his fears of arrest if he returned to the Philippines.

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The presidential adviser on the peace process, Teresita Deles, told reporters that the meeting in Hong Kong could not be considered formal peace talks. “It’s really getting to know you. It’s the very first step to lay the good foundation for the talk,” she said. Peace talks stalled in 2004 when the United States added the CPP’s military arm, the New People’s Army, to a list of terrorist organisations.

A new effort by the previous government of President Gloria Macapagal-Arroyo foundered in February this year when 43 health workers were arrested and accused of being communists. Mr Sison has also been under pressure for the deaths of party members in internal party purges and a group of former communists is continuing to press for his prosecution. The communists are estimated to have about 4,000 armed fighters. It has called for the release of all political prisoners in the country and for meaningful land reform. The communists gained public support during the martial law years of the 1970s but lost dominance when the country returned to democracy in 1986.”¹⁶⁵

The *International Crisis Group* reports that the NPA is a serious threat to soldiers, police and those they consider to be military collaborators or informers,

“The NPA has fewer than 5,000 fighters, but it still has supporters and is recruiting new members, securing weapons and launching ambushes across the archipelago. It justifies its actions, including extrajudicial killings of “enemies of the people”, in ideological terms. The NPA remains a serious threat to soldiers, police and anyone it considers a military informant or collaborator, even though recruitment of highly educated cadres is difficult and

¹⁶⁴ International Crisis Group, The communist insurgency in the Philippines: Tactics and talks, 14 February 2011, <http://www.crisisgroup.org/~media/Files/asia/south-east-asia/philippines/202%20The%20Communist%20Insurgency%20in%20the%20Philippines%20Tactics%20and%20Talks.ashx>, accessed 22 February 2011

¹⁶⁵ BBC News, Philippine communists and government in Hong Kong talks, 2 December 2010, <http://www.bbc.co.uk/news/world-asia-pacific-11895264>, accessed 18 December 2010

crucial mid-level commanders are hard to replace. Hundreds die in the conflict every year, including more than 350 NPA regulars and government security forces in 2010.”¹⁶⁶

In February 2011 the *International Crisis Group* reported that the NPA has killed hundreds of people including civilians, politicians, tribal leaders, soldiers and the police,

“The NPA continues to kill hundreds each year, 187 soldiers, police and paramilitaries in 2010, without including tribal leaders, local politicians and civilians who also die in the conflict.”

In its 2011 World Report covering events from 2011 *Human Rights Watch* states that,

“Military clashes between government forces and the communist New People's Army (NPA) continued in 2010, especially in Central and Northern Luzon, Southern Tagalog, Bicol, Eastern Visayas, Negros, and on Mindanao. Around 1,100 people in Surigao del Sur, Mindanao, were displaced twice this year for several days each time after government forces moved into their area.

On February 6 the military and police arrested 43 men and women on firearms charges, and accused them of being NPA members. All but five of the detainees say they are health workers and deny links to the armed group. The arresting officers detained them blindfolded and without access to communication for the initial 36 hours, and refused them legal counsel during this time. Rather than investigating these allegations of abuse, the military granted awards to the two officers that led the arrests.

The NPA continued to kill civilians and extort "taxes" from individuals and businesses. For example, on July 13, NPA members killed the former mayor of Giporlos, Mateo Biong, Jr., in Eastern Samar province. The NPA said that it killed Biong after he was sentenced to death by a rebel "people's court."¹⁶⁷

In February 2011 the *International Crisis Group* reported on communist insurgency activities in the regions,

“A closer look at the regions of Davao and Caraga in Mindanao, and the island of Negros in the Visayas, reveals how the conflict adapts to local politics and resources. According to the NDF spokesperson for Mindanao, at the end of 2010, the CPP-NPA had five regional committees and 42 guerrilla fronts on the island and over the course of the year had launched 250 “tactical offensives”, seized more than 200 weapons and killed roughly 300 soldiers and police. The military estimates there are 1,300 NPA fighters in Mindanao. They primarily operate in areas where indigenous communities live. These tribes, collectively known as *lumads*, are the most affected by the conflict, their resource-rich ancestral lands coveted by the NPA and companies backed by the military.

In Negros, the NPA is a less potent threat. According to the CPP spokesperson, its forces initiated 30 “tactical offensives” in 2010 against state forces and sympathetic civilians and killed twenty soldiers. A single arms seizure operation netted 23 weapons. The group was also held responsible for around twenty summary executions of civilians in the same period.

¹⁶⁶ International Crisis Group, The communist insurgency in the Philippines: Tactics and talks, 14 February 2011, <http://www.crisisgroup.org/~media/Files/asia/south-east-asia/philippines/202%20The%20Communist%20Insurgency%20in%20the%20Philippines%20Tactics%20and%20Talks.ashx>, accessed 22 February 2011

¹⁶⁷ Human Rights Watch, World Report 2011: The Philippines, 2011, <http://www.hrw.org/en/world-report-2011/philippines>, accessed 4 May 2011

The island was particularly affected by the splintering of the movement in the 1990s, and the CPP-NPA continues to kill members of an armed “rejectionist” faction based there.”¹⁶⁸

The *International Crisis Group* reported that the NPA operates by “preying on Filipino hospitality,”

“A member of the Catholic Church who has worked for many years with indigenous peoples in Davao del Sur described how the NPA operates by “preying on Filipino hospitality”. At first, small groups of two to four cadres visit for short periods and develop relationships with the residents. They provide the community with seedlings and health care. With this foothold, they expand their influence and recruit. The “hard core” of the NPA is only four to six people, who disappear into the community when the military arrives. At times they simply take over one or two houses, whose regular occupants flee. If the military can identify where the NPA took shelter, these individuals are accused of giving support. With both guerrillas and soldiers passing through, such communities are not only fearful of clashes but are also under severe psychological pressure.”¹⁶⁹

Human Rights Watch states in its 2010 report that conflict between the New People’s Army and government forces has led to the displacement of civilians,

“Military operations between government forces and the communist New People’s Army continue especially in Central and Northern Luzon, Southern Tagalog, Bicol, Eastern Visayas, Negros, and Southern and Northern Mindanao. Around 1,700 people in Surigao del Sur, Mindanao, were displaced for over two months having fled their homes in June due to fears of being abused by government forces or caught in the fighting after government forces moved into their area.”¹⁷⁰

The *International Crisis Group* reports that the NPA claims to respect international law, however the International Crisis Group further reports that children have been killed during communist insurgency operations and that the NPA carry out summary executions,

“Despite the NPA’s frequent assertions that it respects international humanitarian law and does not target non-combatants, attacks in northern Samar, Eastern Visayas in December 2010 killed two children. The CPP-NPA also summarily executes “enemies of the people”, who they say were condemned by “people’s courts”.”¹⁷¹

The *International Crisis Group* reports that the NPA target local businesses,

“The NPA targets small businesses as well. The owner of a fleet of trucks transporting gravel and sand from a quarry in the Davao area pays 5,000 pesos (\$115) per year for each truck.¹²⁴ The NPA also levied a tax of four pesos (ten cents) per kilogram on banana vendors in New Bataan in the Compostela Valley, until the military increased its presence.¹²⁵ Other businesses may be taxed a percentage of their total profits.”¹⁷²

¹⁶⁸ International Crisis Group, The communist insurgency in the Philippines: Tactics and talks, 14 February 2011, <http://www.crisisgroup.org/~media/Files/asia/south-east-asia/philippines/202%20The%20Communist%20Insurgency%20in%20the%20Philippines%20Tactics%20and%20Talks.ashx>, accessed 22 February 2011

¹⁶⁹ International Crisis Group, The communist insurgency in the Philippines: Tactics and talks, 14 February 2011, <http://www.crisisgroup.org/~media/Files/asia/south-east-asia/philippines/202%20The%20Communist%20Insurgency%20in%20the%20Philippines%20Tactics%20and%20Talks.ashx>, accessed 22 February 2011

¹⁷⁰ Human Rights Watch, World Report 2010, p.340, <http://www.hrw.org/world-report-2010>, accessed 18 December 2010

¹⁷¹ International Crisis Group, The communist insurgency in the Philippines: Tactics and talks, 14 February 2011, <http://www.crisisgroup.org/~media/Files/asia/south-east-asia/philippines/202%20The%20Communist%20Insurgency%20in%20the%20Philippines%20Tactics%20and%20Talks.ashx>, accessed 22 February 2011

¹⁷² International Crisis Group, The communist insurgency in the Philippines: Tactics and talks, 14 February 2011, <http://www.crisisgroup.org/~media/Files/asia/south-east-asia/philippines/202%20The%20Communist%20Insurgency%20in%20the%20Philippines%20Tactics%20and%20Talks.ashx>, accessed 22 February 2011

In December 2010 the *BBC* reported that informal talks led to the announcement of new peace negotiations in 2011 between the communist National Democratic Front and the government,

“After two days of informal talks in Hong Kong both sides announced that new peace negotiations would be held in Oslo, Norway, in February next year. The agreement breaks a five-year hiatus in peace talks with the 42-year-old communist insurgency. The communists are one of several armed rebel groups in the Philippines. The two days of informal talks in Hong Kong appear to have put both sides to this long- running conflict in a good mood.

Alexander Padilla and Pablito Sanidad - backed by the relatively new Philippine president, Benigno Aquino - said the Hong Kong talks had been open, friendly, free-wheeling and meaningful. On the other side, Luis Jalandoni is the 71-year-old chief negotiator for the National Democratic Front. The Front groups the Communist Party of the Philippines and its armed wing, the New People's Army, with other leftist organisations.

Communist resistance to the martial law of the late President Ferdinand Marcos marked the movement's high point - efforts at peace have gone on and off since 1992. Now, Mr Jalandoni says he is hopeful of an end to an insurgency that has claimed tens of thousands of lives. A truce agreed for the Christmas period must be seen to hold. The military will want assurances that communist promises can be trusted; the leftists want extra-judicial killings to stop and detained comrades to be released. There can be few illusions about the difficulties that still lie ahead.”¹⁷³

4. Other armed actors

In May 2010 *IRIN News* reported violence in Mindanao during national election week,

“Two rocket-propelled grenades landed just 100m away from a village in the southern Philippines, exploding near voters lined up at polling stations for national elections this week. No one was hurt in the farming village of Magaslong, near the strife-torn town of Datu Piang, but the attack forced civilians on the run again.

Violence has always been a staple of elections in the Philippines, but it has taken a turn for the worse on the southern island of Mindanao. Blood feuds among local warlords and clashes between troops and Muslim separatist rebels have for generations led to a complicated, vicious cycle of displacements.”¹⁷⁴

In October 2010 *The Guardian* reported the existence of extortion gang's in the southern Philippines, detailing the bombing of civilians on a bus in October 2010 which had been blamed on an extortion gang believed to have links with Muslim militants,

“A bomb ripped through a passenger bus today in the southern Philippines, killing at least eight people and wounding 10. Authorities blamed the attack on an extortion gang with links to Muslim militants.

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A military spokesman, Lieutenant Colonel Randolph Cabangbang, said authorities suspected the al-Khobar extortion gang as the bus company had been targeted for extortion in the past.

¹⁷³ BBC News, Philippines and communist rebels to hold talks, 3 December 2010, <http://www.bbc.co.uk/news/world-asia-pacific-11913328>, accessed 17 December 2010

¹⁷⁴ IRIN News, Returning IDPs forced out again by political violence, 13 May 2010, <http://www.irinnews.org/report.aspx?ReportId=89115>, accessed 17 December 2010

Al-Khobar is the most notorious of the region's extortion gangs, and authorities say it is made up of criminals and former Muslim rebels who have been blamed for attacking businesses that refuse to pay ransom demands. The group is on a US list of terrorist organisations.

In April last year, two homemade bombs exploded hours apart on one bus, wounding the conductor and five passengers. A bomb exploded at a Cotabato city bus terminal in February the same year, wounding two people.

Troops last year captured a suspected al-Khobar leader, Mokasid Dilna, who allegedly trained with militants in Afghanistan and Pakistan in the 1990s. Military officials said he provided refuge to foreign militants and acted as a link with two local Muslim groups – the Abu Sayyaf and the larger Moro Islamic Liberation Front, which has been engaged in peace talks with the government.”¹⁷⁵

a. *Private armies and Paramilitary forces*

In a November 2010 *Human Rights Watch* reports on the existence of private armies,

“The term “private army” is commonly used in the Philippines to describe security forces of powerful politicians, wealthy landowners, and other private interests. The term is accurate in that it describes the loyalties of such forces—armed bodies that act on behalf of private, and not public, interests. As a result, human rights abuses committed by private armies are often dismissed as a manifestation of regional culture or an exhibition of rido, or clan conflict. But such explanations—and the very term “private armies”—fail to capture the state’s role in these forces’ make-up, support, and involvement in abuses.”¹⁷⁶

In November 2010 *Human Rights Watch* reports that there are more than 100 private armies operating throughout the Philippines,

“The private army of the Ampatuan family may be among the most abusive in the Philippines, but it is just one among many. More than 100 private armies, large and small, are estimated to be operating throughout the Philippines, primarily but not exclusively in rural areas, and often but not always where there is an active insurgency. The level of direct government support for these militias varies, but if the Ampatuan example is any indication, a history of abuses is no disqualifier. So long as such official support continues, so will these forces and the atrocities for which they have been responsible.”¹⁷⁷

The human rights NGO *Karapatan* also notes the existence of private armies in the southern Philippines,

“As the nation commemorates the first anniversary of the November 23 Ampatuan Massacre in Maguindanao, the national alliance of human rights groups, KARAPATAN, called for the dismantling of the Citizen's Armed Force Geographical Units (CAFGU) and all paramilitary units used by political warlords as their private armies.

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“It's public knowledge and an open secret that state-sponsored paramilitary groups are being widely used by feudal warlords as a pillar of support for their political and landed interests to the detriment of human rights. The Ampatuan massacre in which 57 civilians

¹⁷⁵ The Guardian, Deadly bomb blast hits Philippines bus, 21 October 2010, <http://www.guardian.co.uk/world/2010/oct/21/deadly-bomb-blast-philippines-bus?INTCMP=SRCH>, accessed 20 December 2010

¹⁷⁶ Human Rights Watch, They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

¹⁷⁷ Human Rights Watch, They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

were killed, is a grim reminder of the prevailing culture of impunity surrounding these forces," Marie Hilao-Enriquez added. "It is high time that Malacanang consider disbanding these state-sponsored armed groups. President Aquino, as head of state and commander-in-chief of the armed forces, should take the initiative in doing so.

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The AFP command has reportedly admitted that they cannot let go of the CAFGUs, otherwise their regular forces of ten divisions would be spread too thinly. They repeatedly pronounced through the media that human rights would be respected.

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"Fundamentally, state violence has relied on US military support but is applied widely at the grassroots by local warlords through political patronage. The nation and the world has seen the result of Macapagal-Arroyo's coddling of the Ampatuans, if the Aquino government is really set to walk its talk of "daang matuwid"(righteous path) it must now stop state violence and terrorism at all levels. It can start by doing away with the counter-insurgency programs and weeding out the armed militias of political clans as their base of support and conduit for war," Enriquez concluded."¹⁷⁸

In November 2010 *Amnesty International* reported that following the 2009 massacre private armies are still in operation, authorized by an Executive order signed by President Arroyo in 2006,

"One year after the massacre, other private armies continue to operate in the Philippines under Executive Order 546, which former President Gloria Arroyo signed and implemented in 2006. This order effectively authorizes private armies by allowing the Philippine National Police to deputize militias and Civilian Volunteer Organizations (CVOs) as "force multipliers".¹⁷⁹

In February 2010 *The New York Times* reported that the executive order issued by President Arroyo was aimed at allowing local politicians to form private armies to curb muslim insurgency but also allowed clans to build up private armies for their own use,

"If we don't contain the private armies, there is the risk that there won't be fair elections in these hot spots," Mr. Jimenez said. "In a tight presidential election, the private armies in one region could tip the balance." That is precisely what is believed to have happened in 2004 when Mrs. Arroyo was in a close race for the presidency. Widespread fraud occurred here in the southern province of Maguindanao, the fief of the Ampatuans, the clan accused of being behind the November massacre.

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Experts say private armies are typically composed of moonlighting police officers, soldiers, Muslim rebels and average citizens. In 2006, Mrs. Arroyo issued an executive order that made it easier for local politicians to form private armies, or "civilian volunteer organizations," to battle Muslim insurgents. But one result was that it also allowed ambitious clans to build up militias rapidly for their own use."¹⁸⁰

In January 2011 *Human Rights Watch* reported that investigations into private armies have not resulted in further action,

"Aquino has not fulfilled his campaign promise to take action against other ruling families who use militias and police as their private armies. Investigations of the Ampatuan family following the Maguindanao massacre uncovered many years of impunity for horrific crimes, as well as huge caches of government-supplied weapons and ammunition, situations that

¹⁷⁸ Karapatan, Karapatan calls on PNoy for CAFGU-dismantling as part of justice for Ampatuan massacre victims, 23 November 2010, <http://www.karapatan.org/112310-ampatuan-massacre-anniv>, accessed 17 December 2010

¹⁷⁹ Amnesty International, Philippines: Justice still not served one year after massacre, 22 November 2010, available from <http://www.unhcr.org/refworld/docid/4cf4f75dc.html>, accessed 22 February 2011

¹⁸⁰ The New York Times, Filipino Politicians Wield Private Armies, Despite Ban, 23 February 2010, <http://query.nytimes.com/gst/fullpage.html?res=9402E3DE153DF930A15751C0A9669D8B63&scp=322&sq=Philippines&st=nyt&pagewanted=all>, accessed 20 December 2010

may be replicated in many other provinces. Task forces were created to examine two private armies elsewhere in the country, but this has not resulted in any further action.”¹⁸¹

In its 2011 World Report covering events of 2010, *Human Rights Watch* reports that powerful families continue to use paramilitaries and local police as their private armies,

“In numerous provinces, ruling families continue to use paramilitary forces and local police as their private armies. By recruiting, arming, and paying members of these various militias, often with national government support, local officials ensure their continued rule, eliminate political opponents, and engage in corruption. The Maguindanao massacre, the most egregious atrocity implicating a ruling family in recent years, was allegedly carried out by a private army consisting of government-endorsed paramilitary members, as well as police officers and soldiers.

In 2010 the government created task forces to dismantle private armies in Masbate and Abra provinces, but they continue to operate. In July President Aquino directed the police and military to take control of paramilitary forces, properly train them, and ensure that all forces are insulated from political entities. Aquino continues to defend the use of these forces, which often provide manpower for private armies and have a history of perpetrating rights abuses.”¹⁸²

A report by *The New York Times* published in February 2010 notes that many Filipino politicians control their own private armies,

“Mr. Uy is a rare politician in the Philippines, one who does not deny having a private army. As the country prepares for nationwide elections in May, politicians are expected to use these militias, as they have in the past, to safeguard their interests, intimidate rivals, rig votes and perpetuate the control of family dynasties throughout the country. But even as half a dozen political candidates have been assassinated throughout the country in recent weeks, President Gloria Macapagal Arroyo has pledged to eradicate private armies by Election Day. Critics are skeptical, though, not just because previous governments have failed at similar attempts.

They say they doubt Mrs. Arroyo's sincerity, pointing to her government's past support of private armies and saying that she was only responding to the international outcry over one of the country's worst acts of political violence. In November, in a town not far from here, militiamen loyal to the powerful Ampatuan clan -- staunch Arroyo allies -- massacred 57 people, including journalists and relatives of a political rival to the Ampatuans.

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Private armies have flourished especially here on Mindanao, the country's southernmost major island, where Muslim and Communist insurgents have battled the military for decades and American soldiers have hunted for members of Abu Sayyaf, the terrorist group, since 2002. Philippine governments have supported local politicians with private armies to help suppress insurgents and Islamic radicals, and these conflicts often become inextricably linked with clan warfare.

An independent commission established to disband the private armies has identified 74 of them, though other government officials have said twice as many exist. They operate in

¹⁸¹ Human Rights Watch, Philippines: More talk than action on human rights, 25 January 2011, <http://www.hrw.org/en/news/2011/01/25/philippines-more-talk-action-human-rights>, accessed 22 February 2011

¹⁸² Human Rights Watch, World Report 2011: The Philippines, 2011, <http://www.hrw.org/en/world-report-2011/philippines>, accessed 4 May 2011

areas that are home to 7.8 million registered voters, out of a national total of 50 million, said Dante Jimenez, a member of the commission.”¹⁸³

In November 2010 *Human Rights Watch* further reports that some paramilitary forces were state sanctioned,

“In his successful campaign for the presidency this year, Benigno “Noynoy” Aquino III vowed to abolish the private armies that flourished under President Arroyo, who authorized the arming of Civilian Volunteer Organizations (CVOs) and Police Auxiliary Units, and allowed local government units to enter contractual arrangements with the military for barely trained militia forces called Special CAFGUs. Aquino also promised to hold accountable the perpetrators of the Maguindanao massacre, and seek justice for the hundreds of other victims of extrajudicial killings and other human rights abuses. Aquino should fulfill these promises by taking immediate action to disarm and disband all militias, including state sanctioned paramilitary forces, in Maguindanao and throughout the country. He should also institute tougher controls on local government procurement of weapons, and prosecute perpetrators of human rights abuses, regardless of position or rank.”¹⁸⁴

Human Rights Watch reports that the Ampatuan family’s private militia contained members of the police, military and state sanctioned paramilitary forces,

“According to individuals with knowledge of the Ampatuans’ force structure, most members of their private army are also members of the state-sanctioned paramilitary forces, namely the Civilian Volunteer Organization (CVO), Police Auxiliary Unit, Citizen Armed Force Geographical Unit (CAFGU), or Special CAFGU Active Auxiliary. Their forces also include regular members of the police and military. Many are relatives of local government officials. Militia members, who receive virtually no training, swear allegiance to the family and operate without police or military supervision, as is required by law. The number of militiamen is limited only by the local government’s ability to fund operational costs.

The Ampatuans have provided their militia with formidable modern military weaponry. In the aftermath of the Maguindanao massacre, investigators recovered at least 1000 weapons in and around the homes of Andal Ampatuan, Sr. and Jr., including anti-tank weapons, mortars, machine guns, automatic pistols, and sniper and assault rifles, as well as tens of thousands of rounds of ammunition. Ampatuan-family insiders and police officers investigating the massacre say that the military and police provided the Ampatuans with most of these weapons, a situation facilitated by Philippine law, which permits local government officials to legally buy an unlimited number of weapons without any obligation to report the type or number purchased.

According to insiders, the Ampatuans used their militia for a wide range of criminal activity intended to eliminate threats to the family’s rule, or to warn anyone considering posing such a threat.”¹⁸⁵

In November 2010, *Human Rights Watch* listed the following cases involving the Ampatuan militia,

“On July 20, 2005, about 25 armed men in military uniform shot and killed Haji Noria Tambungalan and her child in barangay Kitango. Her husband, Mando Tambungalan, said he recognized three of the armed men as hired killers on the Ampatuan payroll. He told

¹⁸³ The New York Times, Filipino Politicians Wield Private Armies, Despite Ban , 23 February 2010, <http://query.nytimes.com/gst/fullpage.html?res=9402E3DE153DF930A15751C0A9669D8B63&scp=322&sq=Philippines&st=nyt&pagewanted=all>, accessed 20 December 2010

¹⁸⁴ Human Rights Watch, They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

¹⁸⁵ Human Rights Watch, They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

Human Rights Watch that he has been targeted by the Ampatuans since running for vice mayor of Datu Piang in 2001.

□ On December 2, 2006, in Cotabato City, motorcycle-riding gunmen linked to the Ampatuan clan shot and killed Judge Sahara Silongan while he was driving his family home. A relative of the judge believes he was killed for failing to issue an illegal warrant of arrest demanded by the Ampatuans: “It was a form of liquidation.” No one has been arrested for the killing.

□ On June 23, 2006, the Ampatuans planted a bomb which exploded near the Shariff Aguak market, killing five people, including Ed Mangansakan. Mangansakan was a known weapons supplier for the Ampatuans. A man working as a CVO for the Ampatuans at this time told Human Rights Watch that Ampatuans’ men planted the bomb in order to get weapons purchased from Mangansakan for free.

□ On August 28, 2008, a cousin of Ampatuan, Jr., and his armed men allegedly shot and killed eight members of the Lumenda and Aleb families, including one child, as they harvested rice in barangay Tapihan, in Shariff Aguak municipality. One gunman, a member of the Police Auxiliary Unit, told Human Rights Watch that he and the others were ordered to shoot the family because the Ampatuans doubted their loyalty.”¹⁸⁶

In November 2009 *The New York Times* reported allegations that the Philippines government supports local militias in the south,

“As more bodies were recovered after a massacre on Monday on the Philippine island of Mindanao, bringing the death toll to 46, an expert on the region blamed the government of President Gloria Macapagal Arroyo for arming the powerful clan accused of carrying out the killings in the country’s southern region.

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In the aftermath of the attack — against a family that has threatened the power of the Ampatuans — President Arroyo pledged to bring the murderers to justice. But Ms. Vitug said that Monday’s violence was a direct result of the Arroyo government’s policy of arming clan-based militias to combat Islamist rebels. She called the clans, “a monster created by, well, this government and past governments. And the military has supplied arms to their civilians armies.”¹⁸⁷

According to *Human Rights Watch*, reporting in April 2009, Muslim, communist, government and paramilitary forces have committed extortion, abductions, torture, killings and death squad killings in the southern Philippines,

“Mindanao, the largest of the Philippines’ southern islands, has been a focal point for insurgencies and conflict for decades. Militant Muslim groups, communist insurgents, government security forces, and government-backed militias and “vigilante groups” have all been responsible for numerous serious human rights abuses—including abductions, torture and killings—against suspected adversaries and ordinary civilians.

Since 1969 the New People’s Army (NPA), the armed wing of the Communist Party of the Philippines, has been fighting to topple the Philippine government. The communist insurgency reached its greatest strength in the mid-1980s, prior to the “People Power” revolution of 1986 that removed then President Ferdinand Marcos from power. During that period, Mindanao was one of the hotbeds of the NPA insurgency. NPA forces have been

¹⁸⁶ Human Rights Watch, They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

¹⁸⁷ The New York Times, Philippine Government Blamed for Creating ‘Monster’ to Battle Insurgents, 24 November 2009, <http://thelede.blogs.nytimes.com/2009/11/24/philippine-government-blamed-for-creating-monster-to-battle-insurgents/?scp=430&sq=Philippines&st=nyt>, accessed 18 December 2010

responsible for numerous abuses, including targeted killings of persons whom they identify as “enemies,” and the use of violence to extort businesses and individuals. So-called “sparrow units” have summarily executed those cited for “crimes against people,” such as criminals, military informants and abusive police officers.”¹⁸⁸

¹⁸⁸ HRW, “You Can Die Any Time”: Death Squad Killings in Mindanao, 6 April 2009, pp.10-11, <http://www.hrw.org/en/reports/2009/04/06/you-can-die-any-time>, accessed 17 December 2010

C. Human Rights Situation

1. Treatment of political opponents, critics and witnesses

[See also Section A. Background and Recent Developments; 5. Administration of Justice and the Rule of Law]

In 2010 the *Asian Human Rights Commission* reported abuses against activists by state agents and that a lack of accountability by the police meant that activists had little confidence in them, and that activists rarely made complaints and did not expect investigation of their cases,

“Many human rights or political activists in the Philippines are subjected to a range of threats by State agents or those working for them. These result in such persons living in fear, as many of these threats, including death threats, are carried out, as shown by the hundreds of reported cases of extra-judicial killings of such activists over the last decade.

