

HUMAN RIGHTS WATCH

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March 28, 2012

Lt. Gen. Jessie D. Dellosa
Chief of Staff
Armed Forces of the Philippines
Camp Aguinaldo, Quezon City

Via facsimile: +63 2 911 6436

Re: Addressing human rights violations implicating the armed forces

Dear General Dellosa,

Congratulations on your appointment as chief of staff of the Armed Forces of the Philippines (AFP). We look forward to working with you to improve human rights protection in the Philippines.

Human Rights Watch commends you for the commitment that you made during your December 2011 change of command ceremony to address corruption within the military. We urge you also to use your leadership as an opportunity to end impunity for human rights abuses within the armed forces and leave as your legacy a professional, accountable military. To that end, we write to ask you to take action to end extrajudicial killings, ensure that your soldiers are held accountable for rights abuses, professionalize the security forces, and protect children's rights in the context of armed conflict.

Human Rights Watch is an independent, nongovernmental organization that monitors human rights developments in more than 90 countries around the world. For more than 30 years Human Rights Watch has investigated and reported on human rights abuses by governments and non-state actors such as businesses and opposition armed groups, including the communist New People's Army and the Abu Sayyaf group.

1. End impunity for extrajudicial killings and enforced disappearances

Philippine security forces and their proxies have in the past decade been implicated in the killing of hundreds of leftist activists and politicians, outspoken clergy, labor leaders, and human rights advocates with impunity. In our July 2011 report on extrajudicial killings, "No Justice Just Adds to the Pain," we documented at least seven cases of extrajudicial executions and three cases of enforced

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disappearance occurring during the Aquino administration in which there is credible evidence of military involvement.¹

Despite promise of reform by President Benigno Aquino III, a damaging climate of impunity persists, which the military fosters. Only seven cases² of extrajudicial killings, involving 11 defendants, from the past decade have been successfully prosecuted, none since President Aquino took power and none involving active duty military personnel.

Although the public rhetoric of senior military officers has improved since Aquino took office, this has not resulted in better military cooperation with investigating authorities, comprehensive internal investigations of implicated military personnel, or increased openness within the military structure. Further, the military continues to deny outright the vast majority of allegations of soldiers participating in extrajudicial killings and enforced disappearances and has not reformed the policies and practices that foster an environment in which such abuses are tolerated.

Non-state armed groups such as the New People's Army and Islamist militants have also committed abuses in violation of the laws of war, including deliberate killings of civilians. However, abuses by one side are never justifications for abuses committed by the other side.

In a July 2011 meeting with Human Rights Watch, Defense Secretary Voltaire Gazmin undertook to investigate the 10 cases documented in "No Justice Just Adds to the Pain" and to report back within 60 days. To this date, despite follow-up, we have not received any report of military investigations into these cases.

One challenge to military accountability is the internal investigation structure, which should operate to discipline members of the military for perpetrating rights abuses

¹ Killings of Fernando "Nanding" Baldomero, July 5, 2010; Pascual Guevarra, July 9, 2010; Reynaldo "Naldo" L. Labrador, September 3, 2010; Rene "Toto" Quirante, October 1, 2010; Ireneo "Rene" Rodriguez, November 7, 2010; and Rudy and Rudyric Dejos, February 27, 2011. Enforced disappearances of Agustito Ladera and Renato Deliguer, August/September 2010; and Alfredo Bucal, November 10, 2010.

² On January 29, 2010, Robert Woo was convicted of murder, as an accomplice, for the May 2005 killing of radio commentator Klein Cantoneros. On April 29, 2009, Joy Anticamara was convicted for the July 2006 murder of radio broadcaster Armando Pace. In March 2009, Rafael Cardeño was convicted for the December 31, 2001 murder of reported whistleblower and Young Officer's Union spokesperson Baron Alexander Cervantes; Jaime Centeno, Joseph Mostrales, and Erlindo Flores had been convicted in August 2004. In June 2008, Joel Flores, former military at the time of murder, was convicted for the May 16, 2006 murder of Bayan Muna Secretary-General Jose Doton. In October 2006, Gerry Cabayag, Randy Grecia, and Estanislao Bisamos were convicted for the March 2005 murder of journalist Marlene Esperat. In January 2006, Edgar Belandres was convicted for the November 2004 murder of Allan Dizon, a photographer for *The Freeman*. In November 2005, Guillermo Wapili, a former police officer was convicted for the May 2002 murder of radio commentator Edgar Damalerio.

that violate military policies. These investigations are necessary in addition to criminal investigations to send a clear message that the military does not tolerate rights abuses.

The AFP Human Rights Office both publicly defends the military when soldiers are implicated in rights violations and carries out investigations of rights violations. This conflation of contradictory functions undermines the office's credibility for both tasks. Human Rights Watch urges you to clearly separate these functions. While the provost marshal, the inspector general, and the judge advocate's office are usually charged with internal military investigations, in practice they do not actively investigate human rights abuses.

