

FROM DEFENDERS TO VICTIMS

The Plight of Human Rights Defenders in the Philippines Amidst Continuing Impunity¹

“We leave unmolested those who set fire to the house, and prosecute those who sound the alarm”, said the playwright Sebastien Roch Nicholas Chamfort. It is an apt description to the attacks against human rights defenders in the Philippines today, including human rights lawyers belonging to the National Union of Peoples’ Lawyers (NUPL) and human rights workers of KARAPATAN or the Alliance for the Advancement of People’s Rights.

The government of former President Arroyo has gone from denial to outright gun threat against the messengers exposing systematic extrajudicial killings, disappearances, torture and other horrible violations of human rights, committed against activists, farmers, workers and members of people’s and mass organizations. This has been the case since NUPL and Karapatan joined several other groups in bringing these issues out to the attention of the national and international community.

Human rights defenders work to protect and promote human rights and fundamental freedoms. Unfortunately, being a human rights defender in a country such as the Philippines fraught with a hideous human rights record means putting oneself in the line of fire, as rights violations which one seeks to oppose are heaped on the defender.

Rights Lawyers are Not Insulated

Human rights lawyers and those members of the legal profession who have committed to promote and protect the rights of the people from the abuses of governmental power were not spared from the repression perpetrated through state forces. The clients of these lawyers are the poor and oppressed, who naturally resist exploitation and oppression and whose rights are trampled upon in a society controlled by the few elite and vested foreign interests.

Available data indicates that at least 27 lawyers were killed in the past decade. Eight of these were directly involved in human rights issues, either through lawyering or advocacy; most were also victimized under the previous Arroyo presidency.

Among them was Juvy Magsino, counsel for progressive organizations who was vocal against military abuses and large-scale mining projects affecting the people. She was riddled with bullets while driving her car. Prior to her death, she had been openly threatened by the notorious General Jovito Palparan who is now in hiding after an arrest warrant has finally been issued against him for the disappearance of two university students.

Another is Felidito Dacut who spent all his professional life as counsel for progressive unions, urban poor and people’s organizations. He was shot by armed men riding in a motorcycle while inside a public utility vehicle on his way to buy milk for his 3-year old daughter after he momentarily excused himself from a union meeting.

Still another is Gil Gojol, a former local bar official, law professor and legal counsel of progressive party-list groups and peoples’ organizations. He had just come from a court hearing when four motorcycle-riding men shot at his van.

And there is Concepcion Brizuela, the feisty yet motherly founding member of the NUPL. She was even interviewed by a foreign mission of judges and lawyers regarding the threat on her life before she was killed in the now infamous Maguindanao massacre, the cold-blooded and cruel murders of an unprecedented number of journalists by political warlords closely affiliated with the former administration.

¹ Paper presented by Atty. Edre U. Olalia, Secretary General of the National Union of Peoples’ Lawyers (NUPL) and Cristina E. Palabay, Spokesperson of Karapatan, at the Conference on Defending Human Rights Defenders in London, 24 February 2012, organized by the Haldane Society of Socialist Lawyers, Amnesty International UK and the European Association of Lawyers for Human Rights and Democracy.

During the same period, at least 42 lawyers who were involved in human rights issues and cases were subjected to different forms of attacks. These lawyers and their families received death threats and were subjected to constant or periodic surveillance. Some of them were harassed, intimidated, labelled or red-tagged and placed in the military's Order of Battle, their offices even ransacked by unidentified armed men or their vehicles burned. A number have survived persistent assassination attempts over time like the Filipino premier people's lawyer Romeo Capulong, who is even a UN judge ad litem.

Most, if not all of these incidents or cases have not resulted in any real accountability for the perpetrators, much less were they effectively investigated, and reduced to "cold cases" after public attention has waned.

Under the present government of Benigno Aquino III, the vilification continues, particularly of human rights lawyers defending political prisoners. They are invariably called "left-leaning," "communists" or even "terrorists." Some are openly demonized over the media while others end up being the accused themselves.

Thus is the case of veteran labor lawyer for progressive unions Remigio Saladero Jr. He occasionally represented alleged communist rebels. Together with several other leaders of mass organizations, he was slapped trumped-up charges for the ordinarily non-bailable crime of multiple murder, another anomalous example of the continuing practice of criminalization of alleged political acts.

He was imprisoned for some time during the past Arroyo administration but the charges were dismissed on a nuanced technicality. While in prison, he somehow continued to handle his cases and helped the prisoners with their legal problems and queries. The charges against Saladero and his clients have been revived under the present Aquino administration, and the issuance of totally unjustified and groundless arrest warrants anytime remain a Damocles' sword.