The protection of human rights and political activists who are the subject of threats is not at all effective in the Philippines. Institutionally, it is the utmost responsibility of the Philippine National Police (PNP) to protect individuals.

[] a lack of accountability by the police means that there are no repercussions when they fail to protect activists. This results in a lack of confidence by activists leading to complaints rarely being made when they receive threats. The extent of fear, distrust, and the lack of confidence in public institutions run so deep that victims do not expect the police to investigate cases.

The making of complaints at police stations has been reduced to nothing more than keeping records. The victims who are object of threats may report them to bring attention to their situation, but they typically don't expect the police to provide effective protection.”¹⁸⁹

In December 2010 the *Asian Human Rights Commission* reported the following judicial remedies for those whose security or life is threatened,

Judicial remedies: The Writ of Amparo is a judicial remedy that grants temporary protection orders (TPO) to individuals whose security and life is threatened. The Writ of Habeas Data is a remedy that provides for the correction to or production of records of persons subjected to false profiling by the authority. While these have been heralded as important developments in the remedies available to victims in the Philippines, as with many other laws, remedies and rights, they are not being effectively implemented. In these cases, the limitations come from beyond the authority of the judiciary.

These remedies promulgated by the Supreme Court (SC) do not function if victims do not file complaints in court or do not have the resources to do so. The continuing extra-judicial killings and impunity in the country have instilled deeply-rooted fear and apathy amongst victims and witnesses, which has meant that remedies that may have a chance of proving effective have not been used effectively.”¹⁹⁰

According to the *USDOS 2010 Human Rights Report on the Philippines*, arbitrary and unlawful killings were commonplace in 2009 and that the independent government agency, the Commission on Human Rights, investigated 57 politically motivated killings during 2009,

¹⁸⁹ Asian Human Rights Commission, *The state of human rights in the Philippines in 2010*, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

¹⁹⁰ Asian Human Rights Commission, *The state of human rights in the Philippines in 2010*, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

“Security forces and antigovernment insurgents committed a number of arbitrary and unlawful killings, including in connection with an increase in fighting between government forces and Muslim rebels in central Mindanao. The Commission on Human Rights (CHR), an independent government agency, investigated 57 new complaints of politically motivated killings that occurred from January through November.

The CHR suspected personnel from the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP) in some killings of leftist activists operating in rural areas. Suspects in other cases were ordinary citizens or remained unknown. The nongovernmental organization (NGO) Task Force Detainees of the Philippines (TFDP) investigated allegations of summary executions by government security forces. The TFDP was unable to investigate all of these allegations, but it counted eight cases involving 12 victims of summary executions by government forces during the year.”¹⁹¹

In its World Report 2011, covering the events of 2010, *Human Rights Watch* stated that very few convictions have been made for the killings of hundreds of political activists, journalists and religious figures in the last decade,

“Hundreds of leftist politicians and political activists, journalists, and outspoken clergy have been killed or abducted since 2001. So far only 11 people have been convicted of these killings—none in 2010—and no one has been convicted of the abductions. While soldiers, police, and militia members have been implicated in many of these killings, no member of the military active at the time of the killing has been brought to justice.”¹⁹²

In a 2010 report *Human Rights Watch* reported that a November 2009 massacre targeting a local vice mayor, his family members and supporters has been attributed to the Ampatuan family,

“On November 23, 2009, around 200 armed men stopped a convoy carrying family members and supporters of a local vice mayor in the southern Philippines island of Mindanao as they went to register his candidacy in upcoming gubernatorial elections. The gunmen forced the group of 58 people—which included some 30 media workers and six passersby, off the highway near the town of Ampatuan, ordered them from their vehicles, and executed them all.

The massacre—the worst in recent Philippines history—has since been attributed to members of the Ampatuan family, which has controlled life and death in Maguindanao province for more than two decades through a “private army” of 2000 to 5000 armed men comprised of government-supported militia, local police, and military personnel.”¹⁹³

Human Rights Watch further states that the national government provides support to ruling families and that ruling families’ militia commit violations with impunity,

“While killings among ruling families in central Mindanao are not uncommon, the scale and brutality of the November 23 massacre far exceeded previous attacks in this violent region. It also focused international attention on ruling families like the Ampatuans, and the lawlessness that persists in much of the Philippines. Less scrutinized than the violence itself, however, but ultimately of greater significance, is the support that the national government provides such families throughout the country, and the near total impunity that their abusive militias enjoy. Successive national governments have not dismantled and disarmed these militia forces, as stipulated in the 1987 Philippine Constitution, nor have

¹⁹¹ USDOS, 2009 Human Rights Report: Philippines, 11 March 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/eap/136006.htm>, accessed 19 December 2010

¹⁹² Human Rights Watch, World Report 2011: The Philippines, 2011, <http://www.hrw.org/en/world-report-2011/philippines>, accessed 4 May 2011

¹⁹³ Human Rights Watch, They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

they investigated and prosecuted unlawful activities by those who control, arm, and use them for private ends.

Indeed, rather than trying to prevent militias from carrying out criminal acts, the military and police often provide them with manpower, weapons, and protection from prosecution.”¹⁹⁴

The *USDOS* reported NGO estimates that there were 255 political prisoners at the end of 2009, most of whom had not been convicted,

“Various human rights NGOs maintained lists of incarcerated persons they considered to be political prisoners. At year’s end, the *TFDP* reported that there were 255 political prisoners. The majority of persons listed had not been convicted. Some NGOs asserted that it was frequent practice to make politically motivated arrests of persons for common crimes, or on fabricated charges, and to continue to detain them after their sentences expired.

The government used NGO lists as one source of information in the conduct of its pardon, parole, and amnesty programs, but it did not consider the persons listed to be political detainees or prisoners. From January to December, the government released 80 persons whom NGOs claimed were political prisoners. The government permitted access to alleged political prisoners by international humanitarian organizations.

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A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. The *CHR* and, to some extent, the *PNP* responded to and investigated cases of human rights abuses, as requested by NGOs. Human rights activists continued to encounter occasional harassment, mainly from security forces or local officials from the area in which incidents under investigation took place. The Presidential Human Rights Committee consulted with NGOs but did not include representation from the NGO community, which some groups claimed reduced their ability to participate in the government’s human rights initiatives.”¹⁹⁵

In 2010 *FIDH* reported the continued disappearances and extrajudicial killings of political opponents opposed to government policy,

“Enforced disappearances and extrajudicial killings against those labelled as “leftists” – political opponents, human rights activists, journalists, religious and members of peasant and fishermen’s organisations, labour and trade union activists – continued in 2009.

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Reforms directed at institutionalising the reduction of killings and in ensuring command responsibility for abuses were not implemented. Witness protection remained grossly inadequate, and impunity was still widespread.

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The Government’s counter-insurgency plan, “*Oplan Bantay Laya*” (*OBL*), also contributed significantly to this climate of impunity. Armed forces often lump together armed revolutionary movements, legal and democratic organisations, media and political opposition as targets to quell growing dissent. Moreover, they regularly label members of local communities as possible supporters or even secret combatants for armed insurgency groups.

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Human rights defenders denouncing extrajudicial killings continued to be subjected to reprisals in 2009. [] In an even more worrying trend, defenders denouncing extrajudicial

¹⁹⁴ Human Rights Watch, They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

¹⁹⁵ *USDOS*, 2009 Human Rights Report: Philippines, 11 March 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/eap/136006.htm>, accessed 19 December 2010

killings committed by the military were in turn victims of extrajudicial killings, in full impunity. Thus, on March 31, 2009, Ms. Edelina Joloso-Jerus was shot dead in front of her two children in San Juan, Sorsogon city. She was actively involved in “Hustisya!”, an organisation of relatives of victims of human rights violations under the Arroyo regime that is also campaigning against extrajudicial killings. Her husband, a peasant leader and organiser of the Peasant Association in Sorsogon, was shot dead under similar circumstances in April 2007.

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In 2009, several organisations expressed their deep concern over a list of human rights defenders presented as possible military targets. The 67-pages document classified as secret is reported of having been prepared in the third quarter of 2007 – but was only known in 2009 through a leak by a military who disclosed the existence of that list – by the so-called “JCICC Agila”, under the office of the Assistant Chief of Staff for Intelligence of the 10th infantry division of the AFP. It lists the names of 105 human rights defenders and several organisations, which it claims have colluded with the communist movement for the “takeover of the seat of Government”. Although the military denied the existence of this document, the risk is great that in the absence of a genuine investigation, these persons may be exposed to assassination. A significant number of those in previous lists were indeed shot with the implication of military, police and other officials.”¹⁹⁶

In 2010 Filipino NGO *Karapatan* reported on extrajudicial killings of politicians,

“Within a week of Noyonoy’s inaugural address, on July 5, **Fernando Baldomero**, an elected Municipal Councilor for the second term in Lezo, Aklan was shot and killed in front of his rented house in Bgy. Estancia, Kalibo, Panay. The assassination happened in full view of his 12-year old son. Baldomero was the first reported victim of political killing under the Aquino administration. He was also a member of Selda, an association of former political detainees, and provincial chairperson of the Bayan Muna partylist organization,

Soon after, **Pascual Guevarra**, 78, a leader of Alyansa ng Magbubukid na Nagkakaisa sa 3,100 Ektarya sa Fort Magsaysay Military Reservation (ALMANA 3100), a local affiliate of the Kilusang Magbubukid ng Pilipinas (Peasant Movement of the Philippines or KMP), was shot dead while at home on July 9. His 18-year old grandson, **Ronnel Vilorio**, was also shot but survived the attack.

Casiano Abing, a Bayan Muna Partylist member and a sheriff at the Regional Trial Court of Balangiga, Eastern Samar, was already resting with his family in the evening of August 25. At around 7:00 p.m., someone knocked at their door, and Abings’ helper went to check who the visitor was. A man asked for Casiano and the helper called to her employer. After Casiano went down to check, his family heard gunshots. They rushed to find him sprawled on the floor, wounded. The assailant immediately fled after the shooting. Casiano was able to tell his family that he saw his assailant who did not look familiar to him. His family rushed Casiano to the nearest hospital, but were told to transfer to another hospital with better equipment in Tacloban City, which was an hour and half away from Balangiga. Casiano was pronounced dead on arrival.

On September 3, **Reynaldo Labrador**, was shot and killed in front of his house in Paquibato District, Davao City, by men who were supposed to hand him a document. One of the assailants was identified as a member of the paramilitary Citizens Armed Force Geographical Unit (CAFGU). It turned out that written on the document were the words, “You are evil! You should be liquidated!”¹⁹⁷

¹⁹⁶ FIDH/Observatory For The Protection Of Human Rights Defenders, Annual Report 2010, 2010, pp.307-309, http://www.fidh.org/IMG/pdf/OBSUK2010asia_human_rights_defenders.pdf, accessed 17 December 2010

¹⁹⁷ Karapatan, 2010 year end report on the human rights situation in the Philippines, 1 December 2010, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/B06A254EB6D5CF67C125780700368303/\\$file/2010+report+karapatan.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/B06A254EB6D5CF67C125780700368303/$file/2010+report+karapatan.pdf), accessed 1 March 2011

In 2010 Filipino human rights NGO *Karapatan* reported 20 extra judicial killings between July and October 2010,

‘Barely four months into Noynoy’s presidency, there are already 20 victims of extrajudicial killings, making an average frequency of once a week. There are two victims of enforced disappearance, 16 victims of torture, 23 of arbitrary arrest and detention and almost 900 who were forced to evacuate their homes and croplands due to intense militarization.’¹⁹⁸

The *Asian Human Rights Commission* report that a unionist was the subject of smear campaigns by soldiers who held meetings in villages accusing the unionist of being a communist and that three community organisers were kidnapped and disappeared by soldiers who used them as guides.¹⁹⁹

In 2010 *FIDH* reported that those campaigning against government activities related to environmental and health rights were targeted,

“In 2009, defenders fighting on behalf of environmental and health rights were targets of various acts of harassment. This was the case of Messrs. Rafael Limcumpao and Domingo Alcantara, respectively peasant and community organisers, as well as Mr. Archie Bathan, Secretary General of the NFBM, who were all arrested on May 27 by the PNP. Prior to the arrest, the three defenders had planned to organise campaigns to protest the possible renewed operation of the Bataan Nuclear Power Plant in the area, which is likely to bring about serious environmental and health implications for local residents. The three men were brought to the headquarters of PNP 303rd provincial mobile group, in camp Tolentino, where they were submitted to torture and inhuman treatments, including the “Russian roulette”. On May 28, they were forced to attend a press conference with local journalists, where policemen claimed they were leaders of a rebel group. The three men were then charged with “attempted murder” and “illegal possession of explosives and firearms.”²⁰⁰

In October 2010 the Geneva based *World Organisation Against Torture (OMCT)* reported that human rights defenders have faced threats in the southern Philippines,

“As reported in the alternative reports to the CESCRC and the CAT, extrajudicial killings, forced disappearances and torture have continued in the Philippines despite some measures, most notably the establishment of the Melo Commission and Task Force Usig, having been taken by the Government. Those targeted are generally, in some way, seen as opponents or critics of the Government and have included opposition politicians, journalists, lawyers and human rights defenders.

Human rights defenders are also often frequently the victim of other forms violence and harassment in the Philippines carried out by both public and private sources. They are frequently targeted under the guise of counter-insurgency measures, their organisations having at one time or another been branded by the military and/or police as “enemies of the State” or as “fronts of the CPP/NPA” because of their human rights-related activities, but also because of their opposition to mining operations and other mega-projects which pose a significant threat to local communities.

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¹⁹⁸ *Karapatan*, 2010 year end report on the human rights situation in the Philippines, 1 December 2010, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/B06A254EB6D5CF67C125780700368303/\\$file/2010+report+karapatan.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/B06A254EB6D5CF67C125780700368303/$file/2010+report+karapatan.pdf), accessed 1 March 2011

¹⁹⁹ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

²⁰⁰ FIDH/Observatory For The Protection Of Human Rights Defenders, Annual Report 2010, 2010, pp.309-310, http://www.fidh.org/IMG/pdf/OBSUK2010asia_human_rights_defenders.pdf, accessed 17 December 2010

Human rights defenders have continued to be targeted in 2009. OMCT was, for example, informed that regional radio programmes and websites have been used by the military asserting that Karapatan and similar organisations are communist fronts.

Further, NGOs informed OMCT that, on 6 September 2009, the Reverend Father Cecilio Lucero, a Catholic priest and human rights defender was shot dead by unidentified armed men in Northern Samar Province. He had been the director of the human rights desk at the Social Action Centre of the Diocese of Catarman and had been documenting human rights abuses by both the military and armed opposition groups. He had also represented peasants in mediation with the local government and landowners in relation to their economic, social and cultural rights. His death was just one of a number of attacks in Northern Samar on human rights defenders and peasant activists.”²⁰¹

In December 2010 the *Asian Human Rights Commission* reported that impunity allows the continuation of human rights violations against human rights defenders including;

“the routine of filing fabricated and politically-motivated charges against human rights defenders and political activists; the reoccurrence of extra-judicial killings of human rights and political activists, a phenomenon that has drawn worldwide condemnation over the last decade; enforced disappearances; and the widespread use of torture by the police as part of routine criminal investigations.”²⁰²

In December 2010 the *Asian Human Rights Commission* reported that charges were made against 11 leading human rights activists based on the testimony of known military supporters which “did not contain information that could have satisfied the legal requirements to establish 'probable cause' that a crime had been committed.”²⁰³ According to the *Asian Human Rights Commission*,

“those included in the complaint, which concerned two counts of murder, four counts of frustrated (attempted) murder, three counts of 'carnapping' (stealing a vehicle) and a special case of malicious mischief, were:

1. Leo Caballero, correspondent for the Center for Trade Union and Human Rights (CTUHR) in Bicol region and also the head of the Human Rights Department of Kilusang Mayo Uno (KMU)-Bicol
2. Maria Agnes Pacres, regional coordinator of Alliance for the Advancement of People's Rights (KARAPATAN)
3. Beverly Quintillan, Bagong Alyansang Makabayan (BAYAN)
4. Felix Paz, chairperson of Kilusang Magbubukid ng Pilipinas-Bikol (KMP)
5. Jose Pernia, chairperson of Bayan Muna-Bikol
6. Jariz Vida, secretary-general of Bayan Muna-Camarines Sur
7. Eric Torrecampo, Bayan Muna-Camarines Sur
8. Neptali Morada
9. Reynaldo Hugo
10. Edgar Calag
11. and Ka Boris Taba

The prosecutor’s decision to proceed with the prosecution process and subpoena the accused solely based on subpoena witnesses testimonies undermined safeguards concerning the protection from being falsely charged and subsequently deprived of liberty.

²⁰¹ OMCT, Philippines follow-up mission report final, 1 October 2010, pp.19-20, <http://www.omct.org/escr/philippines/2010/10/d6149/>, accessed 20 December 2010

²⁰² Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

²⁰³ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

The case also raises the legal question about how an individual or group of persons can be held liable for the crime of murder, based only on the fact that they had made a declaration, without any further evidence. If such testimony is sufficient to charge accused persons in courts, anyone could be prosecuted for any crime based on any testimony, without any supporting evidence. The absence of any credible evidence requirement shows how corrupted the justice process can be, and how it can bend to fit the interests of the State. The AHRC also believes that the idea that a group of key leaders and organizers of human rights and political organizations would come together to launch an armed offensive on a military camp is preposterous.”²⁰⁴

In February 2011 the *UN Special Rapporteur on the Situation of Human Rights Defenders* expressed concern regarding the treatment of human rights defenders,

“The Special Rapporteur remains seriously concerned regarding the persistent challenges faced by human rights defenders in the Philippines, including extrajudicial killing, threats and intimidation, arbitrary arrest and detention, and illegitimate restrictions to the right of freedoms of opinion and expression, peaceful assembly and association. She urges the Government of the Philippines to conduct thorough investigations in each case and prosecute the perpetrators.”²⁰⁵

The *UN Special Rapporteur* reported allegations that three community organisers for Samahan ng Magbubukid ng Batangas (SAMBAT), a local peasant’s rights group, were detained and mistreated,

“on 23 November 2009, Ms. Charity Diño, Mr. Billy Batrina and Mr. Sonny Rogelio were working in a community in Talisay, Batangas, when officers of the 730th Combat Group of the Philippines Air Force travelling in three separate vans blocked their path and detained them. They were taken to a camp in Palico, Bantagas, where they where held for 17 days before being turned over to Batangas Provincial Jail in Lipa City. Upon their arrival at the camp, they were assaulted by military officers. They banged Mr. Batrina and Ms. Diño’s heads on the wall, and Ms. Diño’s fingers were squeezed together while bullets were inserted in between her fingers. The ill-treatment was allegedly used to force them to confess to being members of a rebel group. The following day, they were charged with illegal possession of firearms, explosives and drugs. They remain in detention, without access to a lawyer.”²⁰⁶

The *UN Special Rapporteur* reports that the Philippines government stated that the three had been acting suspiciously and that illegal firearms were found in their possession,

“On 24 November 2009, the three were presented before the Provincial Prosecutor of Batangas for Inquest Proceedings. The Provincial Prosecutor found that the arrested persons violated Presidential Decree No. 1866 as amended by Republic Act 8294 and Republic Act 9516 (Illegal Possession of Firearms and Explosives) docket No. under NPS Docket No. 1V-02- INQ-09K-00459.

The alleged torture was not substantiated in the absence of their affidavit that would merit a formal complaint. Also based on the medical examinations conducted by Dr. Jaime L. Butiong of Apacible Memorial Hospital in Nasugbu, Batangas, on 10 December 2009, there is nothing in the findings that could indicate that the three persons were subjected to

²⁰⁴ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

²⁰⁵ United Nations Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya: Addendum, February 2011, A/HRC/16/44/Add.1,

http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.44.Add.1_EFSONly.pdf, accessed 9 May 2011

²⁰⁶ United Nations Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya: Addendum, February 2011, A/HRC/16/44/Add.1,

http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.44.Add.1_EFSONly.pdf, accessed 9 May 2011

torture. Subjects were committed to the Provincial Jail pursuant to the Commitment Order issued by the honorable judge of Batangas.”²⁰⁷

In December 2010 the *Asian Human Rights Commission* also reported the detention, torture and false charges made against three community organisers who are members of Samahan ng Magbubukid ng Batangas (SAMBAT), according to AHRC at the time of their arrest they were inviting local community members to participate in Urban Poor week,

“The manner of their arrest was a violation of Rule 113, section 5 of the Revised Rules on Criminal Procedure, which allows arrest without warrants only when: a person is attempting to, or is in the act of committing or has committed a crime. Any person arrested under such provisions should be subjected to an inquest, but the charges must satisfactorily establish a credible level of probability that a crime had been committed in order to allow the launching of a prosecution.”²⁰⁸

The *UN Special Rapporteur* reports that on 7 March 2010 members of the Peoples United in Diwalwal, an organization that campaigns against large-scale mining in the area were arrested and beaten by military forces before being handed over to the police on 10 March and released on 11 March,

“According to the information received, on 7 March 2010, 60 elements from the 25th Infantry Battalion of the Armed Forces of the Philippines allegedly arrived at a house where Junrex Linantod, Francisco Linantod, Emilio Villaniso Jr., Roy Villaniso, Boicy Villaniso, Mary Jane Yurong were gathered together with Francisco Linantod and Christina Arances, at Sitio Kalaberahan, Barangay Ulip, Municipality of Monkayo, Compostela Valley Province, and arrested them.

During the arrest, Junrex Linantod, Francisco Linantod, Emilio Villaniso, Roy Villaniso and Boicy Villaniso were allegedly beaten by soldiers, who accused them of being members of the New People’s Army. Boicy Villaniso was allegedly forced to eat hot sweet potato, and was beaten on the stomach and forehead with the butt of an M16 rifle, as well as on his fingers and neck with rattan. Roy Villaniso’s head was reportedly wrapped in cellophane, and he was beaten on the stomach with the butt of an M16 rifle. It is also alleged that Emilio Villaniso was beaten on the stomach with a wooden stick and on the neck with the butt of an M16 rifle. Junrex Linantod’s head was wrapped with cellophane and he was beaten on the stomach with a wooden stick. He was also kicked and smashed against the door several times. Edmon Cutor’s hands were tied behind his back, while he was choked and punched on the stomach.

One hour later, at approximately noon, while in the forest with their families, Anastacia Villaniso, Alfonso Mangubat, Baden Mangubat, Nilo Sinao, Mary Grace Yurong and Edmon Cutor were allegedly arrested by approximately 30 members of the 25th Infantry Battalion.. Alfonso Mangubat, Nilo Sinao and Edmon Cutor were separated from the women and allegedly beaten with an M16 rifle. The women were threatened with torture if they did not admit they were members of the New People’s Army. One of the soldiers tickled Ms. Yurong and stroked her thighs.”²⁰⁹

In 2010 the *Asian Human Rights Commission* reports the killing of labour unionists and members of peasant movements by the police and military,

²⁰⁷ United Nations Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya: Addendum, February 2011, A/HRC/16/44/Add.1, http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.44.Add.1_EFOnly.pdf, accessed 9 May 2011

²⁰⁸ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

²⁰⁹ United Nations Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya: Addendum, February 2011, A/HRC/16/44/Add.1, http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.44.Add.1_EFOnly.pdf, accessed 9 May 2011

“Edward Panganiban is the secretary of independent union Samahang Lakas ng Manggagawa sa Takata Philippines (SALAMAT-Independent), a labour union in Takata Philippines Incorporated in Laguna Technopark Incorporated. The company is owned by Japanese employers.

On June 2, 2010, after 5 p.m. he was on his way to Santa Rosa City when gunmen riding on a motorcycle shot him dead. His motorcycle stopped due to traffic. The gunmen took advantage of this by overtaking his motorcycle and shooting him dead. The gunmen knew the victim's identity, because one of them was heard to have called his name before he was shot. Panganiban died instantly from 12 gunshot wounds.

Before Panganiban was murdered, two reportedly well-built persons wearing balaclavas or other things covering their heads and riding on a motorcycle had been seen acting suspiciously near where he lived

Police investigators arrived at the crime scene about ten minutes later. There were eye witnesses to Panganiban's killings that could have helped the investigation in identifying the perpetrators. However, the police or prosecutors appear to have made no effort to locate the witnesses and provide them with security should they cooperate in the investigation, to ensure the prosecution of the case.

Furthermore, no adequate investigations have been made into reports by Panganiban's colleagues that his fellow union officers and union members have been palced under surveillance by the Intelligence Service of the Armed Forces of the Philippines (ISAFP) following his death. The ISAFP has reportedly been intimidating workers from participating in union activities since 2007.”²¹⁰

According to the *Asian Human Rights Commission* a member of the Philippines Peasant Movement was killed at his home in September 2010 by an associate of a paramilitary group under the control of the military,

“Reynaldo was 39 years old, had 3 children and was a member of the Paquibato District Farmers Association (PADIFA), a local chapter of Kilusang Magbubukid ng Pilipinas (KMP) or Philippine Peasant Movement. He was shot dead at 7:30 p.m. on September 3, 2010 in front of his wife, Leonisa and his daughters Reylon, 10; Raquel, 8; and Jennifer, 4, at their home in Paquibato District, Davao City.

Labrador was inside his house when two men, one of whom was identified as Berto Repe, a member of the Citizen Armed Forces Geographical Unit (Cafgu), came looking for him. Cafgu is a paramilitary unit under the immediate control and 1003rd Infantry Brigade of the 10th Infantry Division Philippine Army (IDPA).

The two were met by Labrador's wife, Leonisa, and they told her that they were carrying documents for her husband to receive. When she offered to received them, they insisted that they could only give the documents to her husband. She then called to her husband who was resting inside. When he emerged, Repe's companion pulled out his handgun and shot him in the head and chest. He died instantly.

Reylon, the victim's eldest daughter, tried to go to her father after hearing the gunshot, but after seeing her father dead she jumped out of the house. She immediately called for their neighbours help. Leonisa immediately took the other two children, Raquel and Jennifer, to

²¹⁰ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

safety. The gunmen escaped after the shooting. They left a note at the victim's house that read: "Demonyo ka! Hiposon ka!" (You're evil! You must be killed!)"²¹¹

The *Asian Human Rights Commission* reports that a farmer who was a member of political party, Bayan Muna was murdered on 9 September 2010,

"38 year-old Felisilda was a farmer with four children and member of a political party, Bayan Muna. On September 9, 2010 at 7pm, he and his elder brother, Allan, were resting inside a small hut in Mawab town, Compostela Valley after working on their farm.

Two gunmen arrived wearing plain clothes and armed with .45 calibre pistols. One of them shot Vicente at close range. Allan ran for safety, but he could hear his younger brother moaning in pain. About 20 minutes later, he heard another gunshot, as the perpetrators finished his younger brother off.

The following day, Felisilda's body was taken to a local funeral parlour to be embalmed. Here, there were four police investigators from Mawab Municipal Police Station who conducted an investigation; however, the victim's family did not report the shooting to the police. No post mortem examination was conducted before the burial."²¹²

In 2010 the *Asian Human Rights Commission* reported that Rene Quirante, a farmer and chairperson of Kapunungan Alang sa Ugma sa mga Mag-uuma sa Oriental Negros which is an affiliate of the Philippines Peasant Movement, was murdered by soldiers,

"48 year-old Rene Quirante, a farmer with five children lived in Sitio Labaklabakan, Barangay Trinidad, Guihulngan, Negros Oriental. He was the chairperson of Kapunungan Alang sa Ugma sa mga Mag-uuma sa Oriental Negros (KAUGMAON), an affiliate of Kilusang Magbubukid ng Pilipinas (KMP) - the "Philippine Peasant Movement."

