

Philippines

International Fact-Finding Mission Preliminary conclusions

Torture, enforced disappearances and extrajudicial killings are common practice in the context of the “war on terror”

Paris, 30 August 2007: *Increasing allegations that the Filipino government’s fight against terrorism causes specific human rights violations, combined with the recent adoption of a new anti-terrorism law led the FIDH to send three independent experts to carry out a fact finding mission in the country. FIDH benefited from the support of its national member, the Philippine Alliance of Human Rights Advocates (PAHRA). The preliminary conclusions of the mission are very worrying: it appears that torture, enforced disappearances and extrajudicial killings are common practice in the Philippines in the context of the “war on terror” condoned by the USA. A detailed report on the situation will be issued in the coming weeks.*

Mandate of the fact finding mission

The mandate of the FIDH mission was to examine whether the Filipino government abides by its commitments to respect international human rights standards while fighting terrorism, in particular the absolute prohibition on torture. The three FIDH experts, Mr. **Nabeel Rajab** (Bahrain), Mr. **Mouloud Boumghar** (France) and Mr. **Frédéric Ceuppens** (Belgium), visited the Philippines from August 13 to 23, 2007. The team conducted most of its work in different areas of Metro Manila and in the island of Mindanao. In conformity with a well-established practice of FIDH, and in order to ensure objectivity, they met with the Armed Forces of the Philippines (AFP) together with the Chief of Staff of the Philippines National Police, a representative of the Commission on Human Rights, members of the House of Representatives and of the Senate, local authorities, the Joint Enforcement and Monitoring Committee to Implement the Peace Agreement between the National Democratic Front of the Philippines (NDFP) and the Government of the Republic of the Philippines, representatives of civil society, victims of torture and members of their families, detainees suspected of belonging to insurgent groups, as well as representatives of the Moro Islamic Liberation Front (MILF) and the Moro National Liberation Front (MNLF). FIDH welcomes the cooperation of the authorities and warmly thanks PAHRA for its precious support. More generally, FIDH extends its thanks to all the persons met by the mission.

The situation is increasingly tense in the fight against terrorism in the Philippines

For decades, the Filipino government has been facing self-determination claims by the MNLF and the MILF in the southern island of Mindanao. Another armed group, the New People’s

Army, of Marxist ideology, has also been fighting the government for more than 30 years. More recently, the armed groups Abu Sayyaf and Jamah Islamiyah have appeared in the country.

In the aftermath of September 11, 2001, the President Arroyo administration acceded to US President Bush request to join the “war against terror”. One of the consequences was the entering into force (on July 15, 2007) of an anti-terror law, called the Human Security Act. This law has already been highly criticised by the human rights community.¹

Last month, the beheading of 10 Filipino soldiers on the southern island of Basilan, allegedly perpetrated by the Abu Sayyaf Group, further increased dangerous tensions, leading to the displacement of numerous persons and the killing of innocent civilians.

The preliminary results of the FIDH mission show that the practice of torture and ill-treatment is widely used against people suspected of being “terrorists”.

Testimonies collected by the mission confirm that torture occurs in most cases when the AFP arrest someone suspected of terrorism or of being an “enemy of the State”. Certain persons met by FIDH spoke about a “culture of torture” within the Armed Forces of the Philippines, or mentioned that torture “accompany every military operation”.

In most cases, torture occurs during the investigation period, between the moment of the arrest and the transfer of the suspects to jail. Victims met by the mission unanimously pointed to the responsibility of the Armed Forces of the Philippines (AFP), or to the National Police of Philippines (PNP). Sometimes, torture is reportedly practised by civilian auxiliaries under the control of the AFP.

In the majority of the cases, victims are arrested without a warrant and with no explanation, blindfolded and handcuffed before being brought to a military camp or a secret location, where they are forced to admit that they are members of “terrorist groups” like the Abu Sayyaf Group or the NPA. The majority of the persons arrested are punched in the chest, beaten with rifles and threatened with death. Certain victims interviewed reported suffocation with a plastic bag, electrocution, deprivation of sleep and threats against relatives. Suspects are often required to sign a testimony under duress before being brought to a prosecutor. Time in custody varies between three days and several weeks. Victims are afterwards imprisoned, waiting several years pending trial, as the judiciary is very slow. Torture does not seem to occur in jail, even if overpopulation makes detention conditions precarious.

The case of the Brothers Manalo (Raymond and Reynaldo), who were forcibly abducted on 14 February 2006 in San Ildefonso, Bulacan, and have now surfaced after having escaped from their captors on 13 August 2007. Their narration of torture² during their captivity confirms the fear of FIDH that torture is presumably regular in the process of arrest or abduction by the military or police.

The Filipino government is a party to the International Covenant on Civil and Political Rights (ICCPR), as well as to the UN Convention against Torture (CAT). As such, it committed itself to respect the absolute prohibition of torture. Nevertheless, torture is not criminalised under

¹ See FIDH press release “New Threats for Human Rights”, 20 February 2007, http://www.fidh.org/article.php3?id_article=4059. See also Press Release “UN Special Rapporteur calls for changes to the Philippines Human Security Act”, 12 March 2007, <http://www.unhchr.ch/huricane/hurricane.nsf/view01/33A881E349623E3CC125729C0075E6FB?opendocument>.

² Petition filed August 23, 2007, PM 1:11. G.R. No. 179095 at the Supreme Court by Raymond Manalo and Reynaldo Manalo as Petitioners versus The Secretary of National Defense, The Chief of Staff, Armed Forces of the Philippines as Respondents.