These incidents -- consistent with the open and covert design and objectives of the counterinsurgency programs of the previous and present governments -- victimized rights lawyers. Like their non-lawyer counterparts, they have been labeled as "enemies of the state" along with their clients.

Rights Workers in the Direct Line of Fire

Karapatan's members and volunteers, especially those who work on the ground, have through the years fallen prey to the continuing culture of impunity that has been bred for the longest time by official acts of commission or omission that perpetuate non-accountability for human rights abuses.

Even with a new administration promising to pursue reforms in governance, the practice of killings, disappearances and other human rights violations continue. Being a human rights defender still mean putting one's life on the line. Under the previous Arroyo administration, Karapatan had lost 34 human rights workers of its own in the course of their work as documenters and investigators of rights violations.

Karapatan's regional offices are raided, lobbed with explosives or burned to sow terror among human rights workers. Most of the offices were subjected to surveillance; with suspicious persons casing the offices and threatening their personnel with phone calls or text messages. Their personnel are stalked outright, harassed, or have their photos taken.

Karapatan has been subjected to different vilification campaigns during the course of military operations both in the rural and urban areas. Labelled as communist fronts and tagged as 'terrorist lovers,' Karapatan's members and volunteers have been subjected to different forms of threats, harassments, intimidation, illegal arrests and detention, torture, enforced disappearances and even extrajudicial killings.

Some Karapatan volunteers have been slapped with fabricated charges, in order to instill fear and silence human rights defenders or prevent them from doing their work. The open practice of improvidently using generic designations (“John or Jane Does etc.”) in criminal charges and perfunctorily substituting real names of activist leaders wholesale without priorly existing evidence aggravates the situation. This is on top of the application of still subsisting repressive jurisprudence some dating back to the Marcos dictatorship that throws a monkey wrench to effective legal remedies by persecuted human rights defenders.

Oftentimes, these fabricated charges are packaged as common crimes to conveniently hide the political nature of their alleged acts, deny them bail, make the conviction for simulated evidence even easier, or even scoff at their noble work and advocacy.

The cases of Karapatan leaders Benjaline Hernandez and Eden Marcellana were among the most heinous and much-publicized cases of extrajudicial killings of human rights defenders under the Arroyo administration. Hernandez, who was also a journalist, was killed by military and paramilitary forces while leading a fact-finding mission on the problems of indigenous peoples.

Marcellana, together with peasant leader Eddie Gumanoy, were killed by the roving band of General Palparan ironically while conducting a similar mission on consistent reports of human rights violations. She had been threatened and ridiculed by Palparan and his cabal prior to her abduction and killing.

Frustrated at the flat tires of the wheels of justice in the local front, both cases were brought to the UN Human Rights Committee where clear and categorical rulings in terms of establishing the accountability of the Philippine government and its agents on the killings was found established. Despite the import of these defining rulings, the Philippine government has largely ignored and has not positively acted on the recommendations of the Committee. These cases, as with hundreds more, remain unresolved at the local front, with the local remedies proving to be ineffective despite some initial promise provided by pioneering judicial remedies. The perpetrators are left unpunished to go on with their unscrupulous ways and find new victims to terrorize.

The three are among the 1,206 victims of extrajudicial killings under the Arroyo administration. Of the total number, 153 are women and 476 are human rights defenders (HRDs). There were 206 victims of enforced or involuntary disappearance 31 of whom are women and 68 are HRDs.

The findings of Prof. Philip Alston, then UN Special Rapporteur on summary, extrajudicial or arbitrary executions and his subsequent reports to the UN Human Rights Council directly attributed the extrajudicial killings and rights violations to the military and the Philippine government’s counterinsurgency program cynically called Operation Freedom Watch.

Present Government: Is it turning a Blind Eye or is it Complicit?

The new president Aquino came into power in June 2010, riding on the crest of promise for reforms. But since then, there has been no substantial departure from the human rights policy, and neither is there any change in the fundamental socio-economic conditions that breed these human rights violations. While the numbers have not yet reached the unbelievable frequency and levels during the previous administration, the situation remains disturbing. There has been no let-up in the terror and violence especially against human rights defenders.

In the one and a half years of the present Aquino administration, Karapatan has documented 67 victims of extrajudicial killings, 37 of whom are human rights defenders. There are nine cases of enforced disappearances, three of which are HRDs. Most of the victims are farmers, indigenous peoples, workers, and the urban poor who are defending their fundamental rights to land, jobs, living wages, livelihood and decent housing.

Since 1986, reports of media groups indicate that about 150 journalists have been killed since 1986, a significant number of which were directly related to their exposure of anomalies in

governance at the community or local level. Already, ten journalists have been killed under the present government, the most outrageous of which was the murder of radio commentator Gerry Ortega, an anti-mining advocate in his island-province who was also critical of graft and corruption in the local government.