On 30 September 2010, Quirante and Romeo Gador went to Sitio Amomoyong to meet with the members of his organization. Quirante and Gador decided to stay overnight at the house of the latter's relative, Neneng Nilles, in sitio Amomoyong when their meeting ended late in the afternoon. The place is far from Sitio Labaklabakan, where Quirante lived.

At 2 am those inside heard someone, who claimed to be a member of a rebel group New People's Army (NPA), calling them from outside asking them to open the door. They did not pay attention to the call. Then the caller forced himself in by opening the door's lock. Quirante and Gador tried to prevent them from entering but they were overpowered.

Once it was open, they saw a group of about 30 soldiers, in full uniform and armed with rifles, outside the house. One of those in the group was identified as Dennis, a rebel returnee working for the military. Neneng and her nine children, the youngest of whom is aged 2, were awakened by what was happening. The perpetrators, however, went straight to Quirante, beating him with their rifles butts. They forced him to admit that he is an NPA member. When Romeo and Neneng tried to help him the soldiers too assaulted them in open view of the frightened children.

The soldiers dragged Quirante towards the veranda where they continued to assault him, after which, the soldiers allegedly executed him by shooting him at close range twice in the head and once on the chest. The soldiers, who were heard by Gador to have said: "Tinlo na!" (It's clear!), left after shooting the victim dead.

²¹¹ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

²¹² Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

Prior to his murder, Quirante was been detained on 24 March 2007 after the military laid fabricated charges against him for Illegal Possession of Firearms. They accused him of involvement in an ambush that killed 3 soldiers attached to the 11th Infantry Battalion of the Philippine Army (IBPA). The case, however, did not reach court as the prosecutor rejected it.

At the time of his death, Quirante had been very vocal against the installation of a military detachment and Barangay Defense System (BDS), a paramilitary unit under the control of the military, in the interior villages of Guihulngan, Negros Oriental. He was also the object of public vilification by the military in their radio programs."²¹³

In 2010 the *Asian Human Rights Commission* reported that the General Secretary of the Northern Negros Alliance of Human Rights has received death threats and has been the target of a leaflet campaign portraying him with firearms and dead bodies,

"In November 2009, Bernardino Patigas received a letter from a person who claimed to know him, which stated: "Beware because the people led by Efren Amarilla will kill you. Efren is a member of an organisation (Guardians) established by the military".

In January 2010, he received another letter containing a threat, claiming that Efren Amarilla, Boy Palabrica, Tolendoy and two others whose names were not mentioned, would kill him. The letter also attached a mission order from Efren and signed by the chief of the Intelligence Special Action Force (ISAFP). They were reportedly to be given 50,000 pesos by Timoteo Ballesteros if they killed him. Patigas' colleague spoke with Boy Palabrica, one of those paid by Tim Ballesteros, who admitted that the message in the letters was true. However, this colleague does not want to stand as a witness in court.

Apart from the letters, Patigas has also been portrayed in numerous leaflets distributed in Escalante City showing him carrying a coffin towards a person in the mountain that is carrying firearms. There are also leaflets showing him carrying a firearm stepping on dead bodies.

Patigas, nickname Toto, is the secretary general of the Northern Negros Alliance of Human Rights (NNAHRA) in Negros Island and former organiser of fishermen in one of the districts in Negros Occidental province. Part of NNAHRA's advocacy is education about why human rights violations are happening and for people to learn what they should be doing in cases of violations."²¹⁴

In 2010 *Karapatan* reported on criminal charges brought against one of its staff members by soldiers implicated in a killing,

"Kelly Delgado, Secretary General of Karapatan-Southern Mindanao Region (Karapatan-SMR) was slapped with criminal charges by soldiers implicated in the killing of Julius Tamundez. This is the most recent of the series of harassment against Delgado which began in 2008. He was subjected to threats on his life and vilification after Karapatan - SMR publicly exposed the military atrocities in the region.

Tamundez was killed on August 2 allegedly by members of the Integrated Tribal Defense Forces (ITDF), a group under the command of BGen. Eduardo del Rosario and Datu Ruben Labawan. Del Rosario and Labawan, in a press conference, accused Delgado of allegedly masterminding a plot to kill Eastern Mindanao spokesperson Lt. Col. Randolph Cabangbang.

²¹³ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

²¹⁴ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

The plot was purportedly to avenge the abduction and brutal killing of Rebelyn Pitao, daughter of a New People's Army (NPA) commander, Leoncio Pitao.

Various fabricated charges were also filed against leaders of people's organizations in Bicol. Among those charged with multiple murder, multiple frustrated murder, carnapping and malicious mischief are: KMP - Bicol Chairperson Felix Paz; Derechos Obrero spokesperson Leo Caballero; Bayan Muna - Camarines Sur Secretary General Jariz Vida; Bayan Muna - Bicol Chairperson Joe Pernia and other human rights defenders.

The leaders were being linked to the May 2006 raid in Pili, Camarines Sur, allegedly conducted by members of the NPA."²¹⁵

In 2010 the *Asian Human Rights Commission* reported that a religious and political leader was murdered by soldiers,

"43 year-old Benjamin Bayles was lived in Himamaylan City, Negros Occidental. He was a leader and district coordinator of the Aglipayan Forum, the organization of members of Iglesia Filipina Independiente (the Independent Church of the Philippines). He was active in campaigns against mining and a community organizer of the National Federation of Sugar Workers (NFSW). He was also a local leader of Bayan Muna, a political party.

On June 14, 2010 at 4:30 p.m. Bayles was waiting for a ride in Barangay Su-ay, Himamaylan City, when two men riding a motorcycle stopped nearby. They were wearing helmets and their motorcycle did not have license plate. The person riding at the back walked towards Bayles and shot him repeatedly. The driver also came close and shot him as he fell to the ground, to finish him off. Then the gunmen escaped onboard their motorcycle.

After the shooting, bystanders took Bayles to the Valeriano Gatuslao District Hospital but he was already dead. One of the bystanders, a government employee, immediately called someone he knew from the Himamaylan City Police Office (HCPO) to report the incident. The policemen there immediately also alerted the policemen at the adjacent city, the Kabankalan City Police Office (KCPO), who subsequently arrested the gunmen, Ronnie Caurino and Roger Bajon, having identified a description given by witnesses.

The police confiscated from Caurino a .45 caliber pistol, an STI Custom Shop model with serial number 129528. They confiscated another .45 caliber pistol and a lightweight Colt Defender Series 90 model with serial number 195879 from Bajon. The two were positively identified by witnesses as the ones who shot Bayles. They have since been identified as being members of the 61st Infantry Battalion of the Philippine Army. The perpetrators are facing charges of murder before the Regional Trial Court (RTC) in Himamaylan City."²¹⁶

In November 2010 *The Committee to Protect Journalists (CPJ)* reported that since 1992 the majority of those responsible for killing journalists have gone unpunished.²¹⁷ The *CPJ* further reported that in the Maguindanao massacre case victims families have been bribed and witnesses intimidated and subjected to violence and that investigations have been flawed; one prosecutor of the case was found dead, the cause of which was described as a heart attack,

²¹⁵ Karapatan, 2010 year end report on the human rights situation in the Philippines, 1 December 2010, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/B06A254EB6D5CF67C125780700368303/\\$file/2010+report+karapatan.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/B06A254EB6D5CF67C125780700368303/$file/2010+report+karapatan.pdf), accessed 1 March 2011

²¹⁶ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

²¹⁷ CPJ, Impunity on trial in the Philippines, 10 November 2010, <http://cpj.org/reports/2010/11/impunity-on-trial-in-the-philippines.php>, accessed 17 December 2010

“The prosecution of dozens of defendants in the 2009 Maguindanao murders is testing a faltering judicial system in the Philippines. Bribes, intimidation, attacks, and flawed detective work already threaten to undermine the government’s case.

[]

“After the massacre people were afraid to talk, but after the Ampatuans were arrested and placed behind bars many local residents and others started to work together for justice,” said Zonio, a local reporter who traveled to the site with CPJ on a recent day, a military patrol in escort to protect against the dozens of suspects still on the loose. Then again, Zonio added, “They are so rich and so powerful, there is still a chance they’ll go unpunished.” That’s been the case in more than 90 percent of media killings in the Philippines since 1992, CPJ research shows.

[] A CPJ investigation has uncovered a disturbing repetition of the pattern seen in previous cases, one that has allowed the killers of Philippine journalists to go free time and again.

Even as the Maguindanao case is being described by a top government official as a “litmus test” for the judicial system, CPJ has found that victims’ families have been approached with bribes, witnesses have been intimidated and subjected to deadly violence, law enforcement officials have failed to coordinate activities, and forensic investigations have been deeply flawed. The government was dealt another blow this month, when one of the lead prosecutors, Leo Dacera, 54, was found dead in his home from what initial news reports described as a heart attack.”²¹⁸

In its report *Attacks on the Press* covering events of 2010, the *CPJ* reported that 32 of the 57 killed in the November 2009 massacre were journalists or media support workers.²¹⁹

In 2011 the *CPJ* reported that at least two journalists had been killed in relation to their work during 2010,

“Even with all the focus on the Maguindanao trial, journalists continued to come under fire. At least two journalists were killed in direct relation to their work during the year, while a third was slain under unclear circumstances, according to CPJ research.

On June 14, Desidario Camangyan, a reporter for Sunrise FM in Manay, Davao Oriental province, was shot from behind at close range while hosting an amateur singing contest, according to local and international news reports. He died at the scene, in front of an audience that included his wife and 6-year-old son. Police said the gunman escaped on foot. Sunrise manager, Bobong Alcantara, told local media that Camangyan’s reports on illegal logging may have motivated the attack.

Joselito Agustin, a reporter for DZJC radio, died on June 16, a day after two gunmen on motorcycles shot him near Baccara town in northern Philippines. Agustin, shot in late evening while returning from work, had received text-message death threats in the weeks before his murder, colleague Nick Malasig told The Associated Press.

DWEB radio reporter Miguel Belen died on July 31, three weeks after he was shot multiple times by two motorcycle-riding assailants in Bicol province in central Philippines. Two suspects were arrested, but police did not immediately disclose a motive. One suspect was identified as being a member of the New People’s Army, a decades-old communist-inspired

²¹⁸ CPJ, Impunity on trial in the Philippines, 10 November 2010, <http://cpj.org/reports/2010/11/impunity-on-trial-in-the-philippines.php>, accessed 17 December 2010

²¹⁹ Committee to Protect Journalists, *Attacks on the Press 2010: Philippines*, 15 February 2011, <http://www.cpj.org/2011/02/attacks-on-the-press-2010-philippines.php>, accessed 22 February 2011

insurgent group. CPJ was investigating the circumstances to determine whether the murder was work-related.”²²⁰

The *UN Special Rapporteur on the Situation with Human Rights Defenders*, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on extrajudicial, summary or arbitrary executions expressed concern at the killing of four journalists,

“According to information received, on 14 June 2010, Mr. Desidario Camangyan, radio journalist and host of a discussion programme on Sunshine FM, was killed while hosting a singing competition in Manay, Davao Oriental province. The gunman reportedly shot him in the back of the head while the journalist was seated on stage before fleeing. Mr. Camangyan and his colleagues had criticized local politicians and those responsible for illegal logging for almost a month and had received threats. He had also campaigned for the incumbent mayor of Mati City, the provincial capital, in elections held in May.

On 15 June 2010, Mr. Joselito Agustin, radio journalist of DZJC Aksyon Radyo, was riding a motorcycle with his nephew when he was shot four times by two men on another motorcycle in Laog City, Ilocos Norte province. He died in hospital the following day and his nephew was wounded. Mr. Agustin was reportedly known for his candid on-air commentaries against official corruption and had accused a politician of corruption in his programme. He had received death threats in the weeks before being killed. Gun shots were also allegedly fired at Mr. Agustin’s home on 7 May 2010.

On 19 June 2010, Mr. Nestor Bedolido, reporter for *The Kastigador* weekly newspaper, was shot six times by two gunmen in Digos City, Davao del Sur province. He died on his way to hospital. He was known for his critical writing about an influential politician in Davao Del Sur.

On 3 July 2010, Mr. Jose Daguio, former radio commentator and part-time columnist, was shot at close range inside his house in Barangtay Tuga City. While the possible motive may be linked to a dispute over a road project contract, it has been reported that the killing may have been related to his work as a former journalist.”²²¹

In June 2010 *The New York Times* reported on the risks faced by journalists in the southern Philippines,

“Less than a week after the successive killings of two radio broadcasters, a reporter for a newspaper in the southern Philippines was shot dead on Saturday evening, officials and colleagues said on Sunday. Nestor Bedolido, a reporter for the weekly tabloid *The Kastigador* in Digos City, was buying cigarettes from a roadside vendor when a gunman approached and shot him six times.

Mr. Padua said they were still trying to determine the motive for the killing. Mr. Bedolido’s killing brought to 140 the number of Filipino journalists killed since democracy was restored in the Philippines in 1986. Of that number, 107 occurred in the last nine years, during the administration of President Gloria Macapagal Arroyo, who will leave office on June 30.

[]

According to the National Union of Journalists of the Philippines, Mr. Bedolido had been known in Digos City as quite critical of a local politician and had been a supporter of a rival politician during the recent elections. Last Wednesday, Jovelito Agustin, a broadcaster for

²²⁰ Committee to Protect Journalists, *Attacks on the Press 2010: Philippines*, 15 February 2011, <http://www.cpj.org/2011/02/attacks-on-the-press-2010-philippines.php>, accessed 22 February 2011

²²¹ United Nations Human Rights Council, *Report of the Special Rapporteur on the Situation of Human Rights Defenders*, Margaret Sekaggya: Addendum, February 2011, A/HRC/16/44/Add.1, http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.44.Add.1_EFOnly.pdf, accessed 9 May 2011

DZJC Aksyon Radio in Laoag City, in the north, was shot and killed while on his way home. Less than 24 hours before Mr. Agustin's death, Desiderio Camangyan, a radio commentator known for his searing criticism of corruption and illegal logging, was gunned down onstage while emceeing an amateur singing contest. In a statement on Sunday, the National Union of Journalists denounced the recent killings and called on the incoming president, Benigno S. Aquino III, to end what it called "the culture of impunity."²²²

The CPJ ranked the Philippines third in its impunity Index for 2010,

"In 2010, the Philippines ranked third on CPJ's Impunity Index, a list of countries where journalists are killed regularly and governments fail to solve the crimes. Only war-afflicted Iraq and Somalia had worse records."²²³

In November 2010 the *Asian Human Rights Commission* reported that since 1986 78 journalists have been killed, but only two of these cases have been partly resolved.²²⁴

Freedom House states in its 2010 annual report that journalists covering politics in the Philippines face on-going threats,

"While news reports are often rooted in sensationalism and innuendo, the media in the Philippines have historically ranked among the freest, most vibrant, and most outspoken in Southeast Asia. Violence and threats against journalists remain extreme, however, and in 2009 the country came to be considered the world's most deadly environment for the press following the murder of 29 journalists in a single incident in November. The murders were part of a larger election-related massacre near the town of Ampatuan, in Maguindanao province. A high rate of impunity for such crimes is also a critical concern.

[]

The government has made some effort to address the impunity issue, including the 2006 establishment of Task Force USIG, a special police unit, and the Melo Commission to Investigate Media and Activist Killings. However, the official findings of the former have been disputed by local human rights groups, while the latter lacked any sort of enforcement capacity. In 2008, the Supreme Court granted the first writ of amparo ordering protection of a journalist who was targeted in a murder plot. The writ is a new tool that the government and judiciary hope will help alleviate the spike in extrajudicial and journalist killings in recent years. In a positive development, the perpetrator of the 2006 murder of radio journalist Armando Pace was convicted and sentenced to life in prison in 2009.

The country's penal code makes libel a criminal offense punishable by a prison term and, in some cases, large fines. Defamation suits continued to receive attention in 2009, though they were not quite as common as in 2008."²²⁵

The *UN Special Rapporteur* reports allegations of the arrest of 42 health workers on 6 February 2010 and their subsequent ill-treatment in detention,

"The 42 health workers were then detained incommunicado for two days in Camp Capinpin in Rizal. The detainees were handcuffed, blindfolded and subjected to torture and other forms of ill-treatment during interrogation, including electrocution and sleep deprivation. Female health workers were sexually molested. They were forced to admit that they were

²²² The New York Times, A Third Filipino Journalist Is Killed, 20 June 2010, <http://www.nytimes.com/2010/06/21/world/asia/21iht-phils.html?scp=189&sq=Philippines&st=nyt>, accessed 20 December 2010

²²³ Committee to Protect Journalists, Attacks on the Press 2010: Philippines, 15 February 2011, <http://www.cpj.org/2011/02/attacks-on-the-press-2010-philippines.php>, accessed 22 February 2011

²²⁴ Asian Human Rights Commission, Philippines: Maguindanao massacre demonstrates the delusion of the existence of a justice system, 24 November 2010, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-234-2010>, accessed 5 May 2011

²²⁵ Freedom House, Freedom of the Press 2010 - Philippines, January 2010, <http://www.freedomhouse.org/template.cfm?page=251&country=7899&year=2010>, accessed 20 December 2010

members of the New People's Army (NPA), the armed wing of the Communist Party of the Philippines. []

On 11 February 2010, the health workers were charged of illegal possession of firearms, manufacturing bombs as well as of being part of the Communist Party of the Philippines, on the basis of explosives and firearms allegedly found by the army at Dr. Velmonte's house. The military, who were carrying plastic bags at the time of the arrests, planted weapons within Dr. Velmonte's farmhouse during the house search. The same day, the Supreme Court granted the petition for habeas corpus, ordering the military to present the 42 detainees at the Court of Appeals the following day and to answer allegations of torture, evidence-planting and illegal arrest and detention."²²⁶

In 2010 *Karapatan* reported on the arrest of 43 health workers in February 2010 on charges of illegal possession of firearms and explosives,

"The 43 health workers were illegally arrested on February 6, 2010 by combined elements of the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP) in Morong, a town in Rizal province. They are now prominently known as the Morong 43. Thirty eight of them are detained in Camp Bagong Diwa in Taguig City, while five remain in Camp Capinpin in Tanay, Rizal. Two doctors, a nurse, two midwives and 38 volunteer community health workers comprise the Morong 43. They were in the midst of a community First Responders' Health Training when the military and police conducted their arbitrary arrest. The training was sponsored by the Community Medicine Foundation (COMMED) and the Council for Health and Development (CHD), two organizations known for community health work. Twenty seven of them are women, two were pregnant at the time of the arrest. The two women gave birth while in detention and are currently under hospital arrest.

[]

The health workers were not informed of the reasons for their arrest nor were they informed of their rights while under arrest. They were detained in a military camp instead of a police detention facility. In the complaint filed with the Commission on Human Rights by the lawyers of the 43 health workers, the following were specified as the rights violations committed against them:

- a.) All the 43 doctors and medical workers were denied their right to counsel immediately after their arrest. They were allowed to see their lawyers only five days after their illegal arrest;
- b.) They were placed on incommunicado status;
- c.) They were subjected to prolonged and repeated interrogation to elicit information while blindfolded and in handcuffs; they were still blindfolded when their fingerprints were taken;
- d.) They were deprived of sleep, interrogated individually at odd hours, made to listen to gun shots and the unnerving screams of the other detained persons being tortured;
- e.) They were deprived of visitation rights by families, lawyers and representatives of human rights organizations;
- f.) During tactical interrogation, they received death threats and were forced to admit membership in the New People's Army; they were subjected to psychological torture; the military threatened to harm their families if they refused to cooperate;
- g.) They were both threatened and cajoled into cooperating with the military with a promise of assistance in fixing their cases or grant of rewards;
- h.) Valentino Paulino was not shown to his lawyers when they tried to confer with him on February 11, 2010; he was threatened and forced to admit membership in the New People's Army and thereafter presented to the media against his will;

²²⁶ United Nations Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya: Addendum, February 2011, A/HRC/16/44/Add.1, http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.44.Add.1_EFOnly.pdf, accessed 9 May 2011

- i.) Jane Ballea, an epileptic, was deprived of her medicines; Glenda Murillo suffered internal bleeding leading to a miscarriage due to the early morning raid on 6 February 2010 and was refused medical attention;
- j.) Deprived of privacy; army officers and soldiers took off the detainees' clothing and underwear every time they went to relieve themselves;
- k.) Sexual harassment on Jane Ballea and Miann Oseo – soldiers took off their clothing during questioning; Mercy Castro – the soldiers taunted to kiss her during interrogation;
- l.) Physical torture on Ramon de la Cruz with the interrogators punching him near the liver area and using tight handcuffs causing wounds on his wrists; he received knee blows to his legs and soldiers punched his solar plexus, back, nape and shoulders; electric shock and punches on the chest were applied on Dr. Alex Montes, Lilibeth Donasco was hit and punched in the head by a male soldier when she would not answer during interrogation; it caused ringing of her ears and extreme dizziness, aggravated by the tightness of the blindfold; Eulogio Castillo prior to the taking of his fingerprints and photograph, had guns aimed at his head and back.”²²⁷

In 2010 the *Asian Human Rights Commission* reported death threats against a day care teacher who had opposed the establishment of a military detachment next to the day centre and had organised parents in opposition,

“On April 9, 2010, Yolanda Pineda received a letter laced with black ribbon with her nickname, "Let Pineda", written on it. She got it from her eldest daughter who had found it. The sender was supposedly a certain Ka Diego Magtanggol. The message in the letter, written in Tagalog, has been unofficially translated below:

"We are giving you reasonable time after receiving this notice to clear your name. Your failure to comply would mean you are not interested in clearing your name and it will mean a bold forceful move or DEATH!"

The sender claimed to know Yolanda and accused her of having connections with an illegal armed group, the Marxist Leninist Party of the Philippines (MLPP-RHB / Marxista Leninista Partido ng Pilipinas – Rebolusyonaryong Hukbong Bayan). It also accused her participating in demonstrations alongside this as a member of Kilusan para sa Pambansang Demokrasya (KPD - Movement for Nationalism and Democracy).

Yolanda Pineda is a day care teacher for Antonio Day Care Center in Barangay San Antonio, Lubao. Since the military established an army detachment adjacent to the day care center where she was teaching, June 2008, she had been very critical and been actively demanding the removal of the detachment. She had also organized the parents of the preschool students in joining her.

She also led in the submission of a petition letter filed with the Commission on Human Rights (CHR) and the Local Government Units (LGUs) which demanded the removal of the military detachment. It is believed that this is the reason why the army attached to the 3rd Infantry Battalion of the Philippine Army (IBPA) has subjected her to continuing harassment and intimidation.”²²⁸

In 2010 *Karapatan* reported that villagers have been harassed by soldiers in their counter terrorism operations, including accusations of being members or supporters of the New People's Army and

²²⁷ Karapatan, 2010 year end report on the human rights situation in the Philippines, 1 December 2010, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/B06A254EB6D5CF67C125780700368303/\\$file/2010+report+karapatan.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/B06A254EB6D5CF67C125780700368303/$file/2010+report+karapatan.pdf), accessed 1 March 2011

²²⁸ Asian Human Rights Commission, The state of human rights in the Philippines in 2010, December 2010, <http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>, accessed 5 May 2011

the use of coercion to extract confessions.²²⁹ *Karapatan* further reports the disappearance of two villagers during evacuations due to military occupation of the community,

“With the counter-insurgency program Oplan Bantay Laya still being enforced, the military continues to sow terror among the civilians and their communities instead of “winning their hearts and minds.”

While trying to annihilate armed revolutionary groups and guard transnational and government economic interests in the resource-rich provinces, troops of the Armed Forces of the Philippines are deployed in mountainous areas and adjacent lands. These deployments have resulted into more numerous and worse human rights violations against civilians.

Such is the case in Bgy. Mahaba, Marihatag, Surigao del Sur where elements of the 36th Infantry Battalion, Philippine Army have occupied the community since March of this year. The soldiers are encamped in the village’s community buildings and facilities.

The residents are being harrassed and are accused of being members and supporters of the New People’s Army (NPA). They are being coerced into admitting that they are members of the NPA. Bribing them with money is also being used to get “confessions”.

On August 7, additional soldiers from the 75th IBPA were deployed in the area. Fearing for their lives, the villagers began to evacuate and take refuge in San Isidro. There were dialogues between the soldiers and the local government where the residents pleaded with the soldiers to leave their village.

In the course of the peasants’ evacuation, two farmers went missing.

Agustito Ladera was last seen by his brother on August 28. As the community residents evacuated to the town center, Ladera asked to be left behind to see to their abaca farm. Meanwhile on September 1, Renato Deliguer, went to Bgy. Pong-on San Agustin next town, to seek permission from his father to harvest some abaca from their farm in Pagiwasan, Bgy. Mahaba.

There were reports of two men allegedly arrested by the military and turned over to the local police. But when the relatives insisted on searching for their loved ones inside the camps and police station, they were not allowed to do so.

To date, Ladera and Deliguer are still missing and have been listed among the desaparecidos.”²³⁰

In 2010 *Karapatan* reported that the military recruits children to the Civilian Armed Forces Geographical Unit (CAFGU), citing one example in which the Philippine Air Force attempted to forcibly recruit a child, subjecting him to ill treatment,

“In Bgy. Quipot, San Juan, Batangas, the military continues its recruitment for the CAFGU which also includes minors. Norman* is a 17 year old who is one of those being forced to join the CAFGU by members of the 740th Combat group of the Philippine Air Force (PAF) led by Lt. Col. Arnel Villareal, and the 59th IBPA.

²²⁹ *Karapatan*, 2010 year end report on the human rights situation in the Philippines, 1 December 2010, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/B06A254EB6D5CF67C125780700368303/\\$file/2010+report+karapatan.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/B06A254EB6D5CF67C125780700368303/$file/2010+report+karapatan.pdf), accessed 1 March 2011

²³⁰ *Karapatan*, 2010 year end report on the human rights situation in the Philippines, 1 December 2010, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/B06A254EB6D5CF67C125780700368303/\\$file/2010+report+karapatan.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/B06A254EB6D5CF67C125780700368303/$file/2010+report+karapatan.pdf), accessed 1 March 2011

Being a minor, Norman's mother, Anna, did not allow him to join the paramilitary group. This irritated the soldiers who began to be hostile to Norman. One time, Anna found him inside the camp being forced to eat spoiled rice. The soldiers alleged that Norman was rude to them so they detained him.

On August 28, Norman was beaten up by soldiers at the Laiya Beach Resort in San Juan, Batangas, after he mistakenly entered a toilet which he immediately left after finding out that it was occupied. Three soldiers who saw him leave accused Norman of voyeurism. They dragged him into another toilet and beat him up. They threatened to kill him and throw his body into the sea if Norman told anyone of what happened.

Norman now exhibits extreme psychological trauma because of the torture. His family fears for his life and theirs. He has come to believe that had his mother allowed him to join the CAFGU, the soldiers would not have beaten him up. **Not his real name**²³¹

In November 2009 *Amnesty International* reported on the prevalence of witness intimidation in the Philippines,

““One of the major stumbling blocks to justice for human rights violations in the Philippines has been the intimidation of witnesses, at times accompanied by bribes or other inducements,” said Donna Guest, deputy director of Amnesty International's Asia-Pacific programme.