Based on a list provided to Human Rights Watch, the AFP's Human Rights Office has acted on at least 59 cases that were brought to its attention in 2011, but only three personnel in those cases have been disciplined under the articles of war. There are no cases undergoing general court martial or so-called Efficiency and Separation Board proceedings. More than half of the cases—32—have either been dropped or closed. Sixteen of the 18 extrajudicial killings or murder cases have been dropped or closed; in two cases the perpetrators have been disciplined. The AFP said it forwarded 25 cases to the courts and the Commission on Human Rights, where they remain pending.

To illustrate, Lt. Col. Felipe Anotado and Staff Sgt. Edgardo Osorio, the officers accused of kidnapping and illegally detaining Sherlyn Cadapan and Karen Empeño in 2006, currently in military detention, have not faced military disciplinary action. (Their co-accused in the case, Maj. Gen. (ret.) Jovito Palparan and Master Sgt. Rizal Hilario, remain at large.) Human Rights Watch urges you to order the inspector general to urgently investigate this case and to suspend the officers while the investigation is ongoing.

In order to end impunity for extrajudicial killings, we urge the AFP to:

- Cease all targeting of civilians and extrajudicial killings and enforced disappearances of all persons in custody.
- Issue a public order to all forces stating clearly that political activists, unionists, and members of civil society groups among other civilians are to be distinguished from combatants participating in the armed conflict. In addition, reiterate to all forces Internal Peace and Security Plan (IPSP) Bayanihan's emphasis on international human rights and humanitarian law as one of its two "strategic imperatives."

- Cease the routine denial of involvement in reported cases of extrajudicial killings and enforced disappearances.
- Order the Inspector General and the Provost Marshal to promptly and impartially investigate human rights abuses.
- Suspend military personnel implicated in extrajudicial killings or enforced disappearances while an investigation is ongoing.
- Fully comply with all inquiries by investigative bodies including legislative committees and public officials.
- Fully assist authorities in apprehending members of the armed forces, regardless of rank, implicated in extrajudicial killings and other serious human rights violations.
- Work with the civilian authorities to ensure that Palparan faces trial in a civilian court. Publicly announce to all soldiers and officers of the AFP that assisting Palparan in avoiding arrest or failing to cooperate with civilian authorities is obstructing justice and as such they will be investigated and may face disciplinary and/or criminal charges.

2. Address abuses by paramilitary forces

The AFP continues to use paramilitary forces, such as Civilian Armed Force Geographical Units (CAFGUs) and Civilian Volunteer Organizations (CVOs). In numerous provinces, ruling families use militia forces and local police as their private armies or the government deploys these “force multipliers” to help secure business interests.

These militias have long been implicated in committing human rights abuses such as extrajudicial executions, torture, abductions, and threats against suspected leftists. The most egregious atrocity implicating a ruling family in recent years, the November 2009 Maguindanao massacre, was carried out by a state-backed militia consisting of government-endorsed CVO, Special CAFGU, and Police Auxiliary Unit members, as well as soldiers and police officers.

We recognize that the Philippines continues to face genuine internal security threats. However, Philippine history shows that seeking to replace professional armed forces and police with armed yet untrained or barely trained civilians is dangerous and counterproductive.

To bring greater professionalism to the Philippine armed forces, we urge the AFP to:

- In the absence of a government directive banning all paramilitary groups, immediately disarm and disband the CAFGU and Special CAFGU implicated in serious human rights violations.
- Make public the guidelines under which all paramilitaries operate, including policies regarding recruitment, training, arming, supervision, and discipline.

3. Cease falsely tagging children as rebel fighters

Human Rights Watch has documented several instances in which soldiers have falsely tagged children as “NPA child soldiers.” In six cases involving 12 children since President Aquino took office, the AFP took custody of children and later publicly alleged that they were “child warriors” working with the NPA. Human Rights Watch investigated three of these cases—involving six children—and found strong evidence indicating that the accounts of their involvement with the rebels were fabricated by the military.

In each of the cases we investigated, the army paraded the children in front of the media, publicly branding them rebels. In two of the cases, the army detained the children for several days, in violation of Philippine law, before handing them over to the custody of the Department of Social Welfare and Development.

We urge you to order AFP personnel to stop this practice of falsely tagging children as leftist rebels and order an investigation into those responsible.

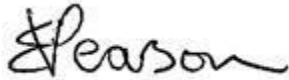
4. End military use of schools

During investigations in the Cordillera Autonomous Region in December 2011, and in Mindanao in February 2012, Human Rights Watch found seven cases in which the military, in violation of Philippine and international law, had used parts of functioning schools as barracks or bases for military detachments since 2009. This military use of schools lasted for periods ranging from three months to more than a year.

We urge you to protect students and teachers by ordering the armed forces to respect the law and to stay out of educational facilities. Putting schools and their students in the line of fire places them at grave risk.

We look forward to work with you on these important issues. Please do not hesitate to contact me to discuss these matters further.

Sincerely,

A handwritten signature in black ink that reads "Pearson". The signature is written in a cursive style with a large, stylized 'P'.

Elaine Pearson
Deputy Director
Asia Division

Cc:

Hon. Voltaire Gazmin, Secretary of National Defense

Jose L. Cuisia, Jr., Ambassador of the Republic of the Philippines to the United States of America