The legal proceedings in the infamous Maguindanao massacre of November 2009 resulted in the daylight carnage of about 32 media persons out of about 54 in their convoy. The case has not progressed in any significant way and has been bogged down, as with most legal cases in the Philippines, by an inefficient and tedious legal procedure within a justice system that many view as slanted towards or taken advantage of by the political and economic elite.

There are hundreds more not so prominent human rights defenders that endured or labored, or still endure and labor. This has been made possible by an oppressive and exploitative economic system and milieu that is engendered by a political framework and legal system that unleashes repression, or at least turns a blind eye to it or presents almost insurmountable obstacles under already difficult and dangerous conditions.

The list includes grassroots party-list member Fernando Baldomero who was killed by the military who covered up their abominable act to ridiculous lengths by presenting a storyline tattered with inconsistencies. Another example is a young student leader Maricon Montajes who was wounded by military gunfire when she was regarded as a rebel despite being unarmed. The artist-journalist Ericson Acosta was accosted and made to face an incredulous charge of illegal possession of explosive when all he had was a laptop that he was tagging along in his field research. Both Montajes and Acosta remain incarcerated on false charges, their cases in court moving at a snail's pace.

There remains a marked passivity and even nonchalance on the part of the present Aquino government as a whole as it largely fails to even measure up to its own cheap and tepid rhetoric to run after human rights violators, let alone the most callous and remorseless ones. It leaves the herculean tasks to the victims themselves or their relatives and human rights groups to search for concrete justice. Worse, these perpetrators remain in the service of security forces, ever ready to pounce on new hapless victims.

Key Threats and Challenges

We can perhaps glean from the experience of both NUPL and Karapatan as discussed in the foregoing sketch some of the key threats and challenges to human rights defenders in pursuing their advocacy of promoting and protecting human rights:

1. Threats to life and limb, including harassment and intimidation by state forces;
2. Violation of their civil and political rights and rights as human rights defenders;
3. Baseless labelling, vilification and political persecution through the slapping of trumped-up charges through ignominious means and legal procedure;
4. Ineffective or impractical local remedies as well as double standard and even bias of a political milieu, judicial framework and penal system that frustrate any serious effort at accountability for rights violations and which contribute to and engender impunity; and
5. Counterinsurgency programs or policies that cripple civil and political rights, including the people's right to be organized and freedom to peaceably assemble.

Responding to Defenders under Attack

It is important and helpful that a strategic, sustained and effective response to these threats and attacks be developed lest more human rights defenders be human rights victims themselves. We venture to suggest some:

1. The campaign and advocacy against impunity should be strengthened and expanded even more on the national and international fronts. Publicity must also be maximized in intergovernmental bodies, fora and international media. This shall not only raise public awareness but also help shape the policies and responses of government;
2. Sustained and dedicated organizing among human rights defenders is imperative in strengthening the campaign. Linkages and networking with international human rights organizations, lawyers groups, parliamentarians and policy-makers should be likewise established, developed and sustained at the national, bilateral and multilateral levels;
3. A centralized monitoring centre to receive and monitor cases of attacks against human rights defenders would be useful. These centers should be accompanied by Quick Response Teams (QRT) which should be able to give an immediate and timely response;
4. Legal assistance should be provided for human rights defenders or their families in defending them against fabricated or unwarranted charges AND prosecuting cases against those responsible for violating their rights. There must also be systematized monitoring of such actions and timely material, moral and political support therefor. Genuine and lasting reforms must be pushed to strengthen and develop effective local remedies; and
5. A sanctuary or practical support mechanism should be prepared or provided human rights defenders under serious attack and their families and those who are key witnesses in cases involving issues on human rights.

To Defend the Defenders is to defend the Victims

Much has to be done. Clearly, with the Philippine government barely lifting a finger to end the climate of impunity, ending the spate of killings, disappearances and other rights violations rests on the perseverance and struggle of the people's movement, of which people's lawyers and human rights workers are part of, and the solidarity of all peoples against tyranny.

The necessity of defending human rights defenders is made imperative by the fact that it actually and basically means defending the victims themselves and upholding human rights. We must all get together and continue our solidarity. We shall overcome because we stand by and are on the side not only of the victims but the defenders who fight against the onslaughts on human rights in the battlefield towards social justice.

Human rights defenders may continue to face the perils in their line of work but it will never be enough to water down their passion in working for the causes that they believe in. It is most especially when human rights defenders become victims of human rights violations themselves that we must close ranks and consolidate in order to stand our ground amidst the vicious onslaughts by those who deny us of our humanity. Their idea is to sow terror and make us cower in fear. This we shall never allow. #