[]

Amnesty International pointed out that the inability of Philippines investigators to gather and process forensic and circumstantial evidence in prosecutions has led to an overreliance on eyewitness testimony.

[]

The European Union and the Philippine government have recently signed an agreement to improve the quality of investigations and prosecutions of extrajudicial executions in the Philippines. Most witnesses are reported to lack confidence in the current witness protection program, and fear that, given prolonged delays in criminal proceedings, it will not be able to offer protection to them or their families which may be needed to extend over a number of years.

In conjunction with lack of confidence in the impartiality of the police, fear of reprisals and a lack of an effective witness protection program, most investigations remain ineffective and fail to lead to the identification, arrest, trial and conviction of the perpetrators.”²³²

In 2011 *Human Rights Watch* stated that the duration of protection within the witness protection programme is limited,

“President Aquino has proposed an 80 percent budget increase for the witness protection program, but his administration has not taken steps to make the program independent and accessible and to extend protection from the onset of a police investigation until it is no longer necessary, including after the trial.

Optimism over Supreme Court writs to compel military and other officials to release information on people in their custody and take steps to protect people at risk continued to be dampened by hesitancy to grant inspection orders and difficulty in enforcing them. In two

²³¹ Karapatan, 2010 year end report on the human rights situation in the Philippines, 1 December 2010, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/B06A254EB6D5CF67C125780700368303/\\$file/2010+report+karapatan.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/B06A254EB6D5CF67C125780700368303/$file/2010+report+karapatan.pdf), accessed 1 March 2011

²³² Amnesty International, Witness protection needed to ensure justice for Philippines massacre victims, 27 November 2009, <http://www.amnesty.org/en/news-and-updates/news/witness-protection-needed-ensure-justice-philippines-massacre-victims-20091127>, accessed 20 December 2010

cases, the Supreme Court held that investigations had been inadequate, but simply referred the case to the national Commission on Human Rights for further investigation and monitoring—a role that the commission should already be carrying out. One of these cases involved the 2007 abduction of leftist activist Jonas Burgos who remains missing.”²³³

In its 2011 World Report covering the events of 2010, *Human Rights Watch* reports that witnesses to the 2009 massacre and their family members have been killed,

“At least five witnesses and family members of witnesses to Ampatuan family abuses, including the Maguindanao massacre have been killed since December 2009. On June 14 an unidentified gunman shot and killed Suwaib Upham, an Ampatuan militia member who had participated in the massacre and had offered to testify for the government if afforded witness protection. Three months before he was killed, Human Rights Watch had raised concerns with Justice Department officials in Manila about his protection. The department was still considering his request for protection at the time of his killing.”²³⁴

In November 2010 the *CPJ* reported on alleged attempts to intimidate witnesses in the Maguindanao case,

“[] law enforcement sources, victims’ relatives, and witnesses allege that the Ampatuans are also pursuing channels outside of court. That includes alleged attempts to pay victims’ relatives in exchange for their withholding support for the prosecution. State prosecutors would continue to pursue the case as a crime against the Philippine people, but they fear if enough families accepted offers it would weaken the solidarity of the prosecution, as well as the resolve of witnesses to testify.

Luisa Subang, wife of slain reporter Francisco “Ian” Subang, told CPJ she was approached by people claiming to represent the Ampatuans and offering a financial settlement. She said in an interview with CPJ that she was offered 500,000 pesos (US\$11,300) to drop her support for the prosecution but declined because she and her three children want to see the case fully prosecuted. She said she is “sometimes scared” what might happen to her family because she didn’t accept the offer.

Nancy Dela Cruz, the mother of Maguindanao massacre victim and reporter Gina Dela Cruz, said she was approached in March while the Ampatuans were still detained locally before being transferred to a prison in Manila. She said three men who claimed to represent the clan visited her house and offered 3 million pesos (US\$68,000) in exchange for her signature on a blank piece of paper.

Witnesses say they also have also been targeted. At least one of the prosecution’s witnesses was offered a 5 million peso (US\$113,000) bribe by a purported Ampatuan representative to drop his planned testimony, according to public prosecutors.

Other witnesses have faced harm. Ampatuan Vice Mayor Rasul Sangki testified in bail proceedings in January that he witnessed his superior, Andal Ampatuan Jr., shoot the first massacre victim with a high-powered rifle.”²³⁵

The UN Special *Rapporteur on the Situation of Human Rights Defenders* and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment expressed concern at the death of Mr. Suwaib Upham, who was due to appear as a witness in the trials

²³³ Human Rights Watch, World Report 2011: The Philippines, 2011, <http://www.hrw.org/en/world-report-2011/philippines>, accessed 4 May 2011

²³⁴ Human Rights Watch, World Report 2011: The Philippines, 2011, <http://www.hrw.org/en/world-report-2011/philippines>, accessed 4 May 2011

²³⁵ CPJ, Impunity on trial in the Philippines, 10 November 2010, <http://cpj.org/reports/2010/11/impunity-on-trial-in-the-philippines.php>, accessed 17 December 2010

related to the “Maguindanao Massacre.”²³⁶ The UN Special *Rapporteur on the Situation of Human Rights Defenders* reports that,

“According to information we have now received, on 14 June 2010, an unidentified gunman shot and killed Mr. Suwaib Upham, a witness to the Maguindanao killings, in Parang municipality, Maguindanao. Reports made available to me indicate that Mr Upham had agreed in February 2010, to testify against suspects arrested in connection with the “Maguindanao Massacre” on condition that he is provided with witness protection. Three months before he was killed, protection concerns regarding Mr. Upham were raised with the Justice Department officials in Manila, reportedly the department was still considering his request for protection at the time of his killing.

Mr. Upham had allegedly been a militia member for the Ampatuans, whose family members have been arrested in connection with the “Maguindanao's massacre”. It is alleged that Mr. Upham knew the inner workings of the Ampatuans' militia operations, their sources of weapons, and the command structure of the police, military, and paramilitary forces in Maguindanao. He also knew details of past abuses perpetrated by the Ampatuans and their private army.”²³⁷

Human Rights Watch reported the killing of Suwaib upham, a witness, who was a member of the Ampatuan militia, whilst waiting for inclusion in the government witness protection programme,

“A member of the family’s militia who participated in the killings—Suwaib Upham, 27—told Human Rights Watch that he had killed a witness to the Maguindanao shootings with a grenade launcher several days after Ampatuan, Jr. was arrested by authorities. Upham described himself as close to the Ampatuan family for most of his life and gave his statement to a private prosecutor, which was then submitted to authorities under a pseudonym. He was shot and killed on June 14, 2010, while still awaiting inclusion in the government witness program.”²³⁸

In correspondence with the Special Rapporteur the *Philippines government* reported that Mr Upham was not a witness for the prosecution,

“In a letter dated 20 October 2010, the Government informed that, with regard to the killing of Mr. Suwaib Upham in Parang, Maguindanao on 14 June 2010, he is not included as one of the witnesses for the prosecution of the “Maguindanao Massacre” case. Neither was his name embodied in the list of possible witnesses submitted by the prosecution to the court during the preliminary conferences. According to the latest information from the Criminal Investigation and Detection Group of the Autonomous Region of Muslim Mindanao (CIDG-ARMM), the investigation is still on-going to ascertain the identity of Mr. Upham's assailant.”²³⁹

The *UN Special Rapporteur* expressed concern at the killing of human rights advocate Benjamin Bayles and the harassment of witnesses associated with his case,

²³⁶ United Nations Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya: Addendum, February 2011, A/HRC/16/44/Add.1, http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.44.Add.1_EFOnly.pdf, accessed 9 May 2011

²³⁷ United Nations Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya: Addendum, February 2011, A/HRC/16/44/Add.1, http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.44.Add.1_EFOnly.pdf, accessed 9 May 2011

²³⁸ Human Rights Watch, They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

²³⁹ United Nations Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya: Addendum, February 2011, A/HRC/16/44/Add.1, http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.44.Add.1_EFOnly.pdf, accessed 9 May 2011

“On 29 November 2010, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding the killing of Mr. Benjamin Bayles, aged 43, a human rights advocate and church worker, and the alleged intimidation and harassment by members of the Philippine Army of witnesses related to the Bayles case, including Mr. Manuel Bayles, Mr. Benjamin Ramos and Ms. Vilma Espinosa Tejada, as well as the threats against two journalists reporting on the case, Mr. Larry Trinidad of Radio Mindanao Network, and Mr. Jaime Lim, a Bacolod-based journalist.”²⁴⁰

The *BBC* states in a June 2010 report that a key witness in a murder trial has been shot dead in the southern Philippines,

“A key witness to the massacre of 57 people in the Philippines last year has been shot dead, a prosecutor says. Suwaib Upham had admitted to being one of the gunmen who took part in the Maguindanao attack. He had agreed to testify against members of the Ampatuan family, who are on trial for ordering the killings. Since admitting his part in the murders, Mr Upham had repeatedly asked for witness protection but had yet to receive any government help.

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Harry Roque, whose law firm represents some of the victims of the killings, said Mr Upham was the most important witness to have come forward so far. He told the *BBC* that Mr Upham's death was a major setback and sent a gruesome message to other witnesses that the same thing could happen to them. The Maguindanao killings were the worst case of political violence in the Philippines in living memory.

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The US-based group Human Rights Watch said the death of such a key witness in the case against the Ampatuans raised doubts about the authorities' resolve to see justice done.”²⁴¹

In November 2010 *Human Rights Watch* reported that many witnesses and victims of abuses were suspicious of the police and feared retaliation for speaking out,

“Suspicious of police collusion, few victims or witnesses of crimes by government officials trust the country's haphazard witness protection program. Many of the Ampatuans' victims have never reported the abuses they have suffered at the hands of the family, which has long relied on threats and other forms of intimidation to build and maintain its power. Indeed, several victims and witnesses declined to be interviewed by Human Rights Watch, despite undertakings to protect their identities, because they feared retaliation by the family and its private army.”²⁴²

2. Treatment of women and girls

a. Armed conflict

In November 2008 *IRIN* reported that women in Mindanao were bearing the brunt of violence between government forces and the MILF, with increased risks of sexual violence, increased health risks and protection issues,

²⁴⁰ United Nations Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya: Addendum, February 2011, A/HRC/16/44/Add.1, http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.44.Add.1_EFOnly.pdf, accessed 9 May 2011

²⁴¹ BBC News, Witness to southern Philippine massacre shot dead, 24 June 2010, <http://www.bbc.co.uk/news/10400144>, accessed 20 December 2010

²⁴² Human Rights Watch, They own the people, The Ampatuans, State-backed militias and killings in the Southern Philippines, November 2010, <http://www.hrw.org/en/node/94137/section/6>, accessed 22 February 2011

"Women on the southern island of Mindanao are bearing the brunt of the separatist violence now in its fourth month.

Mindanao has witnessed an escalation in fighting between government forces and the Moro Islamic Liberation Front (MILF) since 10 August.

"I am very tired. When will it ever end?" asked Sumira Endosan, an evacuee in Datu Piang, North Cotabato Province.

According to the latest figures offered by the National Disaster Coordinating Council (NDCC), more than 300,000 people remain displaced because of the fighting.

Of this number, more than 61,000 are living in evacuation centres, putting additional strain on women.

In addition to extra responsibilities in the home, they now face increased health risks, and protection issues, including an increased risk of sexual violence.

"Bullets do not differentiate between genders, but it is the women who are expected to ensure the continuity of life. In conflict situations, their gender-based needs are often overlooked," an officer from Isis International, advocating women's participation in the peace process, told IRIN.²⁴³

In November 2008 *IRIN* reports that in one evacuation centre there were 1,300 expectant or lactating mothers and that a lack of clean water is a particular concern in attending to their health and hygiene needs,

"The cramped evacuation centres and lack of clean water are particularly worrying for pregnant women.

"This, and the lack of privacy, make it difficult to provide post-partum care and hygiene needs," said Elizabeth Samama, a provincial health officer.

There are more than 1,300 pregnant and lactating mothers in Datu Piang, Samama said.

"Two pregnant women died from multiple injuries from mortar shelling. One woman died from post-partum haemorrhage," she said.

To date, the Datu Piang rural health unit has handled more than 11 deliveries, as well as dozens of post-partum, neo-natal and pre-natal cases, excluding traditional births using "hilot" or massage.

As part of its response effort, the UN Population Fund (UNFPA) has started distributing reproductive health kits to rural midwives, with basic instruments essential for a safe and sterile delivery, to prevent infant mortality and post-partum death.²⁴⁴

According to *IRIN* activists believe that sexual violence may be under reported as women fear being blamed for bringing the attack on themselves or igniting a clan feud,

"While no incidents of sexual violence have been reported, this did not mean it was not happening, activists warned.

²⁴³ IRIN, Philippines; Women suffer most in Mindanao conflict, 28 November 2008, <http://www.irinnews.org/printreport.aspx?reportid=81708>, accessed 5 May 2011

²⁴⁴ IRIN, Philippines; Women suffer most in Mindanao conflict, 28 November 2008, <http://www.irinnews.org/printreport.aspx?reportid=81708>, accessed 5 May 2011

"We only get anecdotal accounts, most of the time not even from the complainants themselves, making it hearsay and gossip," said Raissa Jajurie, head of office for Saligan, an NGO engaged in developmental law in Mindanao, with fear and shame the primary factors for the silence.

"In conservative Muslim culture, this is a taboo subject. Women would be accused of bringing it upon themselves. Also, there is a fear that filing a complaint would cause retaliation and start a vicious clan war," Jajurie explained."²⁴⁵

IRIN reports that women who are widowed or whose husbands are engaged in the conflict experience difficulties having lost the family breadwinner and also fear vulnerability to clan war as women and children may be targeted,

"Women whose husbands are involved or have been killed in the conflict experience the worst trauma," Florence Tayzon, UNFPA's programme coordinator for the Philippines. "The economic consequences of losing the family breadwinner are compounded by the fear of vendetta and 'rido' or 'clan war', whose victims include women and children," she said."²⁴⁶

In March 2010 *Amnesty International* reported that the Philippine government has launched the National Action Plan on Women Peace and Security, which aims to improve the protection of women during armed conflict,

"The Philippine government launched the National Action Plan (NAP) on Women Peace and Security in Quezon City, on Friday, 26 March. "This is a step in the right direction. Forming this National Action Plan not only provides a framework for the protection of women in armed conflict and post conflict situations, but could also empower women as peace advocates and human rights defenders," said Donna Guest, Amnesty International's Deputy Director for Asia and the Pacific.

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"Given the Philippines' history of intermittent armed conflicts with various insurgent groups, it is high time for the government to look at the special needs of women and girls, particularly in the context of displacement and resettlement, when women face a high risk of being targeted," said Donna Guest.

"Women give birth in overcrowded camps for displaced persons; mothers are left to fend for their children on their own in camps or villages while their husbands try to make a living elsewhere; young girls are sent to neighbouring towns as domestic workers to help their family survive – these and other conflict-related women's human rights issues must be addressed. "The new plan is a promising first step. However the real test will be how it is implemented on the ground, which we will be monitoring."²⁴⁷

In November 2009 *The New York Times* reported that women were sexually mutilated in a massacre committed in the southern Philippines,

"Most or all of the 22 women among the 57 people massacred Monday in the southern Philippines were sexually mutilated, the authorities said Friday, adding grim details to the catalog of horrors that has already emerged.

²⁴⁵ IRIN, Philippines; Women suffer most in Mindanao conflict, 28 November 2008, <http://www.irinnews.org/printreport.aspx?reportid=81708>, accessed 5 May 2011

²⁴⁶ IRIN, Philippines; Women suffer most in Mindanao conflict, 28 November 2008, <http://www.irinnews.org/printreport.aspx?reportid=81708>, accessed 5 May 2011

²⁴⁷ Amnesty International, Philippines move to protect women's rights during armed conflict, 30 March 2010, <http://www.amnesty.org/en/news-and-updates/philippines-move-protect-womens-rights-during-armed-conflict-2010-03-31>, accessed 20 December 2010

“Even the private parts of the women were shot at,” the justice secretary, Agnes Devanadera, said on national television. “It was horrible. It was not done to just one. It was done practically to all the women.”

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Ms. Devanadera said that several of the men accused of taking part in the slaughter had surrendered and offered to testify. Though the killings violated a traditional custom against harming women, the men seemed to be troubled more by the deaths of the journalists and the bystanders.

“They are bothered by their conscience because they thought that only the Mangudadatus would be shot,” Ms. Devanadera said.

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Mr. Mangudadatu’s wife, Genalyn, his two sisters and two lawyers working for him were among the women who were mutilated and murdered. He said on Thursday that his wife had been shot “in her private parts.”

Ms. Devanadera said that the zippers of the women’s pants had been undone and that some of the women had had their pants pulled down. She said the authorities were still trying to determine whether the women had been raped, but “it is certain that something bad was done to them.”²⁴⁸

b. *Early marriage*

In February 2011 *UNDP Global Commission on HIV and the Law* reported that the minimum age of marriage is 18, unless under religious law which is 15 years for a boy and 16 years for a girl,

“The age of marriage is 18 years in the Philippines and Singapore, except where the marriage is contracted under religious law. In such cases, a boy or girl as young as 15 or 16 respectively can marry.”

In January 2010 *IRIN* reported that under Muslim law the minimum age of marriage is 15 and that on petition a girl who has attained puberty may be married if over 12,²⁴⁹

“Early and arranged marriages are common practice in Muslim culture in the Philippines where about 5 percent of the country’s 97 million inhabitants are Muslim. It is estimated that 80 percent of Filipino Muslims live on the southern island of Mindanao. Muslims have a different set of rules governing marriage, divorce, custody of children, among others. “Under Article 16 of the Muslim Code, the minimum marrying age is 15 for both males and females. However, upon petition of a male guardian, the Shari’a District Court may order the solemnization of the marriage of a female who has attained puberty though she is younger than 15, but not below 12,” Claire Padilla, executive director of EnGendeRights, a legal NGO working for the repeal of this provision, which it considers discriminatory, told *IRIN*.²⁵⁰

According to *IRIN* there is a lack of accurate data on early marriage in ARMM, one survey of 593 respondents who were under 18 when married showed that 83% of girls were married between the ages of 15 – 17 and 17% between 11 – 14 years old,

“There is no accurate data of how many Muslim girls in Autonomous Region of Muslim Mindanao (ARMM) marry before the age of 18. Yasmin Bursan-Lao, founder and executive director of Nisa UI-Haqq Fi Bangsamoro (Women for Justice in the Bangsamoro), an NGO

²⁴⁸ The New York Times, Philippine Official Says Victims Were Sexually Mutilated, 27 November 2009, <http://www.nytimes.com/2009/11/28/world/asia/28phil.html?scp=422&sq=Philippines&st=nyt>, accessed 17 December 2010

²⁴⁹ *IRIN* news, Early marriage puts girls at risk, 26 January 2010, <http://www.irinnews.org/Report.aspx?ReportId=87873>, accessed 20 December 2010

²⁵⁰ *IRIN* news, Early marriage puts girls at risk, 26 January 2010, <http://www.irinnews.org/Report.aspx?ReportId=87873>, accessed 20 December 2010

advocating for women's rights in the context of Islamic culture, attributes this to several factors.

"Marriage registration is not a common practice, especially in far-flung areas. Many do not find the registration of marriages, births and deaths relevant unless they seek employment. The process and costs entailed further discourage registration," says Bursan-Lao, quoting findings in a research paper, *Determinants and Impact of Early Marriage on Moro Women*, by Nisa in March 2009.

A total of 593 respondents from five provinces in ARMM, who were younger than 18 at marriage, were surveyed. The study shows that 83 percent were 15-17, while 17 percent were between nine and 14 years old. The ages of the respondents' husbands ranged from 11-59 years, with 57 percent between 17 and 21 at the time of marriage.

"Early marriage is not just a result of cultural practices. The Muslim Code allows it. Challenging the practice of early and arranged marriage needs evidence-based argumentation which we hope this research will address," Bursan-Lao concluded.²⁵¹

In January 2011 *IRIN* reported that some girls are "forced" by their parents into early arranged marriages in the southern Philippines, other reasons cited for early marriage include to preserve family honor, economic reasons and settling disputes,

"Religious beliefs ranked highest, with women saying early marriage was in accordance with their religion. This was followed by cultural reasons such as keeping family honour, and economic factors.

A small proportion said they married for political reasons like settling or preventing family disputes, or forging political alliances, while others still report being "forced" into the arranged marriage by their parents.

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The Department of Social Welfare and Development estimates that 126,225 individuals are still living in evacuation centres since the outbreak of renewed fighting between the government and the Muslim separatist group, the Moro Islamic Liberation Front, in August 2008.

"The combination of so much idle time in a close space like an evacuation centre makes the youth vulnerable to exploring relationships," says Laisa Alamia, a programme manager for Nisa UI-Haqq Fi. Pre-marital relations are forbidden in Muslim culture and to protect the girl's chastity, she is forced into marriage.

But Alamia also noted another factor. "In the evacuation centre, each family is entitled only to one food coupon for basic relief goods. Girls and boys are married off by their parents to create new families and qualify for more food coupons," she said."²⁵²

IRIN report that child birth has serious health risks for adolescent girls,

"According to the 2008 National Health and Demographic Survey, the maternal mortality rate in ARMM is twice as high as the national average of 162 per 100,000 live births.

²⁵¹ IRIN news, Early marriage puts girls at risk, 26 January 2010, <http://www.irinnews.org/Report.aspx?ReportId=87873>, accessed 20 December 2010

²⁵² IRIN news, Early marriage puts girls at risk, 26 January 2010, <http://www.irinnews.org/Report.aspx?ReportId=87873>, accessed 20 December 2010

ARMM has a high unmet need for family planning, with the lowest contraceptive prevalence rate for modern methods at 9.9 percent and traditional methods at 5.2 percent. On average, six out of 10 births take place at home under the supervision of a traditional birth attendant, but in ARMM, that figure is nine out of 10 births, the survey states.

Elizabeth Samama, a provincial health officer in ARMM, said having children at a young age poses serious health risks. “The body of an adolescent girl is not fully developed. Her uterus and other reproductive organs are not mature or properly equipped to support the development of another human life. The ideal age for conceiving is between the age of 20 and 35,” she said.²⁵³

c. *Reproductive health*

In February 2011 the *UNDP Global Commission on HIV and the Law* reported that a bill on reproductive health which aims to increase access to birth control and maternal care has been drafted but still awaits approval from the Senate,

“The *Philippine Reproductive Health Bill 2010* provides an example of comprehensive legislation that aims to guarantee universal access to methods and information on birth control and maternal care. The bill includes measures to prevent and treat HIV, including condom distribution. The bill is opposed by the Catholic Church. It was approved by a committee of the Philippines House of Representatives in 2011 and still requires approval by the Senate.”²⁵⁴

In its 2011 World Report covering the events of 2010 *Human Rights Watch* reports that,

“Restricted access to condoms continues to impede HIV/AIDS prevention efforts in the Philippines, where more than 90 percent of HIV transmission occurs through unsafe sexual contact and both rates of transmission and overall HIV prevalence have increased sharply in recent years, particularly among the most at-risk populations. In September President Aquino pledged to enhance access to all forms of family planning, including condoms. At this writing the Philippines continues to prohibit abortion.”²⁵⁵

The *New York Times* reported in August 2010 that abortion is illegal in the Philippines,

“A new study of abortion in the Philippines denounces the government for keeping it illegal, causing what the authors describe as a “human rights crisis” that victimizes tens of thousands of women every year, at least a thousand of whom die from unsafe, often crude, procedures.

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Abortion is outlawed without exception in the Philippines, the largest Roman Catholic country in Asia, where poverty can be extreme. Efforts to legalize it, or even mitigate its impact through the promotion of a sound reproductive health program, have been met with intense opposition from the church, which has considerable influence.

Poor women with no means for acquiring reproductive services often resort to illegal and mostly unsafe abortions. According to the Center for Reproductive Rights, more than half a million Filipino women undergo illegal abortions every year. Of this number, 90,000 suffer complications, and a thousand eventually die, the center said. Abortion-related

²⁵³ IRIN news, Early marriage puts girls at risk, 26 January 2010, <http://www.irinnews.org/Report.aspx?ReportId=87873>, accessed 20 December 2010

²⁵⁴ UNDP Global Commission on HIV and the Law, Regional Issues Brief: Rights of women and girls, 17 February 2011, http://unaidspcbngo.org/wp-content/uploads/2011/07/IssuesBrief_WomenGirls.pdf, accessed 5 May 2011

²⁵⁵ Human Rights Watch, World Report 2011: The Philippines, 2011, <http://www.hrw.org/en/world-report-2011/philippines>, accessed 4 May 2011

complications, it said, are one of the top 10 causes of hospitalization among women in the Philippines. According to the World Health Organization, 20 percent of maternal deaths in the country are a result of unsafe abortions.

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Among the abortion methods the study mentions are intense abdominal massages, consumption of anti-ulcer drugs like Cytotec to induce contraction, ingestion of herbs and concoctions, and even insertion of catheters into the uterus. These often cause complications like hemorrhage, sepsis, perforation of the uterus, damage to other internal organs, even death, the study says. It cites cases of women seeking post-abortion care being harassed, intimidated and abused. In some instances, the study says, doctors and nurses have even threatened to report these women to the police. In extreme cases, doctors deliberately delayed caring for such patients "in order to teach them a lesson."²⁵⁶

In March 2010 *IRIN News* reported on family planning in the predominantly Catholic Philippines,

"Family planning advocates in the predominantly Catholic country are calling on voters to ditch candidates opposed to government funding of contraceptives before the 10 May poll for presidential, legislative and local representatives. "If they want us to vote for them, they should allocate funding for contraceptives. We want a real reproductive health programme here in Manila," said Fe Nicodemus, 50, a reproductive health campaigner. Nicodemus has been fighting Manila's local government over an executive order issued in 2000 by then Mayor Lito Atienza, which prohibits the provision of modern contraceptives and sterilization at the city's public health facilities.

The city has since selected a new mayor, but calls to repeal the order have been ignored - which Nicodemus said was contributing to a worsening reproductive health situation in the capital. "In Manila, girls as young as 14 get pregnant. There are 18-year-old girls who already have four children," Nicodemus told IRIN. "They come to my house to ask for help. In spite of the [order], we make a stand to help these children, even if the village officials threaten to arrest us."

The availability of contraception is hotly contested in the Philippines, where more than 80 percent of the population is Catholic. Reproductive health advocates, however, say family planning and modern contraceptive methods such as condoms and birth control pills are sorely needed. "The poorest are [most] affected because of the lack of contraceptives," said Clara Rita Padilla, executive director of EnGendeRights, a women's rights NGO. In a 2008 national demographic survey released on 14 January 2010, the National Statistics Office said about one in three births in the Philippines was either unwanted or unplanned. It also said the country's total fertility rate was 3.3 children per woman, but that four out of 10 women said they preferred to have only two children. Poorer women, or those with less education, wanted more children.²⁵⁷

In April 2009 *IRIN News* reported that abortion is illegal in the Philippines, with no exceptions, IRIN further reported that according to a 2008 study 1000 women die each year as a result of abortions,

"According to a 2008 study (made public last week) by the Guttmacher Institute, a non-profit organisation which carries out research on reproductive health, there are an estimated 560,000 cases of induced abortions per year, resulting in some 90,000 women being hospitalised for post-abortion care; and about 1,000 deaths a year in the island nation.

The Guttmacher Institute, which worked on the study with the University of the Philippines Population Institute, said about half of the 3.4 million pregnancies in 2008 were unintended.

²⁵⁶ The New York Times, Rights Group Denounces Illegality of Abortion in Philippines, 2 August 2010, <http://www.nytimes.com/2010/08/02/world/asia/02iht-phils.html?scp=145&sq=Philippines&st=nyt>, accessed 20 December 2010

²⁵⁷ IRIN News, Contraception controversy central to elections, 1 March 2010, <http://www.irinnews.org/Report.aspx?ReportID=88257>, accessed 20 December 2010

The Department of Health (DOH) reports that, on average, Filipino women have one child more than they want. Abortion in the Philippines is an illegal and punishable act, with no exceptions even on the grounds of endangering a woman's life, rape, or foetal impairment. The minimum prison term for an abortion is six months, and the maximum six years. Only traditional contraception methods (with high failure rates) are advocated in this conservative Catholic country. Modern contraceptives are often unavailable and unaffordable.

Outside the Minor Basilica of the Black Nazarene, a church in the district of Quiapo, Manila, street vendors sell homemade herbal concoctions to induce menstruation. Others go to a local 'hilot' or masseuse, a woman with no formal medical training, who uses intense massage on the abdominal area to induce abortion.

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Celia Marquez, 40, went to a 'hilot' to have her sixth pregnancy terminated. She bled internally for days and became very weak. When she was brought to hospital, doctors openly showed their disdain, calling her "Ms. Abortionist" instead of her real name.

Junice Melgar, executive director of Likhaan, a women's NGO that provides healthcare services and family planning counselling, said maltreatment of women seeking post-abortion care is common in government hospitals. "We've had cases where women were purposely made to wait while profusely bleeding. Others are treated without anaesthesia, or not cleaned as part of post-operation care. Verbal abuse is also common. Some doctors think that this will teach these women a lesson."

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In extreme cases, women are refused treatment by health staff who fear being implicated. Under the Revised Penal Code of 1930, a woman who undergoes abortion, and anyone assisting her, faces imprisonment. A higher prison term will be imposed on the woman if the abortion is done to conceal her "dishonor".²⁵⁸

In March 2010 *IRIN News* reported that many Filipino women continue to die due to complications related to childbirth,

"Thousands of Filipino women continue to die due to complications related to childbirth, according to health specialists.

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Causes of maternal deaths are haemorrhage, sepsis, obstructed labour, hypertensive disorders in pregnancy, and complications of unsafe abortion – most of which are preventable with proper diagnosis and intervention, health specialists said.

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"The maternal mortality ratio [MMR] in the Philippines is listed as the Millennium Development Goal [MDG] least likely to be achieved by 2015," Vanessa Tobin, UN Children's Fund (UNICEF) country representative for the Philippines, told IRIN. The country has an adjusted maternal mortality ratio of 160 per 100,000 live births against a goal of 55-60 deaths per 100,000 live births. "We are not making sufficient progress," she said. Crucial to reducing maternal deaths is having a skilled attendant present during a delivery. "Only 60 percent of the births in the Philippines are supervised by a skilled birth attendant, who can be a physician, a nurse or a midwife with 18 months to two years of adequate training. What is not accepted in this definition is a traditional birth attendant [who have had no formal training]," the UNICEF official said.

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According to the 2006 Family Planning Survey (FPS), only 50.6 percent of women used family planning methods – unchanged in the past six years. In the Philippines, where more than 80 percent of the population is Catholic, only natural family planning methods are sanctioned by the Church. Condoms, the Pill and other contraception are equated with

²⁵⁸ IRIN News, Illegal abortions - the risks and the misery, 21 April 2009, <http://www.irinnews.org/Report.aspx?ReportId=84021>, accessed 20 December 2010

abortion, which is illegal. As a result, contraception is not available in most government and rural health clinics.

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Data from the 2003 National Demographic and Health Survey (NDHS) and 2006 FPS shows that in the National Capital Region (including Manila), a reported 90 percent of births are supervised by a skilled birth attendant. In the Autonomous Region of Muslim Mindanao (ARMM), it is 24 percent. "In some cases, one midwife is assigned to two to three barangays [small administrative divisions], which are separated by vast bodies of water. So many women opt to go to a community-based traditional birth attendant," said Fatima Pir Allian, a programme manager for Neighbours Population Development Center, Inc, an NGO that works with the UNFPA. Inaccessibility and lack of personnel are the main factors that contribute to Mindanao having one of the highest MMRs in the country. Three decades of armed conflict has exacerbated the problem of lack of personnel and accessibility, said Allian."²⁵⁹

In February 2011 *UN OCHA* reported that pregnant IDPs have been particularly affected by lack of access to reproductive healthcare,

"The increased demand for services brought about by the conflict and displacement of IDPs has caused further strain on the health resources of the host communities. At the same time, the conflict has hampered the implementation of public health programmes in the rural communities. Pregnant women have been particularly vulnerable, due to lack of access to reproductive health services."²⁶⁰

d. *Trafficking*

In its December 2010 Trafficking in Persons Report the *USDOS* placed the Philippines on its Tier 2 trafficking watchlist for the second year running, denoting that the country did not fully comply with standards set by the US Trafficking Victims Protection Act (2000),

"The Government of the Philippines does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government significantly increased the number of trafficking cases filed in courts and, with the help of NGOs, increased the number of sex trafficking convictions it achieved. Though the government filed several labor trafficking cases for prosecution, it has never convicted any offenders of labor trafficking, a significant problem for Filipinos within the country and around the world. The government also convicted its first official for trafficking-related complicity, but further efforts need to be taken to address the significant level of corruption that allows serious trafficking crimes to continue. Despite these overall efforts, the government did not show evidence of significant progress in convicting trafficking offenders, particularly those responsible for labor trafficking. The Philippines therefore remains on Tier 2 Watch List for the second consecutive year. Greater progress in prosecution and conviction of both labor and sex trafficking offenders is essential for the Government of the Philippines to demonstrate significant and increasing progress toward compliance with the minimum standards for the elimination of trafficking."²⁶¹

In its 2009 Trafficking in Persons Report the *USDOS* reported that women from Mindanao were trafficked internally and transnationally,

²⁵⁹ IRIN News, Maternal mortality rates "not making sufficient progress, 24 March 2009, <http://www.irinnews.org/Report.aspx?ReportId=83609>, accessed 17 December 2010

²⁶⁰ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

²⁶¹ USDOS, Trafficking In Persons (TIPS) Report 2010, 14 December 2010, p.270, <http://www.state.gov/documents/organization/143188.pdf>, accessed 17 December 2010

“Internally, women and children are trafficked from poor farming communities in the Visayas and Mindanao to urban areas such as Manila and Cebu City, but also increasingly to cities in Mindanao, for commercial sexual exploitation or for forced labor as domestic servants or factory workers. An increasing number of women and children from Mindanao were trafficked internally and transnationally for domestic work. Traffickers used land and sea transportation to transfer victims from island provinces to major cities.”²⁶²

In December 2010 *USDOS* reported that the Philippines is a source country and to a lesser extent a destination and transit country for trafficking in persons, especially for forced prostitution and domestic labour,

“Women were subjected to sex trafficking in countries such as Malaysia, Singapore, Hong Kong, South Korea, Japan, and various Middle Eastern countries. Within the Philippines, people were trafficked from rural areas to urban centers including Manila, Cebu, the city of Angeles, and increasingly to cities in Mindanao. Hundreds of victims are trafficked each day in well-known and highly visible business establishments.

Women and children were trafficked internally for forced labor as domestic workers, small-scale factory workers, beggars, and for exploitation in the commercial sex industry. Traffickers, in partnership with organized crime syndicates and complicit law enforcement officers, regularly operate through local recruiters sent to villages and urban neighborhoods to recruit family and friends, often masquerading as representatives of government-registered employment agencies. There were reports that organized crime syndicates were heavily involved in the commercial sex industry, and that international syndicates transited victims from mainland China through the Philippines to third country destinations.

Traffickers continue to use budget airlines and inter-island ferries and barges to transport their victims to major cities within the country. Trafficked Filipino migrant workers were often subject to violence, threats, inhumane living conditions, non-payment of salaries, and withholding of travel and identity documents.

Child sex tourism remained a serious problem in the Philippines, with sex tourists coming from Northeast Asia, Australia, Europe, and North America to engage in the commercial sexual exploitation of children. The Government of the Philippines does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government significantly increased the number of trafficking cases filed in courts and, with the help of NGOs, increased the number of sex trafficking convictions it achieved. Though the government filed several labor trafficking cases for prosecution, it has never convicted any offenders of labor trafficking, a significant problem for Filipinos within the country and around the world.”²⁶³

In December 2010 the *USDOS* reported that 228 alleged trafficking cases were passed to the Philippines Department of Justice and that prosecutions were initiated for 206 of these, however only 8 individuals were convicted for sex trafficking within the year, the *USDOS* further state that the trafficking cases on average take three to four years to conclude and that widespread corruption and an inefficient judicial system hinder the prosecution of cases,

The Government of the Philippines demonstrated some progress in convicting sex trafficking offenders during the reporting period, but failed to convict any offenders of labor trafficking. The Philippines criminally prohibits both sex and labor trafficking through its 2003 Anti- Trafficking in Persons Act, which prescribes penalties that are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape.

²⁶² *USDOS*, Trafficking In Persons (TIPS) Report 2009, June 2009, p.239, <http://www.state.gov/documents/organization/123363.pdf>, accessed 5 May 2011

²⁶³ *USDOS*, Trafficking In Persons (TIPS) Report 2010, 14 December 2010, p.270, <http://www.state.gov/documents/organization/143188.pdf>, accessed 17 December 2010

During the reporting period, law enforcement agencies referred 228 alleged trafficking cases to the Philippines Department of Justice (DOJ), of which prosecutors initiated prosecutions in 206 cases, a significant increase from the previous year. However, only eight individuals in five sex trafficking cases were convicted during the year, including two individuals who remain at large. Four of the eight convictions were a result of cases filed and prosecuted by an NGO on behalf of victims in a system whereby the Philippine government allows private attorneys to prosecute cases under the direction and control of public prosecutors. In this arrangement, NGO lawyers carry the vast majority of the prosecution workload. Convicted offenders were sentenced to 10 years' to life imprisonment. In September 2009, in a case filed and prosecuted by an NGO with government participation, two trafficking offenders, including a police officer, were sentenced to life in prison and each fined \$40,000 for trafficking children at the police officer's Manila nightclub in 2005. This marked the country's first public official ever convicted for human trafficking. The Philippines government has yet to obtain a labor trafficking conviction since the 2003 law's enactment. In June 2009, the Acting Justice Secretary ordered Department of Justice prosecutors to prioritize trafficking cases, but the court system, which is managed by the Supreme Court, does not have a method to fast-track trafficking cases. Philippine courts currently have over 380 pending or ongoing trafficking cases. Despite legal provisions designed to ensure a timely judicial process, trafficking cases in the Philippines take an average of three to four years to conclude. Widespread corruption and an inefficient judicial system continue to severely limit the prosecution of trafficking cases. The vast majority of initiated trafficking prosecutions are usually unsuccessful, largely due to lack of evidence after victims disappear or withdraw cooperation. NGOs continue to report a lack of political will to take on entrenched trafficking interests, and a lack of understanding of trafficking and the anti-trafficking law among judges, prosecutors, social service and law enforcement officials remains an impediment to successful prosecutions. In February 2010, the Philippine government forged a partnership with three NGOs – through the signing of a formal Memorandum of Understanding – to jointly prosecute corrupt government officials and train government employees in agencies vulnerable to trafficking-related corruption. To date there have not been any criminal cases filed against officials under this program. Government and law enforcement agencies had few personnel dedicated exclusively to anti-trafficking efforts, but increased the number of dedicated personnel in 2009.”²⁶⁴

In December 2010 the *USDOS* reported allegations of corruption and collusion with traffickers by some personnel within government anti trafficking units and law enforcement agencies,

“Corruption remained pervasive in the Philippines, and there were reports that officials in government units and agencies assigned to enforce laws against human trafficking permitted trafficking offenders to conduct illegal activities, either tacitly or explicitly. It is widely believed that some government officials partner with traffickers and organized trafficking syndicates, or at least permit trafficking operations in the country, and that law enforcement officers often extract protection money from illegal businesses, including brothels. During the reporting period, there were allegations that police officers conducted indiscriminate raids on commercial sex establishments to extort bribe money from managers, clients, and sex workers. In some cases, police reportedly extorted sexual services in addition to money by threatening sex workers with imprisonment for vagrancy. In November 2009, the Department of Justice filed trafficking charges against an immigration officer for her role in facilitating the illegal movement of domestic workers through an airport to Malaysia. The case remains pending. Nevertheless, efforts to investigate and prosecute such cases have been infrequent and under-resourced.”²⁶⁵

²⁶⁴ USDOS, Trafficking In Persons (TIPS) Report 2010, 14 December 2010, p.271, <http://www.state.gov/documents/organization/143188.pdf>, accessed 17 December 2010

²⁶⁵ USDOS, Trafficking In Persons (TIPS) Report 2010, 14 December 2010, p.271, <http://www.state.gov/documents/organization/143188.pdf>, accessed 17 December 2010

The *USDOS* reported that a lack of an adequate witness protection programme prevented victims cooperation within prosecution, the *USDOS* further reported that the Philippine government provided limited shelter and protection due to a lack of allocated resource,

“The Philippine government continued efforts to provide some support services to victims. While the government encouraged victims to assist in the investigation and prosecution of trafficking crimes, extreme poverty, fear of retaliation by traffickers and the government’s lack of victim and witness protection throughout the lengthy trial process caused many victims to decline cooperation with authorities and recant testimony. Some applications for witness protection were still pending with the Department of Justice more than a year after being filed. The Department of Social Welfare and Development (DSWD) and its partners at the local government level continued to operate 61 temporary shelters for victims of all types of crimes. The number of trafficking victims who used these shelters is not clear. The government’s capacity to provide shelter and protection, however, is severely limited due to inadequate budgets, and there are regular instances where victims are unable to access government protection services. DSWD also continued to refer victims to accredited NGOs for care, though the quality of the referral process varied by location. The Philippine Port Authority and the Manila International Airport Authority provided building space for halfway houses run by an NGO for trafficking victims. The government provides foreign victims immigration relief when necessary and gives them access to legal, medical, and psychological services. In 2009, law enforcement units strengthened a partnership with an NGO, conducting 25 raid-and-rescue operations throughout the country, leading to the rescue of 87 children in prostitution and 47 women identified as trafficking victims. In April 2010, the Inter-Agency Council Against Trafficking (IACAT) – the government’s national body for the coordination of all anti-trafficking efforts in partnership with civil society chaired by the Undersecretary of Justice – conducted its first independent raid-and-rescue operation, through which 90 women and five girls were rescued from a sex-tourism operation, 25 of whom were identified as trafficking victims.”²⁶⁶

In January 2011 online Philippine news agency *GMA News* reported that two policemen were being investigated on suspicion of involvement in trafficking,

“Two policemen assigned to the Aviation Security Group are now in hot water for alleged involvement in human trafficking activities.

Immigration acting Commissioner Ronaldo Ledesma said the two, whom he did not name, are under investigation for possible links to human trafficking syndicates operating at the Ninoy Aquino International Airport (NAIA).

The activities of the group were discovered after Immigration officers intercepted on Monday nine Lebanon-bound Filipino women attempting to leave the Philippines by using fake Immigration departure stamps on their passports.

Ledesma said the two policemen were allegedly responsible for the fake stamps on the passports of prospective overseas Filipino workers (OFWs).

Ledesma said the women, who planned to work as domestic helpers in Beirut, were about to board a Philippine Airlines flight to Singapore when they were stopped.

He said the would-be OFWs planned to take a connecting flight to Lebanon. []”²⁶⁷

²⁶⁶ USDOS, *Trafficking In Persons (TIPS) Report 2010*, 14 December 2010, p.272, <http://www.state.gov/documents/organization/143188.pdf>, accessed 17 December 2010

²⁶⁷ *GMA News*, 2 cops in hot water for alleged human trafficking, 6 January 2011, <http://www.gmanews.tv/story/209908/2-cops-in-hot-water-for-alleged-human-trafficking>, accessed 5 May 2011

Philippine newspaper *The Freeman* reported in February 2010 that calls had been made by the Cebu Provisional Board for the investigation of 15 Bureau of Immigration personnel for alleged involvement in trafficking,

“The Cebu Provincial Board has passed a resolution urging Justice Secretary Ricardo Blancaflor, head of the Inter-Agency Council Against Human Trafficking, to conduct a nationwide continuous monitoring and investigation of the possible involvement of immigration personnel in human trafficking operations.

The PB resolution cited the recent order of Blancaflor to investigate and recall 15 personnel of the Bureau of Immigration for allegedly being involved, and in collusion with a human trafficking syndicate that had illegally sent for the past several years domestic helpers and prostitutes to Malaysia.

The resolution also quoted newspaper reports that the Bureau of Immigration personnel themselves serve as escorts to these Overseas Filipino Workers bound for Malaysia where they end up being sold to brothels.

With these reports, members of the Provincial Board believe there is need to look into the possible involvement of the immigration personnel.

The PB said Republic Act 9208, also known as Anti-Trafficking in Persons Act, punishes persons or individuals involved in the recruitment and transport of persons for the purpose of prostitution, pornography, sexual exploitation, forced labor and slavery.”²⁶⁸

In August 2010 the *Philippine Star* reported that the Philippines and the United States had signed a three year agreement under which the US will provide funding and a legal adviser to support the prosecution of traffickers,

“The Philippines and the United States have signed an agreement on a three-year joint effort to combat human trafficking.

The US will provide \$500,000 and an American legal adviser will work with the Philippine Justice Department to improve the investigation, prosecution and conviction of human traffickers.

US Ambassador Harry Thomas signed the agreement today with Justice Secretary Leila de Lima. He said the accord would help "end the scourge of human trafficking, a modern-day form of slavery.”²⁶⁹

In February 2011 international development social enterprise *Devex* reported that the US may withdraw funding to the Philippines over concern that only a small number of people have been held for trafficking,

“The Philippines could lose millions worth of aid from the U.S. Millennium Challenge Corp. if the country fails to curb human trafficking, according to Philippine Vice President Jejomar Binay.

Binay said Luis CdeBaca, who heads the U.S. State Department’s Office to Monitor and Combat Trafficking in Persons, is worried about the situation of human trafficking in the

²⁶⁸ The Freeman, Immigration personnel involved in human trafficking?, 26 February 2010, available from <http://www.philstar.com/Article.aspx?articleId=553107&publicationSubCategoryId=107>, accessed 5 May 2011

²⁶⁹ Philippine Star, US-Philippines project to combat human trafficking, 19 August 2010, <http://www.philstar.com/Article.aspx?articleId=604299&publicationSubCategoryId=200>, accessed 5 May 2011

Philippines. The U.S. State Department has expressed concern that the country has caught only a few traffickers over the last few years, ABS-CBN News reports.

The Philippines is on the State Department's "Tier-2" human trafficking list, for the second year in a row. Countries on this list, which include Afghanistan, Vietnam, Iran and Thailand, "do not fully comply with the minimum standards" of the Trafficking Victims Protection Act enacted by the U.S. in 2000.

MCC and the Philippines signed a USD434 million compact Sept. 23 that will support road investments, community development projects and improvements to the country's Bureau of Internal Revenue.²⁷⁰

In March 2010 Philippine newspaper *The Daily Tribune* reported that human trafficking syndicates may have shifted their operations south to Mindanao due to the success of the Bureau of Immigration stopping trafficking from other major ports,

"The success of the Bureau of Immigration (BI) in stopping the exodus of undocumented overseas Filipino workers (OFWs) from the Ninoy Aquino International Airport (NAIA) and other major ports may have prompted human trafficking syndicates to shift their operations to the South.

This developed after immigration authorities twice foiled attempts by human trafficking syndicates to use the Zamboanga port in smuggling undocumented Filipino workers abroad with the recent off-loading of 16 passengers from ships bound for Malaysia."²⁷¹

In August 2010 Philippine news agency *MindaNews* reported that the Visayan Forum Foundation Inc. an NGO based in Lipata Port, in Mindanao, had assisted 227 trafficking victims in the first half of 2010, 63 of whom were underage girls and that authorities had filed four cases,

"The number of victims of human trafficking here in the first half of this year has reached record highs.

The Visayan Forum Foundation Inc. (VFFI), a non-government organization based in Lipata Port and known for its effective measures on anti-trafficking programs revealed that the number of victims they have assisted has reached a record high of 227. Of this number, 63 are female minors.

VFFI's regional head coordinator Zenaida E. Calungsad told *MindaNews* this number is more than last year's total of 164, 89 of them women and children.

In 2004, VFFI recorded 244 victims but that was for the period of 12 months. This year, the figure has reached 227 and it is only the first six months of the year.

Nineteen of the 244 victims in 2008 were rescued during the first and second quarters.

Calungsad said that in the first six months this year, authorities have filed four cases, including one against a suspected foreign recruiter, for violation of Republic Act 9208 or An Act to institute policies to eliminate trafficking in persons especially women and children, establishing the necessary institutional mechanisms for the protection and support of trafficked persons.

²⁷⁰ Devex, US aid at risk due to poor anti-trafficking drive, 4 February 2011, <http://www.devex.com/en/blogs/the-development-newswire/philippines-risks-losing-mcc-aid-over-human-trafficking-record>, accessed 5 May 2011

²⁷¹ The Daily Tribune, Human trafficking syndicates shift operations to Mindanao, 1 March 2010, available from http://trafficking.org.ph/v5/index.php?option=com_content&task=view&id=3055&Itemid=56, accessed 5 May 2011

This was achieved through the joint efforts of the Philippine Port Authority-Port Police, the VVFI, the Department of Social Welfare and Development, Department of Labor and Employment, and the Philippine Coast Guard.

Calunsag said most of the victims, especially the minors, were returned to their families.

She said 11 suspects are currently facing charges but some of them are still at large and the rest were able to post bail for their temporary liberty."²⁷²

According to *MindaNews*, reporting in August 2010, Visayan Forum Foundation Inc.'s regional head coordinator reported that Mindanao is one of the country's main sources for trafficking, the Chief inspector of Lipate Port told *MindaNews* that weak law enforcement and multiple transportation routes attracts traffickers to the area,

"Calunsag noted that Mindanao is one of the primary sources of human trafficking in the country.

Port Police Chief Inspector Eugenio Lira, Jr. said Surigao City is the strategic point of destination going to the north or south of the country.

Bus lines operate the Davao-Manila route via Lipata port.

He said much cheaper fare and lenient enforcement of the law attract illegal recruiters here.

He added that human trafficking is rampant here because there are many ways of leaving the city."²⁷³

In March 2010 *IRIN* reported that conflict in Mindanao fuelled trafficking, and that low conviction rates are in part due to corruption which is endemic within the Philippine judicial system,

"Sherryl Luceno, regional coordinator for the Zamboanga branch of the Visayan Forum Foundation (VFF), an NGO that rescues and intercepts trafficked people, told *IRIN*: "Extreme poverty is bad enough, but combined with the unstable peace and order situation, many are driven to desperation. Even if they are being recruited illegally, they take the risk." []

Zamboanga, a port city at the southern most part of the Philippines, is known as a back door out of the country, offering easy passage to Malaysia.

"A lot of girls are taken out of the country from private ports which do not fall under the jurisdiction of the Coast Guard, and taken to Malaysia. From there, they are transported to the Middle East," says Luceno.

Movement from one island to another in the Philippines archipelago is common, making it easier for traffickers. "They just tell the port officials they are crossing over to Tawi-Tawi to see family so they are not asked for identification papers or passports."

Based on the data compiled by the VFF from last May, they identified 98 victims as coming from war zone areas such as Basilan and Sulu.[]

²⁷² *MindaNews*, Human trafficking hits record high in Surigao City, 23 August 2010, http://trafficking.org.ph/v5/index.php?option=com_content&task=view&id=3322&Itemid=56, accessed 5 May 2011

²⁷³ *MindaNews*, Human trafficking hits record high in Surigao City, 23 August 2010, http://trafficking.org.ph/v5/index.php?option=com_content&task=view&id=3322&Itemid=56, accessed 5 May 2011

Although there is no official database to track the number of trafficked individuals per year, the US State Department reports that about 800,000 Filipinos are trafficked out of the country every year, mostly women.

An Anti-Trafficking in Persons Act was passed in 2003, but there have only been 13 convictions. Two were from Zamboanga. Another two cases from Zamboanga are awaiting a decision.

The dismal number of convictions has been attributed to factors endemic to the Philippine judicial system: corruption, a high turnover of judges and lack of proper evidence.

Darlene Pajarito, third Assistant City Prosecutor of Zamboanga, heads the Overseas Passenger Assist Center, which aims to investigate, intercept victims and prosecute traffickers at the point of departure.

"It is difficult to prosecute the traffickers at the point of departure because you need to prove that selling will actually take place," says Pajarito.

"This law has not hindered traffickers. It is a lucrative business for traffickers, who make as much as \$750 for each girl. You can just imagine how much they make for a group of 10 girls," Pajarito adds.

The US State Department Trafficking in Persons Report 2009 downgraded the Philippines' classification to Tier 2 Watch-list Status, citing "the government's ability to effectively prosecute trafficking crimes as severely limited by an inefficient judicial system".²⁷⁴

In August 2010 Philippine news agency *Business Mirror* reported that conflict in Mindanao had made women and children vulnerable to trafficking,

"The lingering poverty, as well as despair and lack of trust in the government, keeps pushing people in the countryside, especially conflict-stricken parts of Mindanao, to fall prey into the hands of human traffickers."²⁷⁵

In November 2010 Philippine news agency *Business Mirror* reported on the "massive" scale of illegal recruitment and trafficking of women in evacuation centres in Mindanao including centres in Maguindanao, North Cotabato, Lanao del Sur and Lanao del Norte, stating that some women were recruited through family members,

"A migrant center in Mindanao has exposed the massive but clandestine illegal recruitment of young women in evacuation centers by recruiters operating in Central Mindanao as early as when the massive evacuation began early this decade.

The research conducted by the Mindanao Migrants Center for Empowering Actions Inc. (MMCEA) exposed the first documented cases of illegal recruitment in the evacuation camps that took place in 2008. Later, experiences narrated by the migrants and their kin and neighbors indicated that the victims ended up being trafficked and that illegal recruitment and trafficking could have begun as early as 2000.

This finding was corroborated by officials of nongovernment welfare organizations and the Overseas Workers Welfare Administration (Owwa) in Central Mindanao although their

²⁷⁴ IRIN, Philippines: Mindanao conflict fuels trafficking, 31 March 2010, <http://www.irinnews.org/report.aspx?Reportid=88631>, accessed 5 May 2011

²⁷⁵ Business Mirror, Human Trafficking: A plague, 15 August 2011, <http://www.businessmirror.com.ph/home/top-news/58-human-trafficking-a-plague>, 5 May 2011

colleagues in government labor and foreign affairs offices here expressed aghast at hearing of the findings of the MMCEA research conducted in April and May this year.

In several accounts documented by the MMCEA in selected evacuation centers in Maguindanao, North Cotabato, Lanao del Sur and Lanao del Norte, recruitment usually happened at the early period of the evacuation of families from the armed conflict.

Most of those who were recruited were minors, and many personal accounts told of migrants able to get out of the country at age 16 using the names of people they did not know but whose passports, visas and other travel documents were faked and given by illegal recruiters.

Recruiters were mostly based in Cotabato City, but with main offices or connections with Manila-based job-placement agencies, said Amy Crisostomo, regional secretary of the Owwa of the Autonomous Region in Muslim Mindanao.

There were also several accounts where relatives of families in the evacuation centers acted as conduits or agents of these recruiters, with one of them a barangay captain himself. The village chief told researchers that he recruited his relatives "to ensure that they go into the right hands and not into the illegal recruiters."

He said he has recruited about 30 of his relatives, and about only three or four were unsuccessful in working for kind employers.

Many accounts also told of people working for brutal employers for long periods of time and that they were forced to even work in the houses of their employers' relatives.

Incidents of withheld and unpaid salaries and the tales of runaway migrants were common.

The research covered those who evacuated in 2008. The National Disaster Coordinating Council estimated those affected have reached more than 600,000.

But accounts of those who were selected to participate in the focused-group discussions made reference to recruitment as far back as 2005 and earlier. Large-scale evacuation happened in 2000, when former President Joseph Estrada launched a massive military offensive against the Moro Islamic Liberation Front, and in 2003, when the Armed Forces of the Philippines attacked at the heart of the MILF bastion in Buliok, Maguindanao, the hometown of the late MILF founder, Hashim Salamat.²⁷⁶

The *Business Mirror* further reported that traffickers were aided by connections within the Civil Registry offices and in the Department of Foreign Affairs who provided forged documentation,

"Crisostomo [regional secretary of the Owwa of the] blamed the ability of recruiters to produce faked or tampered travel documents, either abetted by connections inside local Civil Registry offices for the birth certificates, and in the Department of Foreign Affairs (DFA) offices for passports.

She narrated how at one municipality in Maguindanao, she nearly got killed after she exchanged heated words with the local civil registrar whose office was known to issue tampered late registration documents to residents and people from outside the municipality.

²⁷⁶ *Businessmirror*, Mindanao migrant center documents illegal recruitment, trafficking in women evacuees, 24 November 2010, available from http://trafficking.org.ph/v5/index.php?option=com_content&task=view&id=3519&Itemid=56, accessed 5 May 2011

She also disclosed that illegal recruiters have also divulged that “it was easier to get passports from the DFA office in Cagayan de Oro City because it is lax there.”

Erlinda B. Albay, director of the DFA-Davao Regional Consular Office, said she would call on the satellite offices, not only in Cagayan de Oro but also in Butuan City, saying that “this is the first time that such an information had reached me.”

She said the DFA Davao office had been hearing about the relaxed screening process in these two offices “but we are alarmed by this new information.”²⁷⁷

In November 2010 the *Inquirer Mindanao* reported that 4 trafficking victims were rescued from a house in Marawi City, 3 of whom were children,

“Four women victims of human trafficking were rescued from a house where they were being held in Marawi City, police said Thursday.

Chief Superintendent Bienvenido Latag, police director for the Autonomous Region in Muslim Mindanao (ARMM), said three of the victims were minors while the other one was 38 years old.

Latag said the victims had been promised work by a man identified as Tata Alonto alias “Bakla.”

“The suspect is now the object of a massive manhunt,” Latag said.

Superintendent Alfredo Modestano, ARMM police information chief, said the recruits were from this city and were taken to Marawi City by their recruiter.

On Tuesday, Modestano said, police raided the house of a certain Sarah Macatanong in Barangay (village) Saduc in Marawi City and found the victims there.

The victims have been turned over to the Department of Social Welfare and Development (DSWD), he said.

Latag said investigators were looking into the possibility that Alonto belonged to a syndicate involved in human trafficking in the ARMM.²⁷⁸

In January 2011 Philippine newspaper the *Manila Bulletin* reported calls from rights organisations for anti-trafficking legislation to be strengthened and for protection to be extended to cover internally displaced people in ARMM,

“Senator Loren B. Legarda Tuesday pushed for the passage of a measure that would strengthen the law against human trafficking.

An estimated 2,000 Filipinos continue to fall prey into trafficking each year, according to Legarda.

“Trafficking in persons is a complex problem and its full dimensions are hard to measure,” she said.

²⁷⁷ *Businessmirror*, Mindanao migrant center documents illegal recruitment, trafficking in women evacuees, 24 November 2010, available from http://trafficking.org.ph/v5/index.php?option=com_content&task=view&id=3519&Itemid=56, accessed 5 May 2011

²⁷⁸ *Inquirer Mindanao*, 4 women rescued from trafficking den, <http://newsinfo.inquirer.net/breakingnews/world/view/20101125-305241/Four-women-rescued-from-trafficking-den>, accessed 5 May 2011

Legarda's call to strengthen the Ant-Trafficking in Persons Act (RA 9208) came after a rights-based organization for migrants has urged the government to extend protection among internally displaced peoples (IDP) in Autonomous Region in Muslim Mindanao (ARMM) from illegal recruiters as cases of human trafficking has been reported to be occurring.

In Mindanao, Inorisa S. Elento, executive of Mindanao Migrants Center for Empowering Actions, author of a study, "Women, displacement and migration", there were two missing people, ages 12 and 14, in 2008 who have been recruited from IDP camps in Kolambungan, Lanao del Norte.

Elenita also said that government agencies and civil society organizations who are directly attending relief and delivering development assistance to IDPs "attested that there are recruitment activities taking place in IDP camps."

"But none had kept track of the extent of engagements of illegal recruitment and trafficking in persons," she said.

Michael Argonza, World Food Program national program officer, also confirmed cases of human trafficking in IDP camps in an interview during the sidelines of the summit.

"Trafficking modes and patterns continue to evolve over time as perpetrators of the crime seek to outflank policies and regulations of government," Legarda said.

The senator explained that the importance to improve enforcement of the law is for government to be more deliberate in its efforts to enhance interagency coordination as perpetrators become more innovative in their actions.

Legarda sponsored Senate Bill 2625, amending the current anti-trafficking law, by adding new section on acts "that constitute attempted trafficking; the strengthening legal protection for victims in the form of custody and interim protection order; and the establishment of a permanent secretariat within the interagency council for anti-trafficking."

"We also want to extend protection to trafficked victims in various stages of the investigation and prosecution process in the form of custody and interim protection under the power of the DSWD or an accredited shelter institution," Legarda said.²⁷⁹

In February 2011 Philippine newspaper the *Manilla Bulletin* reported that the Bureau of Immigration (BI) prevented the trafficking of 40 women, five of whom were from Mindanao, through Mindanaon Zambianga City to Lebanon and the Middle East,

"The Bureau of Immigration (BI) scored a big achievement in its campaign against human trafficking and illegal recruitment by preventing 40 women from leaving the country through the southern backdoor using spurious travel documents.

The women, all in their mid 30s, thinking that Immigration authorities in Zamboanga City would relax their guards on Valentine's Day, attempted to use the port to board a ship bound for Malaysia, according to BI officials.

BI Commissioner Ronaldo Ledesma said the women, 23 of whom were from Luzon, 12 from the Visayas and five from Mindanao, were all prospective overseas Filipino workers who planned to work in Lebanon, their final destination and where the government has an existing ban on deployment.

²⁷⁹ Manila Bulletin, Anti-trafficking law to be amended, 18 January 2011, <http://www.mb.com.ph/articles/299171/antitrafficking-law-be-amended>, accessed 5 May 2011

Ledesma added that the offloading of OFWs showed that immigration personnel nationwide remain vigilant and wary of tricks employed by human trafficking syndicates.

“The fact that these tourist workers tried to leave via the backdoor indicates that we have succeeded in crippling the operations of the escort syndicates at the airports in Manila,” Ledesma said, referring to the BI’s intensified campaign against human trafficking at the Ninoy Aquino International Airport (NAIA).

The BI chief recalled that OFWs were about to board the MV Kristel Jane on their way to Sandakan in Sabah when they were offloaded last Feb. 14 after their passports were discovered to have fake immigration departure stamps.

He said the women are victims of illegal recruiters and traffickers who enticed them to pay large sums of money in return for promised jobs as maids in Beirut.

Ledesma commended the immigration officers and Army soldiers detailed with the BI’s Task Force Zamboanga for their vigilance that prevented the departure of the women.”²⁸⁰

In August 2009 *the Philippine Star* reported that a human organ smuggling syndicate was targeting women in Mindanao,

“First, they marry you then they run off with your kidney.

The Bureau of Immigration yesterday said it is monitoring the activities of a human organ smuggling syndicate that often preys on women from Mindanao.

Its members would marry their victims and then convince their wives to sell one of their kidneys, out of charity and for a price of P200,000.

“These organ smugglers are committing a serious form of transnational crime and they have been taking advantage of the poverty of our countrymen. The brains behind these syndicates should be identified and barred from leaving the country,” said BI Commissioner Marcelino Libanan in a statement.

Human organ trading was designated as a penal offense under the Anti-trafficking Act of 2003 and those convicted of the crime can be sentenced to a jail term of 20 years and be fined up to P2 million.

Libanan also instructed the newly created Immigration offices in Mindanao to coordinate with the other members of the Inter-Agency Council Against Trafficking (IACAT) and the local authorities in launching a campaign that would unmask the organ smugglers.

The IACAT is made up of the BI, Departments of Social Welfare and Development, Foreign Affairs, Labor and Employment, Interior and Local Government, the National Bureau of Investigation, Philippine National Police, and the Philippine Overseas Employment Administration.

Cotabato Rep. Emmylou Mendoza was one of those who expressed alarm over the continued cases of organ smuggling. At least a dozen women from her province and

²⁸⁰ Manila Bulletin, BI prevents 40 women from leaving Zambo port using fake documents, 18 February 2011, <http://www.mb.com.ph/node/304992/bi-prevent>, accessed 5 May 2011

nearby provinces have been lured by the syndicate to sell their kidneys for the price of P200,000 each.”²⁸¹

3. Confiscation of land

A report by the *Philippine Institute for Development Studies* issued in March 2003 states that land laws in the Philippines are applied inconsistently,

“Severe problems affect the land markets in the country and these arise from unclear and inconsistent land laws, policies and inadequacies in land administration and management. These inefficiencies have to be addressed to have sustained growth and alleviate poverty. Land reform is the critical policy intervention in the agrarian and urban sector.

[]

Access to land and productive inputs is a strong predicate for poverty alleviation. In the Philippines, the poor are strongly dependent on access to land for their livelihood and welfare. Three fourths of the poor (i.e. more than 20 million people) make a living out of agriculture and fisheries activities. Likewise, the urban poor, who account for 25 percent of total poor population in the country, are also dependent on land since housing provides them access to the urban economy.

For many urban poor families, the house serves as base for income-generating activities (e.g. food vending, tailoring, processing of recyclable materials, etc.). Thus, sustainable economic activities in agriculture and fisheries sector and the urban economy that could address poverty alleviation depend on efficient and socially accepted distribution of land resources.

[] The Philippine land market has not been efficiently functioning. Land was highly unequally distributed. Problems of boundary disputes, illegal occupation of state and forestlands, fake titles, inappropriate land valuation, and lack of commitment to environmental sustainability constrain the efficiency of land markets. These problems arise from unclear and inconsistent land policy and poor and inadequate land administration and management that constrain the land markets.”²⁸²

An undated briefing written by the *Asian NGO Coalition for Agrarian Reform and Rural Development* and published by the FAO notes the historical background to land tenure issues in the Philippines,

“In the Philippines, as the country is about to celebrate 100 years of independence, the century-old struggle of the small farmers for agrarian rights continues. Skewed landownership patterns remain unsolved and continue to plague agriculture. It is estimated that 2.9 million small farms (<5 ha) occupy slightly more than one-half of the total farm area, while only 13 681 medium-sized and large farms (>25 ha) account for 11.5 percent of the total farmland. In most cases, the farmer-owner relationship is still feudal, and landownership is concentrated among a few who are not so much interested in agricultural sustainability and productivity but in controlling the use of their land and consolidating their political power in the rural areas.

Tenancy rates in the countryside range from 50 to 70 percent. Just like other marginal farmers, tenants - whether sharecropping or leasehold - have to contend with a rural élite which not only enjoys a monopoly in land resources, but also single-handedly controls the distribution of technological inputs, rural banking, the renting out of farm machinery as well

²⁸¹ The Philippine Star, Bureau of Immigration goes after smugglers of organs, 9 August 2009, <http://www.philstar.com/Article.aspx?articleid=494296>, accessed 5 May 2011

²⁸² Philippine Institute for Development Studies, Land Issues in Poverty Reduction Strategies and the Development Agenda: Philippines, March 2003, pp. 1-2, <http://www3.pids.gov.ph/ris/dps/pidsdps0303.pdf>, accessed 20 December 2010

as the storage, transportation, processing and marketing of farm produce. Taken as a whole, marginal farmers, tenants and farm workers total 10.2 million, 70 percent of whom are landless.”²⁸³

An article by the *Land Research Action Network* in July 2004 states that agrarian reform has resulted in more land being distributed to the wealthy,

“CARP was supposed to empower the peasantry and eradicate rural poverty by giving land to the poorest. But since its inception, landed interests have been resisting CARP-and succeeding. In an agricultural community like Tinang, what makes this possible are the feudal relations between farmers and landowners, as well as political patronage between the elite, and the bureaucrats and local officials implementing the land reform program.

Under CARP, farmer-beneficiaries are supposed to be landless residents of the barangay or the municipality where the land is located, and had done direct work on it, whether as tenants or regular or seasonal farm workers. But here in Tinang, members of the rich de Leon clan found a way to keep their land through the Voluntary Land Transfer (VLT) scheme, a method of land distribution that requires no government money and minimal intervention from the Department of Agrarian Reform (DAR). How they did that and how this remained undetected for nearly a decade exposes the many flaws of a program that was supposed to be the cornerstone of former President Corazon Aquino's social justice agenda.

"If you ask me are we tenants, are we farmers, no, we're not," says Michael Escaler, a 54-year-old member of de Leon clan, which owns the Tinang hacienda. "Are you asking me how I got there, how it happened, I have no idea." Escaler is a sugar miller and shareholder of the National Life Insurance Corp. Yet his signature, as well as those of his relatives, appears on numerous documents now on file at the Municipal Agrarian Reform Office in Concepcion, Tarlac. The documents entitled them to individual Certificates of Land Ownership Award or CLOAs, now filed at the Tarlac Register of Deeds. CLOAs are titles to the land supposed to be given only to the landless farmer-beneficiaries.”²⁸⁴

An *Institute of Development Studies* research summary of October 2008 notes the impact of land reform on Philippine society,

“For over a century, the Philippines has been characterised by fierce, sometimes bloody, power struggles over land. Typically, governments have won votes and appeased protestors by promising to reform land ownership, but have then failed to deliver more than token levels of redistribution.

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From 1972 to 2007, six million hectares of land (half of the country's farmland) was redistributed to three million poor households (two-fifths of the country's agricultural population). Fifty-three per cent of the total accomplishment in land redistribution during this 35-year period was achieved within six years from 1992 to 1998. Of course the period of reform was not without its problems, and many issues remained unaddressed, but the speed of reform did mark a significant departure from previous or subsequent periods.”²⁸⁵

The Asian Legal Resource Centre states in a February 2009 report that violations of rights have occurred under failing Filipino land reforms,

²⁸³ Asian NGO Coalition for Agrarian Reform and Rural Development, Agrarian reform in the Philippines, undated, <http://www.fao.org/docrep/W6199T/w6199t11.htm>, accessed 17 December 2010

²⁸⁴ Land Research Action Network, Agrarian Reform Gives Land to the Wealthy, 13 July 2004, <http://www.landaction.org/display.php?article=234>, accessed 17 December 2010

²⁸⁵ Institute of Development Studies, Reforming Land Reform in the Philippines, October 2008, http://www.drc-citizenship.org/publications/InFocus/Rs_Phillippines_final1.pdf, accessed 17 December 2010

“When the 1988 Comprehensive Agrarian Reform Law (CARL) was enacted, there were expectations that landless farmers would be able to obtain land, which they could use to cultivate crops to provide for their subsistence, and build their homes. However, over two decades after the land reform law was enacted, thousands of hectares of land have yet to be distributed to landless farmers.

A local organization helping the farmers, Task Force Mapalad (TFM), has reported that at least 24,115 hectares of land, all of which are owned by wealthy and influential persons, have not been distributed to farmers.

The government’s failure to ensure that land that was intended for distribution is promptly given to the qualified beneficiaries, has since resulted in conflict, often resulting in violent clashes, between farmers and armed men that the landlords have employed. In most cases, the landlords use violence against the farmers, once the latter begin asserting their rights of ownership of the land they have been provided under the CARL.

In the 21 years of the existence of the CARL, hundreds of land reform and farmer activists have been killed, either in individual targeted extra-judicial killings due to their work in helping farmers to claim land, or in incidents in which violent confrontations took place with armed men that the landlords have employed. Such armed confrontations occur when courts rule that the farmers can occupy the land that they are already allowed to farm.

The failure of the authorities to protect such persons and ensure their rights under the CARL are guaranteed and implemented have led to problems for such farmers concerning their abilities to be able to have, inter alia, food to eat, medication for illness, a house to live in and to send their children to school to receive education, while legal procedures in court concerning their cases drag on for years.

[] Wealthy and influential landowners have been exploiting the delay in adjudication of cases in court to frustrate the farmers. The landlords exploit the judicial process by subverting procedures in regular courts to file charges against the farmers. For example, they have file criminal complaints concerning qualified theft or trespassing. Under such charges, the farmers and their families are effectively being charged for harvesting crops that they cultivate, and charged for trespassing on the land on which they built their homes and have lived all their lives. Such actions are usually taken when the farmers attempt to claim ownership of the land.”²⁸⁶

An article published by *UPI Asia* news agency in August 2009 states that the latest land reforms in the Philippines have resulted in greater inequity,

“Arroyo said that reforms in the extended land reform law would ensure that farmers get the land for which they have been waiting for over two decades. She also said provisions for support services were incorporated to help them raise productivity, which in turn would increase incomes and reduce poverty in rural areas.

The Republic Act 9700, or CARP extension, according to Arroyo aims to distribute over 1.2 million hectares of undistributed private land to more than 700,000 farmers in the next five years. The Arroyo government regards it a fitting tribute to former President Corazon Aquino, in whose term CARP was conceived. But a study on the possible impact of the law on Filipino farmers reveals that it has nothing to offer except the denial of peasant land rights and across-the-country land reform reversals.

This, according to the study, will usher in a heightened era of political repression in the countryside rather than complete the cycle of social justice. Rafael Mariano, a farmer

²⁸⁶ AHRC, Violations of rights under failing Filipino land reforms, 27 February 2009, <http://www.ahrchk.net/ahrc-in-news/mainfile.php/2009ahrcinnews/2574/>, accessed 20 December 2010

activist turned lawmaker, said that the law is the worst anti-farmer law ever crafted since 1946, when the first agrarian reform program was introduced by the Manila government in the post-World War II era.

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Four of the biggest rural-based organizations in the country agreed with Mariano's views. In a joint statement to Manila-based reporters, the four groups said the signing of the CARPer law by Arroyo is an across-the-nation tragedy, further dismissing the extended agrarian reform law as a collective death certificate to millions of landless farmers in the Philippines. The groups said the law by design, by nature and by purpose merely strengthens the feudal power of landlords in the countryside.

Under the extended agrarian reform law, Filipino landlords enjoy vast powers and privileges to protect their landholdings and even expand them through land grabbing and other means of deception. After acquiring the seal of approval from landlords, farmers have to go to a city or municipal judge to swear under oath that they will perform their obligations and duties to pay for the monthly amortization and will make the lands productive."²⁸⁷

A July 2010 article published by the *Asian NGO Coalition* states that activists are sceptical about land reform under the new Philippines president,

"They say the slow progress of land reform is one of the major reasons for rural poverty and social injustice in the largely agrarian country. It is also one of the causes of a 40-year-old Maoist insurgency that has killed more than 40,000 people. They point to Aquino's own hacienda (estate), which has been dragging its heels over reform, as well as to a government which they say is made up of wealthy landowners and to the unsolved murders of farmers fighting for the right to own land.

"I don't think it's going to be a big improvement," Heidi Fernandez, an activist working with non-governmental organisations (NGOs) helping farmers to become land owners, told TrustLaw. "We have yet to hear him speak on land reform. This is the one issue on which he has to come up with a clear stance." Gerry Corpuz, spokesman for the left-leaning fishers' alliance Pamalakaya, was more blunt. "The incoming Aquino presidency is a republic of big landlords," he said, whom he expected to "continue their reign of terror".

He said that in May, the influential Yulo family dispersed and detained farmers protesting against their eviction from a 7,100-hectare agricultural estate in Laguna near Manila, injuring 100 farmers. One hectare is about the size of a baseball field or a rugby pitch. In another incident, private security officers of Manila South Coast Development Corporation in Hacienda Looc in the central Philippines had torn down farmers' houses to evict them. Roland Cabigas, managing director of La Liga Policy Institute, was more optimistic, lauding the appointment of lawyer Virgilio Delos Reyes, known for his interest in human rights, as the new secretary of the Department of Agrarian Reform.

This oversees reform efforts under the country's key land legislation, the 1988 Comprehensive Agrarian Reform Programme (CARP). This was brought in by Aquino's mother Corazon, who became president after the 1986 People Power revolution drove dictator Ferdinand Marcos from office."²⁸⁸

The July 2010 article published by the *Asian NGO Coalition* further states that the Comprehensive Agrarian Reform Programme has been slow to act and has provided inadequate help for farmers,

²⁸⁷ UPI Asia, Philippine land reform law a reversal, 13 August 2009,

http://www.upiasia.com/Politics/2009/08/13/philippine_land_reform_law_a_reversal/9374/, accessed 20 December 2010

²⁸⁸ Angoc News, Activists sceptical about land reform under new Philippines president, 12 July 2010,

<http://www.angoc.org/Angoc-News/activists-sceptical-about-land-reform-under-new-philippines-president.html>, accessed 17 December 2010

“The idea for CARP originated under Marcos but Corazon Aquino enacted it, aiming to redistribute 8.1 million hectares of agricultural land to 4 million landless farmers and farm workers over an initial 10-year period. The government says 7.2 million hectares has now been redistributed but many activists say that figure is wishful thinking.

They say farmers still do not have possession of large amounts of land that may have been officially redistributed. Some were awarded it, but this was later cancelled and the land redesignated for industrial use. Many have had to mortgage the land due to lack of support services – with some forced to sell it off again. Four presidents and over 20 years since it began, CARP is heavily criticised for being dismally slow and overly bureaucratic, encouraging graft, providing inadequate help for farmers and for appeasing big landowners. Activists say much land is still in the hands of a small group of people.

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About a third of Philippines land is classified as agricultural and three out of five people in the countryside depend on agriculture for their livelihood. Almost half the population live on less than \$2 a day. “Land ownership is a basic necessity for a dignified and improved quality of life,” Cabigas said. “Land access directly addresses poverty in both rural and urban areas.”²⁸⁹

The *Tapei Times* states in a March 2010 article that the land re-distribution program has had little impact in the Philippines,

“Farmers, faced with the Philippines’ system of large, family-controlled haciendas, must struggle to force powerful families to give up their grip on the land

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Despite the government’s assertion that a two-decade-old land distribution program has been a success, most farmers in the Philippines have yet to benefit significantly. The uneven ownership of land, this country’s primordial problem, continues to concentrate economic and political power in the hands of large landowning families and to fuel armed insurgencies, including Asia’s longest-running communist rebellion.

The land problem has drawn fresh attention since Aquino’s son, Benigno Aquino III, declared his candidacy for the May 10 presidential election, running on his mother’s legacy of “people power.” Though Corazon Aquino made land reform a top priority, she allowed landowning families to eviscerate her distribution program. Critics say there is no greater example of the failure of land reform than her own family’s estate.

For the past five years, the family has been fighting in the Supreme Court a government directive to distribute the 4,046 hectare Hacienda Luisita — the second-biggest family-owned piece of land in the Philippines, about 130km north of Manila — to 10,000 farmers. In 2004, the military and the police killed seven protesters during a strike by farmers fighting for land and higher wages. Since then, the family-controlled Hacienda Luisita has managed to plant only 40 percent of the estate with sugar cane; the rest has been seized by individual farmers or remains idle.”²⁹⁰

A report by *The New York Times* in March 2010 states that the success of past land re-distribution schemes remains contested,

“In 1987, when Mrs. Aquino, born a Cojuangco, began carrying out land redistribution, the government estimated that 10 percent of the population controlled 90 percent of the country’s agricultural land. The government says that under the program it has redistributed

²⁸⁹ Angoc News, Activists sceptical about land reform under new Philippines president, 12 July 2010, <http://www.angoc.org/Angoc-News/activists-sceptical-about-land-reform-under-new-philippines-president.html>, accessed 17 December 2010

²⁹⁰ Taipei Times, Land issue hits home in Philippines, 20 March 2010, <http://www.taipetimes.com/News/editorials/archives/2010/03/20/2003468458>, accessed 17 December 2010

10 million acres of privately owned land and 7.4 million acres of public land, allowing each farming family to acquire up to 7.4 acres with government-backed loans.

The government says owners who relinquish land have received compensation; for sugar estates, the payment is \$2,000 per acre. Last year, the government extended the program to redistribute 2.5 million acres of “problematic lands” that the authorities have been unable to distribute “because of the resistance of some big landowners,” said Nasser C. Pangandaman, the secretary of the Department of Agrarian Reform.

Mr. Pangandaman described the program as a success. But most farmers’ groups, scholars and businessmen question the department’s figures. “The department has never provided us with a clear and credible inventory of the lands that have been distributed,” said Rafael V. Mariano, a congressman who is a member of Anakpawis, a union-based political party.

What is more, lawmakers, most of whom come from large landowning families, included loopholes in the program, critics say. “Because of the loopholes, landlords have been able to find all sorts of ways and means to recover their land,” said Roland G. Simbulan, a professor of development studies and public management at the University of the Philippines. The biggest loophole, critics say, was a stock and profit-sharing program that Mrs. Aquino agreed to under pressure from large landlords. Instead of redistributing their land, about a dozen families, including her own, were allowed to turn farmers into shareholders.²⁹¹

In December 2010 Filipino NGO *Karapatan* reported that between July and October 2010 there were 40 reported cases of individuals subject to “Divestment of Property.”²⁹²

4. Blood feuds

In 2007 *The Asia Foundation* reported on the prevalence of blood feud-related violence in the southern Philippines,

“In the Philippines, feuding between families and clans is also prevalent. Cordillera in northern Luzon is famous for inter-village warfare and “revenge raids” caused by land and boundary disputes and competing economic interests such as sources of water or firewood. Feuding also occurs among lowland Filipinos, []. Depending on the ethnic group and region, feuding and revenge are known by various terms such as pangayaw, magahat, or pagdumot among some lumad or indigenous groups in Mindanao, and pagbanta, pagbunuh, mamauli, kasaop, pagbaos, and lido, ridu, or rido among some Moro groups. For the purpose of this book, the conflict under focus is referred to as rido, feuding, or clan conflicts. Rido refers to a state of recurring hostilities between families and kinship groups characterized by a series of retaliatory acts of violence carried out to avenge a perceived affront or injustice.

Rido has wider implications for conflict in Mindanao primarily because it tends to interact in unfortunate ways with separatist conflict and other forms of armed violence. Many armed confrontations in the past involving insurgent groups and the military were actually triggered by a local rido. Examples of such cases are illustrated in detail in this volume such as the feuds that escalated in Dapiawan (2004) and Linantangan (2005) in Maguindanao that eventually drew in the involvement of the Armed Forces of the Philippines (AFP), the

²⁹¹ The New York Times, For a Philippine Political Family, Land Issue Hits Home, 14 March 2010, <http://www.nytimes.com/2010/03/15/world/asia/15phils.html>, accessed 17 December 2010

²⁹² Karapatan, 2010 year end report on the human rights situation in the Philippines, 1 December 2010, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29B06A254EB6D5CF67C125780700368303/\\$file/2010+report+karapatan.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29B06A254EB6D5CF67C125780700368303/$file/2010+report+karapatan.pdf), accessed 1 March 2011

paramilitary Civilian Volunteer Organizations (CVO), and the separatist Moro Islamic Liberation Front (MILF). A more recent case that demonstrated the interconnectedness of feuds and large-scale conflicts was the Shariff Aguak incident in June 2006 that sparked a major armed confrontation between paramilitary forces under a political clan and some elements of the MILF.

Such hostilities underscore the potential of local feuds and third-party actors to frustrate the peace process between the government and the milf. Meanwhile, a contrasting incident occurred in January 2006 in the efforts of the milf to mobilize their troops to protect civilians from a raging rido between warring families in Tubaran, Lanao del Sur. Without a nuanced understanding of local conflict dynamics, such a commendable effort could have easily been misconstrued as an offensive.²⁹³

The Asia Foundation further states civilians are most concerned about and impacted by clan conflict,

“The survey results showed that while the Muslim-Christian conflict in Mindanao dominates the attention of international and local press, clan conflicts are actually more pertinent in the daily lives of the people. Citizens are more concerned about the prevalence of clan conflict and its negative impact on their communities than the conflict between the state and rebel groups in Mindanao.”²⁹⁴

A November 2006 report by *Newsbreak Online* notes the role of women in settling rido disputes,

[] Tarhata Lucman, a slightly built woman of royal blood, could barely be heard amid the sound of gunfire that morning in Tugaya, a remote town in the neighboring province of Lanao del Sur. This was sometime in 1987, and the scene was not a shootout between soldiers and rebels. It was a fight between young men belonging to two distantly related families, which had been in conflict with each other for decades.

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Bad blood between the two families—known in these parts as rido—started in the '50s, the result of rivalry between two suitors over a girl. This turned into a full-scale war when one of the suitors murdered the other after they attended a local gathering. Their families were soon locked in a war that lasted three decades and killed many of the town's promising young leaders. Earlier that morning in 1987, another member of one of the families had been killed by members of the rival family. The victim's relatives were bent on getting back at his killers.

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Princess Tarhata is not the only woman here who is known for intervening in conflicts between families. Paradoxically, in a society where females often take the backseat, women, particularly those who are regarded highly in the community, are often called upon to help resolve rido cases. In Matanog town, this province, 54-year-old Hadji Sitti Imam is known to have helped settle at least 10 rido cases. She once settled a case involving the family of her uncle (her father's brother) who was killed by her uncle-in-law (her husband's uncle). By tradition, the family of the murdered man would have considered it their duty to retaliate. It is all part of defending the family's maratabat, loosely defined as family pride.

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²⁹³ The Asia Foundation, *Clan Feuding And Conflict Management In Mindanao*, 2007, pp.12-13, http://ridomap.com/downloads/rido_full_text.pdf, accessed 17 December 2010

²⁹⁴ The Asia Foundation, *Clan Feuding And Conflict Management In Mindanao*, 2007, p.13, http://ridomap.com/downloads/rido_full_text.pdf, accessed 17 December 2010

uncle). By tradition, the family of the murdered man would have considered it their duty to retaliate. It is all part of defending the family's maratabat, loosely defined as family pride.

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Playing the mediator is not for the weak of heart. If one fails to handle matters well, one can invite trouble or unwittingly get caught in the crossfire. Yet these women dare to break through the barriers between combating parties in order to wage peace. It has not been easy. Young men nowadays are much more hotheaded, says Imam. And, she adds, guns are much easier to acquire now, unlike before when men fought using only their bolos."

In November 2009 *IRIN News* reported the escalating level of clan violence in the southern Philippines,

"A further increase in clan violence on the southern Philippine island of Mindanao could undermine humanitarian work for tens of thousands of internally displaced persons (IDPs), aid officials warn.

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"The issue of 'rido' or clan violence is a longstanding issue in Mindanao and the government recognizes this as a particular source of displacement," Matthew Serventy, head of the sub-office at the UN Office for the Coordination of Humanitarian Affairs (OCHA) in Mindanao, said."

In June 2009 *IRIN News* reported that rido, clan conflict, is rooted in the concept of honour, IRIN further reports that it is rare for victims' family members to report instances of clan violence or blood feuds for fear of incriminating family members,

"The murder of Helen Accon, a college principal, on the southern conflict-ridden island of Mindanao in 2008, shocked many people as it seemed to mark an escalation in clan feuding, known as 'rido'. The 'rido' code of honour does not normally allow attacks on women. Accon was gunned down by an unidentified assailant while walking in Marawi City, the provincial capital of Lanao del Sur. Her husband, Macadadaya Accon, the son of the mayor of Buadi Puso Buntong Municipality, was involved in politics.

Wilfredo Torres, editor of a book entitled *Rido: Clan Feuding and Conflict Management in Mindanao*, defines 'rido' as "armed hostilities between families and kinship groups". The Mindanao provinces of Lanao de Sur, Maguindanao, Lanao del Norte and Sulu have been identified as having the highest number of 'rido' cases.

Deeply rooted in the Muslim culture of honour, "'rido' is characterized by a series of retaliatory acts of violence to avenge an affront or injustice - whether real or perceived", said Torres. Such acts could be sparked by petty theft or insults, political rivalries, land disputes or more serious matters like homicide. Improper overtures to, or advances on, a woman could also lead to 'rido', he said.

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The Philippine National Police in ARMM estimate that 5,500 people have died in 'rido'-related cases over the past three decades - equivalent to about 183 deaths per year. Police Superintendent Gani Paramata Asira in Marawi City, said there were 218 cases of 'rido' in 2006, but that the numbers are an underestimation. "It is rare that anyone will press charges or stand as a witness for fear of incriminating other members of their family," he said, adding that data for more recent years were incomplete.

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Poverty and poor governance contribute to 'rido'. However, certain elements unique to the island such as the proliferation of firearms, lack of law enforcers and an inefficient justice system exacerbate the situation.

Abdul Hamidullah Atar is the executive director of Reconciliatory Initiatives for Development Opportunities (R.I.D.O, Inc.), an NGO which aims to resolve and reduce clan wars. "The Philippine judicial system is based on the American one. It is not adapted to the sensitivities

of Muslim culture. Every clan wants to collect guns to purvey its own brand of justice because we cannot get justice elsewhere,” Atar said. “Much attention is given to the ongoing conflict between the Philippine government and the MILF [Mindanao Islamic Liberation Front], when there are probably more casualties resulting from 'rido',” he added.

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But the 'rido' code of honour normally bars the killing of women or children.

“Women, like children and the elderly, are traditionally seen as defenceless and therefore untouchable in 'rido'. They may be collateral damage, but not the target,” Samira Gutoc, a Muslim rights activist and former secretary-general of the Philippine Muslim Women’s Council, told IRIN. Gutoc said that in the Amai Pakpak hospital in Marawi City, there were 50 'rido'-related incidents between December 2008 and February 2009. “What is fearsome is that women like Helen Accoon have become recent targets of this vendetta phenomenon. Killing women is a more powerful way of creating fear,” Gutoc said. Asnawi Abdullah, a surgeon at the Amai Pakpak hospital, said no official records of 'rido' cases were kept at the hospital.”²⁹⁵

A November 2009 report by the Philippines-based news provider *The National* states that rido vendettas do not normally target women,

“What complicates matters in this case is the fact that the perpetrators and most of the victims were Muslims. For decades the focus of successive governments in Manila and the international community for that matter has been fixed on the rebellions in Mindanao of Muslims seeking a homeland. Inter-clan warfare or blood feuds, known locally as rido, were largely ignored. Vitug said: “Mrs Arroyo not only faces a political problem here but the possibility that there may be massive retaliation or rido.

“When it comes to rido, women, children and old people are never touched. But Monday's atrocity has changed all that.” In sending his wife and a number of female relatives to the provincial capital to file his nomination papers to run for governor next year, Ismail Mangudadatu, vice mayor of Buluan, believed Muslims would not attack women.”²⁹⁶

In November 2009 the Philippines news agency *Newsbreak Online* stated that feuding has escalated in Maguindanao,

“The sensational killing of members of the Mangudadatu clan and members of the media is not the only act of violence attributed to Maguindanao governor Andal Ampatuan. The Ampatuan family patriarch has long proven to locals that he has the capacity to sow terror.

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The father of vice mayor Ismael "Toto" Mangudadatu, former Buluan mayor Pua Mangudadatu, was one of 4 key allies of Ampatuan clan patriarch Andal Ampatuan, when the latter was just starting to flex his political muscles. The senior Ampatuan, however, reportedly wants one of his sons to succeed him as provincial governor, according to the abs-cbnNEWS.com/ Newsbreak source. This and the fact that the Mangudadatus brought with them about 200 fully armed men, during the visit to Shariff Aguak displeased the Ampatuans and sparked animosity between the two clans.

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What could make clan war between the Mangudadatus and the Ampatuans particularly bloody is the fact that the original victims included women. Women, like children and the elderly, are traditionally seen as defenseless and therefore untouchable in 'rido', an armed hostilities between families and kinship groups. Women may be collateral damage, but not the target. Because of this women are normally able to penetrate places where nobody would go, even being sent to retrieve the bodies of relatives who got killed.

²⁹⁵ IRIN News, Vendettas and violence on Mindanao - analysis, 24 June 2009, <http://www.irinnews.org/Report.aspx?ReportId=84979>, accessed 17 December 2010

²⁹⁶ The National, Violent deaths lay bare Philippines' politics, 25 November 2009, <http://www.thenational.ae/news/worldwide/asia-pacific/violent-deaths-lay-bare-philippines-politics>, accessed 18 December 2010

A woman's murder during a rido usually commands a higher price in blood money. Thus, unless a rido started with the murder of a woman, a man is often considered a coward if he retaliates by killing a woman. Madaser "Toy" Mangudadato, a member of regional legislative assembly of ARMM, told ANC, "We sent all our ladies, including our eldest sister and the youngest sister, and some of our relatives who are all women, believing to ourselves that [the Ampatuans] cannot harm them because they are women."²⁹⁷

In 2007 *The Asia Foundation* reported that under a concept of family honour, a family member who may not have been involved in the original offence may be targeted,

“Although conflict between families and between clans is “the most common source of violence in the country,” it is more prevalent in the Autonomous Region in Muslim Mindanao. This makes the people of Mindanao more concerned with rido and its negative impact on their communities than other forms of conflict.

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According to informants, revenge is resorted to whenever a person's kanaman is violated, interfered with or denied by the other party. Kanaman, according to the Maguindanaon Dictionary is “a personal conviction to uphold the integrity of one's family group, by defending it by all means.” The term is related to the concept of dignity, honor, and self-respect. The restorative measure for damaged kanaman is justice. If the offended party cannot obtain justice through the existing institutions, he initiates immediate retaliation if capable. Otherwise, he keeps the retaliatory motive dormant until he is capable or the situation is suitable for him to regain his self-respect and the respect of the community.

A respondent in the study explains why other clan members may be targeted in a rido, thus: Since you are a part of a whole, whatever ails the whole is also your own ailment. Since you are a family member, if other members have rido, then you become automatically a part of that rido or vendetta.

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At the early stages of conflict, while there is still communication between contending families or clans, community leaders or family members of either the offender or offended party may initiate intervention. When the intervention succeeds, the conflict is considered resolved. Failure or absence of intercession due to lack of a mediator acceptable to both parties, or because “the time is not yet ripe for intervention,” may make the conflict dormant or it could escalate into rido. Unresolved conflicts breed intense and dangerous suspicions that can erupt into violence any time. Informants related the story of man who was killed while his wife was pregnant. The conflict resolution failed. His child was born. His relatives did not retaliate but when his son grew up and learned about his father's murder, the son retaliated.

If there is no immediate retaliation, it can be because the offended party is not physically or financially capable. It can also be due to pressure from the family or community leaders. When the conflict escalates to rido, the families involved move away from each other and there is extreme antagonism. The relationship is characterized by distrust and disrespect with both parties hardening their positions. It is at this stage when the cycle of violence starts.

However, even at this stage, interventions by community leaders may continue and peaceful resolution achieved. In a serious rido, after the settlement, the parties often work to build better ties. Still, there are instances of rido recurrence after resolution. Unresolved rido may be settled in the future or become latent due to “rido fatigue” (physical and

²⁹⁷ Newsbreak Online, New clan war erupts in Maguindanao, 23 November 2009, http://www.newsbreak.com.ph/index.php?option=com_content&task=view&id=7128&Itemid=88889051, accessed 17 December 2010

financial exhaustion), disinterest of the family, pressure from leaders or values transformation.”²⁹⁸

5. Targeting of religious groups

According to the *US Department of State* 2009 Philippines country report published in March 2010,

“The law provides for freedom of religion, and the government generally respected this right in practice. The government's campaign against terrorist groups led some human rights NGOs to accuse the police and military of acting with bias in their treatment of Muslims.

Intermittent government efforts to integrate Muslims into political and economic society achieved only limited success. Many Muslims claimed that they remained underrepresented in senior civilian and military positions and cited the lack of proportional Muslim representation in national government institutions. Predominantly Muslim provinces in Mindanao lagged far behind the rest of the country in most aspects of socioeconomic development. The percentage of the population under the poverty level in the ARMM was almost twice as high as the national average, with per capita income of 15,760 pesos (approximately \$330) per year.”²⁹⁹

A *New York Times* article of October 2010 reports on the influence of the Roman Catholic Church in the Philippines,

“In principle the mostly Christian Philippines is a secular republic like its mostly Muslim and similarly Malay neighbor, Indonesia. In practice however the Roman Catholic Church holds more sway over Manila lawmaking than any Muslim organization in Jakarta. Divorce does not exist in the Philippines — other than for those married according to Islamic rites. State support for family planning is minimal, which at least partly accounts for the fact that the Philippines has the highest fertility in Asia east of Pakistan.

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So a battle in Manila over a reproductive health bill may produce not just a push for more easily available contraception — which would reduce poverty and often-fatal illegal abortions — but a clash between local bishops and an increasingly secular society. President Benigno Aquino has fallen afoul of the church for supporting a bill in principle and contraception in general. It is uncertain whether the bill, which covers a wide range of state responsibilities for assisting family planning and other maternal and child health issues, will be passed, given the unwillingness of many lawmakers to oppose the church even if they know most of their constituents favor easier access to contraception. Previous efforts to pass such legislation have failed and health ministers who have tried to promote birth control have been pushed out.

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Some argue that it may not matter much whether this bill passes or not because the broader influence of the church hierarchy is fading under the impact of urbanization, migrant workers and a popular culture very open about sex. There is also the example of an elite that often does not practice what it preaches in Congress.

The Philippines is a very religious country but also one where tolerance of priests having relations with women appears high and where marriage breakups and de facto unions are a common and accepted substitute for divorce. Despite five centuries of Catholicism, indigenous practices in which divorce was common and could be initiated by either women or men lurk not far beneath the surface.

²⁹⁸ The Asia Foundation, *Clan Feuding And Conflict Management In Mindanao*, 2007, http://ridomap.com/downloads/rido_full_text.pdf, accessed 17 December 2010

²⁹⁹ USDOS, 2009 Human Rights Report: Philippines, 11 March 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/eap/136006.htm>, accessed 19 December 2010

Mainstream Catholic influence is also being eroded by the enduring presence of two nationalist Christian denominations, the Iglesia ni Cristo, and the Aglipayans, by the growth of Protestant sects and by the impact of high-profile evangelical and charismatic preachers reaching mass audiences through radio and television.”

The *USDOS International Religious Freedom Report 2010*, published in November 2010, states,

“According to the National Statistics Office, approximately 93 percent of the population is Christian. Roman Catholics, the largest religious group, constitute 80 to 85 percent of the total population. Islam is the largest minority religion, and Muslims constitute between 5 and 9 percent of the total population. Most Filipino Muslims are members of various ethnic minority groups. They reside principally on Mindanao and nearby islands. Although most belong to the Sunni branch of Islam, a small number of Shi’a Muslims live in the provinces of Lanao del Sur and Zamboanga del Sur in Mindanao. An increasing number of Filipino Muslims have migrated to the urban centers of Manila and Cebu.

Groups that together constitute less than 5 percent of the population include Seventh-day Adventists, United Church of Christ, United Methodist, the Episcopal Church in the Philippines, Assemblies of God, The Church of Jesus Christ of Latter-day Saints (Mormons), and Philippine (Southern) Baptists. Domestically established denominations include the Philippine Independent Church (Aglipayan); the Iglesia ni Cristo (Church of Christ); the Members Church of God International; and The Kingdom of Jesus Christ, the Name Above Every Name. Iglesia ni Cristo is the largest indigenous Christian denomination, with approximately 5.6 million members. Christianity is the majority religion among indigenous peoples. Between 12 million and 16 million indigenous persons adhere to Catholicism or Protestantism, often incorporating elements of traditional indigenous belief systems.”³⁰⁰

The *USDOS International Religious Freedom Report of 2010* also notes,

“The constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion. There is no state religion, and the constitution provides for the separation of church and state. The law required organized religions to register with the Securities and Exchange Commission and with the Bureau of Internal Revenue to establish tax-exempt status. There was no penalty for failing to register, and some groups do not. There were no reports of discrimination in the registration system during the reporting period.

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The government generally respected religious freedom in practice. There was no change in the status of respect for religious freedom by the government during the reporting period. There were no reports of religious detainees or prisoners in the country. The government does not ban or discourage specific religious groups or religious factions. However, Muslims, who are concentrated in some of the most impoverished provinces, complained that the government had not made sufficient efforts to promote their economic development. Some Muslim religious leaders asserted that Muslims suffered from economic discrimination. The government's campaign against terrorist groups led some human rights NGOs to accuse the police and military of acting with bias in their treatment of Muslims.

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Sporadic bombings of places of worship also occurred during the reporting period. On July 5, 2009, a bomb outside the Cathedral of the Immaculate Conception in Cotabato City killed six and wounded 30 others as they were leaving worship service. On July 7 two more bombs exploded near a cathedral in Jolo City, killing two people and injuring 50. On January 11, 2010, a grenade exploded outside a cathedral in Jolo, Sulu. There were no reported injuries, but the cathedral was slightly damaged. On May 9, 2010, the day prior to national elections, two persons were killed and 12 wounded when a hand grenade was thrown inside a mosque

³⁰⁰ USDOS, *International Religious Freedom Report 2010*, 17 November 2010, <http://www.state.gov/g/drl/rls/irf/2010/148891.htm>, accessed 20 December 2010

in Pikit, North Cotabato. The Philippine National Police detained suspects affiliated with the ASG in connection with these bombings.”³⁰¹

In 2010 the *USDOS* International Religious Freedom Report reported that a cabinet level commission has responsibility for promoting the rights of Muslim Filipinos,

“On February 18, 2010, President Gloria Macapagal-Arroyo signed Republic Act 9997, which replaced the Office of Muslim Affairs with the National Commission on Muslim Filipinos (NCMF). The cabinet-level commission worked to promote the rights of Muslim Filipinos at both the national and local level and supported the implementation of economic, educational, cultural, and infrastructure programs for Muslim Filipino communities.”³⁰²

With regards to religious education the *USDOS* International Religious Freedom Report states that,

“The government permitted religious instruction in public schools with parents' written consent, provided there was no cost to the government. Based on a traditional policy of promoting moral education, local public schools gave religious groups the opportunity to teach moral values during school hours. Attendance was not mandatory, and the various groups shared classroom space. The government also allowed interested groups to distribute religious literature in public schools. By law public schools must ensure that the religious rights of students are protected. Muslim students are allowed to wear hijab (head coverings), and Muslim girls are not required to wear shorts during physical education classes. In many parts of Mindanao, Muslim students routinely attended Catholic schools from elementary to university level; these students were not required to receive religious instruction.

Approximately 14 percent of the Mindanao student population attended madaris (Islamic schools). Government officials estimated there were more than 1,000 madaris operating throughout the country. Of these more than half were located in the Autonomous Region in Muslim Mindanao (ARMM). A total of 588 madaris were registered with the NCMF, while 40 were registered with the Department of Education (DepEd). Registration with the NCMF or the DepEd is optional for madaris but, if pursued, can lead to financial assistance from the government. Most madaris did not meet the department's accreditation standards. The DepEd manages financial assistance to the madaris system from local and international sources, and the DepEd's Bureau of Madrasah Education oversees education activities in the ARMM.”³⁰³

In 2010 the *USDOS* International Religious Freedom Report stated that there have been some reports of ethnic and cultural discrimination towards Muslims,

“Historically, Muslims have been alienated socially from the Christian majority, and some ethnic and cultural discrimination against Muslims have been recorded. Young Muslim professionals reported that some employers stereotyped Muslims as being less educated. Some Muslims reported that they had difficulty renting rooms in boarding houses or being hired for retail work if they used their real names or wore distinctive Muslim dress. Therefore, many resorted to adopting Christian pseudonyms and wearing Western clothing.

Over the past 60 years, efforts by the dominant Christian population to resettle in traditionally Muslim areas such as Mindanao have fostered resentment among many Muslim residents. Many Muslims viewed Christian proselytizing as another form of

³⁰¹ USDOS, International Religious Freedom Report 2010, 17 November 2010, <http://www.state.gov/g/drl/rls/irf/2010/148891.htm>, accessed 20 December 2010

³⁰² USDOS, International Religious Freedom Report 2010, 17 November 2010, <http://www.state.gov/g/drl/rls/irf/2010/148891.htm>, accessed 20 December 2010

³⁰³ USDOS, International Religious Freedom Report 2010, 17 November 2010, <http://www.state.gov/g/drl/rls/irf/2010/148891.htm>, accessed 20 December 2010

resettlement, with the intention of depriving Muslims of their homeland and cultural identity, including their religion.

Despite these circumstances, amicable ties among religious communities were common, and many participated in interdenominational efforts to alleviate poverty.”³⁰⁴

In February 2011 the *UN OCHA* reported that,

“Although the conflict between the GRP and MILF pits an Islamic insurgency against a primarily Christian government, it would be a mistake to view this as a religious war. There is little or no sectarian violence and relations between Christians and Muslims, who often live in mixed communities, are generally harmonious. That said, optimism of the general public in areas affected by the conflict is tempered by an awareness that the peace process has dragged on for decades, even though several presidents have promised to end it. Moreover, there are spoilers of any potential agreement on both sides.”³⁰⁵

³⁰⁴ USDOS, International Religious Freedom Report 2010, 17 November 2010, <http://www.state.gov/g/drl/rls/irf/2010/148891.htm>, accessed 20 December 2010

³⁰⁵ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

D. Internal Displacement

1. Trends in displacement in southern Philippines

The *Internal Displacement Monitoring Centre* reports that millions of people have been displaced during decades of conflict, stating that most displacement has occurred in the island group of Mindanao with the ARMM being most affected,

“Millions of people in the Philippines have been internally displaced by armed conflict and human rights violations in the last decades. Most of the violence and displacement has taken place on the island group of Mindanao in the southern Philippines, where the government has fought insurgency groups since the 1970s. Of the six regions in Mindanao, the Autonomous Region in Muslim Mindanao (ARMM) has tended to be most affected by conflict and displacement.

Between August 2008 and July 2009, fighting between the Muslim rebels of the MILF and the Armed Forces of the Philippines (AFP) led to the displacement of hundreds of thousands of people in several provinces of Mindanao, with Muslim-majority provinces such as Maguindanao particularly affected. In total, at least 750,000 people maybe more were displaced (DSDW, 15 May 2009). When fighting stopped in July 2009, hundreds of thousands were still living collective centres and camps known by the government as “evacuation centres”, relocation sites and with host communities. The majority of the displaced were located in Maguindanao province.

Other sources of violence and displacement in the Philippines, include counter-insurgency campaigns against the Abu Sayyaf Group (ASG), which is mostly active in Western Mindanao and is known for its kidnapping activities, and against the communist rebels of the New People’s Army (NPA) which is present in most provinces of the Philippines. Anti-NPA operations regularly cause displacement although numbers are unknown as clashes between the AFP and the NPA usually take place in remote places with little monitoring of the effects on civilians. Since 2001, the AFP, supported by the United States, has carried out several large-scale operations against the ASG in Sulu and Basilan Provinces in Mindanao, which have resulted in the displacement of hundreds of thousands of people. In February 2010, renewed violence in Sulu and Basilan forced thousands of people to flee their homes (Reuters, 27 February 2010; Luwaran, 26 February 2010).”³⁰⁶

In February 2011 *UN OCHA* reported on trends within IDP movements,

“A feature of displacement in Mindanao is the typically short distances by which families are displaced. Distances of displacement can be as little as one kilometre and rarely more than a few kilometres. In general, IDPs move from rural areas, often referred to as ‘interior’ *barangays*, to the main roads and towns, so as to avoid armed clashes and artillery fire. The relative proximity of the displacement sites and places of origin allows a proportion of the displaced people to work in fields and plantations during the day at the place of origin, but return to the safer locations overnight.

Many IDPs moved into camp-like settings known as Evacuation Centers (such as schools, community centres, other government buildings), residing in rooms or temporary shelters in the grounds of the building. Some, however, moved into the homes of family and friends or constructed shelters in host communities. These are commonly referred to as ‘home-based’ IDPs. In general, the needs of the families at Evacuation Centers are more acute than

³⁰⁶ Internal Displacement Monitoring Centre, At least 21,000 families remain displaced in the Philippines due to conflict, December 2010, <http://www.internal-displacement.org/idmc/website/countries.nsf/%28httpEnvelopes%29/A01DB3AC980C9A22C125772600312329?OpenDocument>, accessed 22 February 2011

those who are home-based, as the latter draw to an extent on the resources of their host. However, home-based IDPs have proven more difficult for the authorities and humanitarian actors to track, and therefore run a greater risk of being inadvertently overlooked in the support provided by the agencies.”³⁰⁷

The *Internal Displacement Monitoring Centre* reports that it is difficult to determine accurate numbers for IDPs,

“Determining reliable figures on the number of IDPs remains a huge challenge, both because displacement in Mindanao is characterised by frequent population movements, and because of the incomplete collection of information, with some groups of IDPs not captured in government data.

Registration by the government has been incomplete, with displaced people in informal settlements often not recognised as IDPs, and entire municipalities affected by the conflict simply ignored. The government has considered that anyone who has moved out of the evacuation centres as “returned”, and it has reportedly excluded some people from registers on this basis even though they were still living in evacuation centres or in relocation sites (Mindanews, 16 November 2009). In December 2009, the government simply decided to exclude all “home-based” IDPs living with host families from the list, on the assumption that all had returned.

Discrepancies between government and international agency figures have been often reported, with the government generally issuing the lowest figures and sometimes describing as “misleading” those provided by agencies (IRIN, 5 April 2010; IRIN, 15 January 2010; IRIN, 14 July 2009). It should be noted that government figures are based on an average of less than five people per family, but the average family size in the poorer municipalities of Muslim Mindanao, where most IDPs are located, is probably closer to six (Romulo A. Virola and Arturo M. Martinez Jr., November 2007). The EFSA assessment conducted in January 2010 showed that the average household size among the respondents was 6.08 (WFP & CFSI, 5 March 2010, p. 6). The World Food Programme’s (WFP) food distributions were based on six people per family before being changed to fit the actual size of each family in early 2010.

Since January 2010, the government has used the Humanitarian Response Monitoring System (HRMS) to track population movements, identify humanitarian needs and map ongoing interventions. The HRMS was initially designed by IOM in response to natural disasters, and was adapted during 2009 to fit Mindanao’s complex emergency setting. It is also intended to help profile the displaced population and coordinate assistance for them with other aid agencies (IRIN, 15 January 2010).”³⁰⁸

In its 2011 Humanitarian Action Plan (HAP) *UN OCHA* describes the context of HAP activities in Mindanao,

“The provinces of Mindanao covered by this Humanitarian Action Plan have been in a state of low intensity conflict since 1968. The conflict, combined with the impact of clan feuds and natural disasters, has resulted in cycles of displacement in which large numbers of civilians depend primarily on humanitarian assistance. The most recent major displacement occurred in August 2008, with approximately 750,000 people displaced by armed conflict. The IDPs remaining from this displacement and those who have returned recently to their

³⁰⁷ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

³⁰⁸ Internal Displacement Monitoring Centre, At least 21,000 families remain displaced in the Philippines due to conflict, December 2010, <http://www.internal-displacement.org/idmc/website/countries.nsf/%28httpEnvelopes%29/A01DB3AC980C9A22C125772600312329?OpenDocument>, accessed 22 February 2011

places of origin, or resettled elsewhere, form the main basis of the humanitarian caseload with which the current HAP is concerned.

In order to more fully appreciate the context, it is important to understand the impact of chronic poverty on the remote communities in the provinces targeted by the HAP, which serves to exacerbate the effects of conflict (for example, very poor access to potable water, troubling nutritional statistics and a range of other concerns, all of which have been highlighted in the UNDAF process as well).³⁰⁹

In March 2010 *Save the Children* reported on mass displacements in 2008,

“In August of 2008, armed groups belonging to the Moro Islamic Liberation Front (MILF) staged concerted attacks on civilian communities in five Mindanao provinces creating a humanitarian crisis. The MILF attacks and pillage of villages were triggered by a temporary restraining order issued by the Supreme Court against the signing of a Memorandum of Agreement on Ancestral Domain (MOA-AD) drafted between the Philippine Government and the MILF. The MOA provided for a Bangsamoro (Moro Nation) Juridical Entity (BJE), the territory of which would have expanded the area covered by the existing Autonomous Region in Muslim Mindanao (ARMM). From August to December 2008, major skirmishes and the Philippine military’s pursuit operations resulted in the displacement of thousands of persons who were forced to live in cramped, makeshift shelters in many evacuation sites/camps near or around the town centers, open grounds of public schools and markets, roadside and vacant lots of host communities. The situation further worsened when thousands more were displaced with the flooding of most areas in Central Mindanao during the rainy season. The displacement of the population in May 2009 resulted in a high total of almost 600,000 IDPs in Lanao del Norte, Lanao del Sur, North Cotabato and Maguindanao.”³¹⁰

With regard to displacement in Maguindanao *UN OCHA* reported in February 2011,

“Maguindanao is the province where most people were displaced as a result of the 2008 conflict and where the impact of the conflict on civilians was the most severe in other respects as well (e.g. damage to houses and community structures). Accordingly, Maguindanao is the primary focus of the HAP. According to official government data,¹⁰ Maguindanao is also the most impoverished of the six provinces, which means that the underlying vulnerabilities of the affected population were more pronounced even before they were displaced.”³¹¹

With regard to displacement in Lanao del Sur *UN OCHA* reported in February 2011,

“Twenty of the 38 municipalities in Lanao del Sur (including Marawi City) were affected by the 2008 conflict, with the majority of the affected areas found around the lake where the main settlements are located. At only 14,643 people, however, the caseload that the HAP is targeting in Lanao del Sur is relatively modest compared with other provinces. It should be noted that this figure is perhaps an underestimate, reflecting the fact that many of the displaced people in Lanao del Sur live with host families and, consequently, are more difficult to track than those in Evacuation Centers. What is of note is that in September 2010 the percentage of those who were still considered displaced (47%) was relatively high

³⁰⁹ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

³¹⁰ Save the Children, Follow-up Emergency Nutritional Assessment of the Conflict-Affected Communities in Central Mindanao, Philippines, March – April 2010, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/27279D3A16475DEFC125777C004B818A/\\$file/Follow-up+emergency+nutritional+assessment+-+6+Aug+2010.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/27279D3A16475DEFC125777C004B818A/$file/Follow-up+emergency+nutritional+assessment+-+6+Aug+2010.pdf), accessed 1 March 2011

³¹¹ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

compared with other provinces. This is likely to be in part due to ongoing local security issues and natural disasters.

In addition to being badly affected by the conflict, Lanao del Sur has also been subjected to flooding and clan feuds known as *rido*. (In December 2010 a period of heavy rainfall reversed the previous trend of return to places of origin and resulted in further displacement.) Unfortunately the rule of law is weaker in parts of this province than most others in the HAP, especially in the conflict-affected municipalities, which makes assessments and the subsequent implementation of projects in the area more challenging. In general, there is a lack of up-to-date data for the area (some ongoing initiatives and projects under the HAP aim to address this issue). The data that are available suggest that there are significant needs relating to food, nutrition, health and water, sanitation and hygiene (WASH).³¹²

With regard to displacement in North Cotabato, South Cotabato and Sultan Kudarat *UN OCHA* reported in February 2011,

“The 2008 conflict affected each of these provinces, although less severely than in ARMM. The Region XII authorities had relatively functional mechanisms to support the displaced population. The capacity of the region and the fact that IDP numbers were generally lower meant that phases of IDP return to places of origin and recovery progressed further in Region XII than in ARMM. According to IOM’s data from September 2010, more than 90% of the IDPs in North Cotabato were reported to have returned, whilst in Sultan Kudarat a relatively high proportion remained displaced (25%). The latter was in part due to natural disasters, and the figures would also capture those displaced by *rido*. Recent data from Region XII DSWD indicates that the families displaced due to the 2008 GRP/MILF conflict have returned home, but does not include on *rido* or flood-displaced communities.

Closer examination indicates that the humanitarian situation in the provinces of Region XII varies considerably. Some municipalities continue to suffer more acutely the consequences of displacement due to conflict, including *rido*. Issues relating to health, protection, WASH and nutrition are of particular note. Other municipalities – particularly in Sultan Kudarat – have suffered relatively high displacement due to flooding. In some areas the activities of armed groups have hindered the access of IDPs and host communities to services (both of the government and of the humanitarian community) and have further obstructed the return and recovery process.³¹³

With regard to displacement in Lanao del Norte *UN OCHA* reported in February 2011

“Lanao del Norte was the only province in Region X directly affected by the conflict. Thirteen municipalities within Lanao del Norte were affected, with the majority of the displacement taking place in the coastal municipalities on Iligan Bay. According to the Department of Social Welfare and Development (DSWD), figures on displacement indicate that displacement peaked in September 2008, at 12,595 families, but the total cases recorded by humanitarian agencies is significantly higher. At the time of preparation of the HAP, more than 88% of the caseload of 38,510 people was considered no longer displaced (WFP data from September 2010), with additional returns anticipated in the intervening

³¹² UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

³¹³ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

period. Consequently, the emphasis on programming in Lanao del Norte under the HAP is on early recovery activities.”³¹⁴

2. Current IDP figures

In January 2011 the *Internal Displacement Monitoring Centre* reported that thousands of people remained displaced from North Cotabato after fighting between the MNLF and MILF,

“Two weeks after they fled their homes in Kabacan, North Cotabato province to escape fighting between members of the Moro National Liberation Front (MNLF) and the Moro Islamic Liberation Front (MILF), over 600 families, or around 3,500 people, were still unable to return as security had not been fully restored in their homes areas. In total up to 900 families, or 4,500 people had been displaced as a result of the fighting.

The remaining IDPs were staying in four evacuation centres in nearby villages where they were receiving assistance from the local authorities and the Red Cross. The clash was reportedly triggered by a territorial dispute between commanders of the two rebel groups. The Malaysia-led International Monitoring Team (IMT) was reportedly investigating the incident; the IMT is overseeing the implementation of the ceasefire between the MILF and the government.”³¹⁵

In January 2011 the Philippines, *National Disaster Risk Reduction and Management Council* reported that thousands of families were displaced by January 2011 conflict in Basilan Province between the military and ASG, further that communication with affected areas was reduced due to the conflict and that roads to some distribution areas were impassable due to thick mud,

- “An ongoing armed conflict occurred in Basilan Province since January 17 2011 due to military operation against ASG/Kidnappers
- A total of 1,1516 families with 7,103 dependents from ten (10) Barangays in the municipality If Al-Barka, Basilan, namely: Guinata, kailih, Bucalao, Kuhon, Cambug, Linuan, Danapah, macalang, kuhon Lennuh, and Bohe Piyang are displaced due to the armed conflict
- 937 families with 4,509 dependents were evacuated to other barangays in Al-Barka while 579 families with 2,594 dependents were evacuated to Tipo-Tipo.”³¹⁶

In February 2011 the Philippines *National Disaster Risk Reduction and Management Council* reported that people were displaced in Davao Oriental and Sarangani Province due to fighting with the New Peoples Army,

A. Davao Orietal

On February 08, 2011, fifty (50) families/two hundred fifty (250) persons were displaced as a result of an encounter between the New Peoples Army (NPA) and troops of 28th IB in Sitio Kawitan, Barangay Mahayag, Banay Banay, Davao Oriental. However, evacuees have already returned to their respective places of origin.

B. Sarangani Province

³¹⁴ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

³¹⁵ Internal Displacement Monitoring Centre, Thousands still displaced by clash between rebel groups in Mindanao, 28 January 2011, <http://www.internal-displacement.org/8025708F004D31AA/%28httpIDPNewsAlerts%29/6BF29F5696D30328C1257826003E173C?OpenDocument#anchor4>, accessed 22 February 2011

³¹⁶ Republic of the Philippines, National Disaster Risk Reduction Management Council, NDRRMC Update, 20 January 2011, [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/C7578FAC61B53B24C125782900399941/\\$file/full_report+basilan+jan+2011.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/C7578FAC61B53B24C125782900399941/$file/full_report+basilan+jan+2011.pdf), accessed 22 February 2011

As a result of the January 26, 2011 armed conflict between government troops and members of New Peoples Army (NPA), six hundred twenty six (626) families/three thousand one hundred thirty (3,130) persons were affected who evacuated to Kinam Proper, Malapatan, Sarangani Province for their safety.”³¹⁷

Based on reports from several humanitarian and news organisations the *Internal Displacement Monitoring Centre* reported in December 2010 the following figures for displacement,

“Update as of 20 September 2010 (Maguindanao)

Based on figures provided by the IOM MVP (Mobile and Vulnerable People) Tracking Update for Maguindanao province, as of 3 September 2010 there were a total of 20,688 families, or between 103,000 and 124,000 individuals, living in displacement either in evacuation centers (16,419 HH), in relocation sites (3,174 HH) or as home-based IDPs (1,095 HH).

The majority of the displaced consist in people displaced as a result of the August 2008 conflict although many have also been displaced more recently due to rido or clan violence incidents. (Source: Mindanao Situation Update, OCHA, 20 September 2010).

Update as of 9 August 2010 (Maguindanao)

Based on figures provided by the IOM MVP Tracking Update for Maguindanao province, as of 23 July 2010 there were a total of 18,874 families, or between 94,000 and 113,000 people living in displacement either in evacuation centers (14,825), in relocation sites (3,174) or as home-based IDPs (875). (Source: Mindanao Situation Update, OCHA, 9 August 2010)

IOM estimates that nearly 25,000 people have been displaced in the past couple of months by clan violence triggered by land disputes and family feuds (IRIN, 10 August 2010). The most recent violence between rival Muslim groups, between 7-9 August 2010, led to the displacement of around 5,000 people near Datu Piang (Reuters, 11 August 2010)

Update as of June 2010 ((Maguindanao, North Cotabato, Sultan Kudarat)

As of May 2010, it was estimated that 26,600 families, or between 128,000 and 160,000 individuals, remained displaced in Mindanao either by the August 2008 conflict or by clan violence (IOM, 4 May 2010). The overwhelming majority were located in Maguindanao Province, where nearly 16,000 families were living in 67 evacuation centres. More than 5,000 families were also living in relocation or resettlement sites in the Province and fewer than 900 families were reported to be hosted by families or friends. In North Cotabato Province, around 1,800 families were still living in 11 evacuation centres and with host families (Mindanao Situation Update, OCHA, 31 May 2010).

The May 2010 figure also included a number of people who had been displaced after the July 2009 ceasefire. In Maguindanao, some 2,000 people displaced as a result of the November 2009 massacre had not returned to their homes and were living with host families. In Sultan Kudarat Province, some 6,800 people were still displaced as a result of tensions caused by clan fighting a month earlier (OCHA, 4 May 2010). As of early June, some 2,500 people displaced by election-related violence in May were also displaced in Maguindanao (NDCC, 29 May 2010).

In addition to those displaced since August 2008, tens of thousands of people who were displaced during earlier phases of the conflict between the AFP and the MILF have been unable to find durable solutions, even though most were able to return to their areas of

³¹⁷ Republic of the Philippines, National Disaster Risk Reduction Management Council, NDRRMC Update, 12 February 2011, [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/27857F6A95280E91C1257837002CCEEE/\\$file/full_report+12+feb2011.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/27857F6A95280E91C1257837002CCEEE/$file/full_report+12+feb2011.pdf), accessed 22 February 2011

origin. To escape poverty some have moved to urban areas of the region such as Cotabato City, where tens of thousands of displaced households have sought refuge since 2000. These IDP groups are largely excluded from any government statistics.”³¹⁸

According to the *Internal Displacement Monitoring Centre* reporting in June 2010, 26,000 were displaced, the majority living in 67 evacuation centres in Maguindanao Province,

“Nearly a year after a ceasefire agreement between the government and the rebels of the Muslim Islamic Liberation Front (MILF) put an end to renewed fighting in the southern island of Mindanao, some 26,000 families remain displaced in June 2010. The renewed conflict, ignited by the failure of a land deal in August 2008, had led to the displacement of up to a million people by July 2009. The majority of the remaining internally displaced people (IDPs) are living in 67 evacuation centres in Maguindanao Province, while a smaller number are living in relocation and resettlement sites or with relatives. With the exception of North Cotabato Province, where an estimated 1,800 families are still displaced, people displaced by the conflict in other provinces have now returned home, although thousands remain displaced due to clan-related violence, or *rido*, which has been the main cause of displacement since July 2009.”³¹⁹

Noting the difficulty in monitoring IDP numbers, *UN OCHA* reported the following figures for displacement in February 2011,

“Maguindanao: IOM data as of 17 December 2010 identify 2,549 IDP families (12,332 individuals) in 17 Evacuation Centers; 621 families (3,105 individuals) in Relocation Sites; 108 families (1,540 individuals) as ‘home-based’ IDPs. DSWD data from 10 November 2010 identifies 2,960 IDP families as still in Evacuation Centres.

North Cotabato: DSWD Region XII indicated in January 2011 that they do not consider there to be any families still displaced as a result of the 2008 GRP/MILF conflict. However, displacement exists due to *rido*, but numbers fluctuate quickly in response to the localised security issues. IOM data from September 2010 identified 9,445 individuals as displaced in the province. Since then IOM monitoring has ceased.

South Cotabato: DSWD Region XII indicated in January 2011 that they do not consider there to be any families still displaced as a result of the 2008 GRP/MILF conflict. IOM data from September 2010 identified 1,405 individuals as displaced in the province. Since then IOM monitoring has ceased.

Sultan Kudarat: DSWD Region XII indicated in January 2011 that they do not consider there to be any families still displaced as a result of the 2008 GRP/MILF conflict. IOM data from September 2010 identified 7,020 individuals as displaced in the province, due primarily to a *rido* and flooding. Since then IOM monitoring has ceased.

Lanao del Sur: WFP identified 6,958 individuals as displaced in September 2010 due to various factors.

Lanao del Norte: WFP identified 4,386 individuals as displaced in September 2010 due to various factors.”³²⁰

In October 2010 *IRIN News* reported that,

³¹⁸ Internal Displacement Monitoring Centre, At least 21,000 families remain displaced in the Philippines due to conflict, December 2010, <http://www.internal-displacement.org/idmc/website/countries.nsf/%28httpEnvelopes%29/A01DB3AC980C9A22C125772600312329?OpenDocument>, accessed 22 February 2011

³¹⁹ Internal Displacement Monitoring Centre, Philippines; IDP return still hampered by insecurity and lack of assistance, 28 June 2010, accessed 22 February 2011

³²⁰ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

“According to the social welfare department, more than 60,000 people remain displaced in the south, most of whom are in 57 evacuation centres while others are staying with relatives and friends.”³²¹

3. Return conditions

With reference to its 2011 humanitarian action plan for conflict affected regions of Mindanao, *UN OCHA* reports that six provinces of Mindanao will be covered; Maguindanao, Lanao del Sur, Lanao del Norte, Sultan Kudarat, North Cotabato and South Cotabato.³²² However *UN OCHA* states that

“The ‘island provinces’ of Basilan and Sulu, although affected by conflict and with outstanding humanitarian needs, are not covered by the HAP at this time owing to a lack of information and access. It is intended, however, that these provinces be covered by the HAP in due course.”³²³

In June 2010 the *Internal Displacement Monitoring Centre* reported that although hundreds of thousands of people have returned to their places of origins, the majority have done so without sufficient assistance and have struggled to access basic services,

“Hundreds of thousands of people have returned to their places of origin. However, the majority returned on their own without sufficient assistance, and have since struggled to recover with limited access to agricultural assets, education, health care services and water and sanitation facilities. An assessment conducted in early 2010 in five provinces affected by the conflict showed that nearly half of the returned or resettled population had yet to recover from their displacement. The number of returns and their sustainability has been limited by a number of factors, including uncertainties about the peace process, clan-related violence, the lack of return and rehabilitation assistance and the presence of unexploded ordnance. Despite improvements in the overall living conditions of IDPs in the camps, their humanitarian needs remain significant. IDPs are more food-secure but continue to face high levels of debt and difficulty in securing sustainable livelihoods.”³²⁴

In February 2011 *IRIN News* reported that clan feuds have led to displacement and made humanitarian access difficult,

“Pam Pagunsan, a communications specialist at the UN Children’s Fund (UNICEF), said ‘rido’ also leads to the temporary displacement of families, who are often difficult to access because of the security situation.

“In 2010, UNICEF and the World Food Programme (WFP) conducted a joint nutrition and food security assessment, which concluded that areas affected by armed conflict had poor nutritional status and therefore faced higher risks of disease and death,” she said.

Similarly, stunting among children under five, a measure of chronic malnutrition, is also extremely high at 41 percent, the Mindanao Humanitarian Action Plan for 2011 said.

³²¹ IRIN, Philippines, Peace dividends emerge as Mindanao IDPs go home, 12 October 2010, <http://www.irinnews.org/Report.aspx?ReportID=90745>, accessed 5 May 2011

³²² UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

³²³ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

³²⁴ Internal Displacement Monitoring Centre, Philippines; IDP return still hampered by insecurity and lack of assistance, 28 June 2010, accessed 22 February 2011

"Areas with ongoing clan wars are typically harder to access," Pagunsan said, adding that humanitarian agencies had had to deal with certain powerful clans or groups just to be able to reach those affected.

Pombaen Kader, a social welfare official in the Autonomous Region in Muslim Mindanao (ARMM), said 'rido' and the insurgency had come to define the poor quality of life in the area."³²⁵

In January 2011 the *Jesuit Refugee Service* questioned the absence of IDP's perspective in assessments of return conditions,

"If you are a person displaced by the Moro conflict in the southern Philippines, chances are you not only struggle to survive but also to be heard.

In a meeting on the safe return of internally displaced persons (IDPs) this year, a colleague observed, Why is the IDP perspective on what safe return means for them absent in this discussion?

While the government was resolved to restore a semblance of stability by closing evacuation centres in their towns, agencies have often been happy to report this return as an indicator of success, as safe. Unfortunately, many meetings on protection and security have no IDP representation."³²⁶

In February 2011 *UN OCHA* reported the returnees in Maguindanao had numerous humanitarian needs including access to food, potable water, sanitation facilities and healthcare,

"While most IDPs in Maguindanao have spontaneously returned to their places of origin over the course of 2010, there remains a residual caseload of IDPs, both those living in Evacuation Centers (ECs) and those living with host communities, who require humanitarian assistance. Moreover, the people who have returned face significant challenges in re-establishing their lives and livelihoods, and their humanitarian needs are numerous. These needs include (but are not limited to) access to food and nutritional support, access to potable water, proper sanitation facilities and health care, rehabilitation of community structures (such as health facilities, schools, farm-to-market roads and solar driers), shelter support and support for education and sustainable livelihoods (especially agricultural support). There is also a significant need for support in the area of human rights and protection, including an improved mechanism for reporting human rights violations and child protection interventions."³²⁷

In February 2011 *UN OCHA* reported that return areas lacked basic support such as livelihoods, shelter and security, further the absence of a peace agreement and security concerns meant that IDPs remained in their places of displacement,

"As early as January 2009, the Government of President Arroyo made clear its intention to resolve the displacement crisis through the return or resettlement of IDPs. Some success was achieved in North Cotabato, South Cotabato, Lanao del Norte, Lanao del Sur and Sultan Kudarat. While the returns process resulted in the physical return of IDPs to their places of origin or resettlement, however, durable solutions proved to be challenging, with some return areas still deficient in the basic support required by returned IDPs, particularly

³²⁵ IRIN, Clan violence drags Mindanao down, 3 February 2011, <http://www.irinnews.org/report.aspx?ReportID=91818>, accessed 22 February 2011

³²⁶ Jesuit Refugee Service, Philippines; Forcibly displaced struggle to be heard, 13 January 2011, <http://www.reliefweb.int/rw/rwb.nsf/db900sid/VVOS-8D8MY?OpenDocument>, accessed 22 February 2011

³²⁷ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

livelihoods and shelter. Many returnees in these provinces live a hand-to-mouth existence and continue to need support of a humanitarian nature.”

“From the various surveys conducted to ascertain the intentions of IDPs, the overwhelming reason given for remaining in their places of displacement is security. Initially, there were concerns about the GRP/MILF ceasefire holding; now the reluctance to return is related more to the lack of a final peace agreement or the continued presence of armed men in their areas of origin. Many IDPs, particularly the men, visit their homes during the day to farm and collect fruit or firewood, but return to their camps at night due to these perceived insecurity concerns.

A ‘Conflicted-Affected Communities Forum’ convened by members of the CCCM Cluster and involving representatives of more than 130 IDP sites and return areas was held in November 2010. The IDPs articulated their need (at both IDP sites and return areas) for humanitarian support and early recovery interventions such as food, health, WASH, shelter, education and livelihood support, as well as security and safety.

The tracking/registration of returnees is weaker than that of IDPs and remains a challenging issue in the humanitarian response.”³²⁸

In February 2011 *UN OCHA* reported that the humanitarian needs of IDPs and returnees were “significant”,

“On top of these troubling statistics, the impact of repetitive displacements combined with the most recent prolonged displacement has significantly eroded coping mechanisms of the affected population. The difficulty of re-establishing lives and livelihoods is seriously hampering the early recovery of those who have spontaneously returned over the past year. Essential facilities have been damaged by the conflict or fallen into disrepair, homes have been destroyed and farmland has become unproductive. Poor to begin with, laden with debts and having lost most of their assets, returnees are struggling to re-establish their lives and livelihoods and remain vulnerable to shocks, either from natural or manmade disasters. While governance structures remain in place down to *barangay* level (apart from some *barangays* of return), a shortage of funding has hampered efforts to support both IDPs and returnees.

Following the Suspension of Military Operations and Suspension of Military Action, humanitarian access to almost all parts of Central Mindanao has been good, apart from the period following the Maguindanao Massacre of 23 November 2009 and for short periods in areas affected by *rido*. The geography of some return areas does hinder access, particularly during the wet season, due to the quality of roads.”³²⁹

In February 2011 *UN OCHA* reports a World Food Programme survey as showing that approximately 70% of IDPs and returnees were food insecure,

The Emergency Food Security Assessment conducted by the World Food Programme (WFP) in January 2010 indicated that approximately 70% of IDP and returnee households were food-insecure. Of this 70%, 40% were considered to be highly or moderately food-insecure. Inadequate food consumption is prevalent among IDPs and returnees. IDPs have lost draught animals (*carabao*), small livestock, farm tools and fishing gear and are heavily

³²⁸ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

³²⁹ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

indebted to moneylenders, banks and other credit institutions from loans taken out to plant crops that were not harvested due to displacement.”³³⁰

In February 2011 *UN OCHA* reported “increased demand for services brought about by the conflict and displacement of IDPs has caused further strain on the health resources of the host communities.”³³¹

Further *UN OCHA* reported that many IDPs lack access to adequate sanitation and drinking water,

“Two years after being displaced, many IDPs still lack access to safe drinking water and adequate sanitation in Evacuation Centers and other places of displacement. Unsafe drinking water and sanitation are cited as being the causes of the ten highest cases of diseases such as diarrhoea, especially in children. In areas of return, drinking water sources and sanitation facilities have been, in many cases, damaged or have deteriorated over the past two years.”³³²

A 2010 *Save the Children* survey showed that some children in IDP communities did not have access to education,

“With the extended period of displacement of families and their children in evacuation centers or IDP communities, another major concern is the disruption to children’s education. The accessibility of the affected communities to learning opportunities was thus asked in the survey. More than half of the communities (61.5%, n=40) covered by the survey were located near a government-run public elementary school. Sixteen sites (24.6%) had access to an informal/Koranic school, while alternative basic education was available in three communities (4.6%). However, the following six communities do not have any existing structures or opportunities for children’s education: DatuPendi/Green Bunkhouse and Elian (Datu Saudi Ampatuan); Gusan (Guindulungan), Nunangen and Timbaluan (Talayan), and Popoyan (Tulunan).”³³³

In October 2010 *IRIN* reported that 700 IDPs had returned to the village of Madia on the island of Mindanao. The World Food Programme country representative told *IRIN*,

““The harvest is coming in; there is a semblance of normality that is very positive. But not everything can take place overnight, it is a step-by-step process,” he stressed, noting that security remained an issue, while many remote villages were still beyond the reach of humanitarian assistance.”³³⁴

³³⁰ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

³³¹ UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

³³² UN OCHA, Humanitarian Action Plan for the conflict-affected provinces of Mindanao, 3 February 2011, [http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/\\$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/2011_Mindanao_HAP/$FILE/2011_Mindanao_HAP_SCREEN.pdf?openElement), accessed 22 February 2011

³³³ Save the Children, Follow-up Emergency Nutritional Assessment of the Conflict-Affected Communities in Central Mindanao, Philippines, March – April 2010, available from [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/27279D3A16475DEFC125777C004B818A/\\$file/Follow-up+emergency+nutritional+assessment+-+6+Aug+2010.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/27279D3A16475DEFC125777C004B818A/$file/Follow-up+emergency+nutritional+assessment+-+6+Aug+2010.pdf), accessed 1 March 2011

³³⁴ IRIN, Philippines, Peace dividends emerge as Mindanao IDP’s go home, 12 October 2010, <http://www.irinnews.org/Report.aspx?ReportID=90745>, accessed 5 May 2011