Filipino domestic law. In addition, it is the victim of acts of torture who bears the burden of proof when a case is filed for aggravated injury.

Extrajudicial killings seem more frequently reported than cases of torture.

Medical reports are often non-existent or so vague that it is impossible to determine either the cause of the death, or whether the victim was tortured. Doctors and witnesses are regularly threatened by the perpetrators.

The AFP introduced the FIDH mission to the different mechanisms and initiatives put in place to cope with the respect of human rights.

FIDH seriously doubts that such mechanisms are being effectively implemented, as very few perpetrators of extrajudicial killings (and no high-ranking officials) have been prosecuted so far, whereas the estimates vary from 100 to 800 or more extra-judicial killings in the Philippines since 2001.³ This extremely worrying situation raises the question of the efficiency of the judiciary on the one hand, and of the political will to prosecute the perpetrators on the other.

The inefficiency of the government “Witness Protection Programme” is referred to as the main reason why victims and witnesses are reluctant to show up. In addition, many victims do not trust the judiciary at all. Beyond the lack of resources, judges and lawyers are reportedly victims themselves of pressures or of extrajudicial killings.⁴ This contributes to a “culture of impunity”, which condones the perpetration of further human rights violations.

The entry into force of the anti-terrorism law (so-called “Human Security Act”) last July could lead to an increase in the number of acts of torture and extra-judicial killings in the framework of the fight against terrorism.

This law, passed under strong US influence, notably provides for a very vague definition of the crime of terrorism and gives the authorities the power to “list” terrorist organisations. Those provisions are likely to encourage more arbitrary arrests. Further, the Act gives extensive power to the Executive, mainly through the newly established “Anti-Terrorism Council”; the accountability for human rights violations of this body is not addressed at all. In addition, arrest without warrant and detention with limited judicial control are extended, whereas it is precisely in such circumstances that torture occurs.

Some officials interviewed by the mission said that the Human Security Act is not likely to be used in practice. The main reason is that it contains a number of provisions to prevent abuse by the army and the police; in particular, 500,000.00 PhP a day (approximately 12,500 US dollars) shall be paid to the person charged of terrorism upon his acquittal or the dismissal of the charges against him.⁵ Prosecution may consequently keep relying upon the Revised Penal Code to avoid facing such risks. Members of civil society expressed deep concern that this provision could have an adverse effect: members of the law enforcement agencies could prefer to kill the suspect instead of taking the risk of having to face the financial cost of an acquittal.

³ Preliminary note on the visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, to the Philippines (12-21 February 2007), A/HRC/4/20/Add.3, 22 March 2007.

⁴ “From Facts to Action”, Report on the attacks against Filipino Lawyers and judges, The International Fact Finding Mission, released by the Dutch Lawyers for Lawyers Foundation on July 24, 2006.

⁵ Section 50 of the Human Security Act (Republic Act No 9372).

Based on those findings, FIDH and The International Rehabilitation Council for Torture Victims (IRCT) therefore notably *ask the Filipino government*:

- to ensure that “terrorism” is not invoked as an excuse for human rights violations and to ensure the necessary compatibility between the respect for human rights and the fight against terrorism⁶;
- to repeal or at least revise the Human Security Act in view of the above-mentioned flaws;
- to ensure fair and public hearings by a competent, independent and impartial tribunal established by law for all persons suspected of being “terrorists”, in a timely manner;
- to investigate seriously the allegations of involvement of members of law enforcement agencies in extrajudicial killings, acts of torture and enforced disappearances, and to ensure that they are judged in conformity with fair trial standards ;
- to ensure the effectiveness of the “Witness Protection Programme”;
- to ensure the inadmissibility in court of any confession obtained under duress, in all cases and not only in the framework of the anti-terrorism legislation, in conformity with Article 15 of the CAT;
- to criminalise torture in the Filipino domestic legal order in accordance with Article 4 of the CAT and in line with Article II, Section 11 and Article III, Section 12 of the Filipino Constitution;
- to criminalise enforced disappearances in the Filipino domestic legal order in conformity with Article 4 of the the International Convention for the Protection of All Persons from Enforced Disappearance, and to ratify and implement this Convention;
- to establish appropriate criminal, civil and administrative sanctions for violations of the legality of the procedure (arrest, interrogation, treatment of detainees, etc);
- to adequately compensate victims of acts of torture and their family, in conformity with Article 14 of the CAT and establish programmes for the reparation and rehabilitation of victims of torture;
- to strengthen the effectiveness of the judiciary;
- to ensure permanent dialogue with Filipino civil society, in particular human rights defenders;
- to regularly report to the UN Security Council Committee Against Terrorism on the legal framework on the fight against terrorism and the mechanisms established to guarantee the respect of human rights in that framework;
- to invite the UN Special Rapporteur on Torture in the Philippines, as well as the UN Special Rapporteur on the Promotion and Protection of Human Rights while Countering Terrorism;

FIDH and IRCT unreservedly condemn ***human rights violations perpetrated by non-State actors*** and call upon them to strictly abide by international human rights and humanitarian law.

FIDH and IRCT ***ask the US government*** to support the Philippines in its efforts towards ensuring compatibility between human rights and the fight against terrorism.

Bearing in mind that the fight against torture is a priority of ***the European Union*** under the EU Guidelines on torture and other cruel, inhuman or degrading treatment or punishment, FIDH and IRCT ask the EU to address the issue of the human rights violations perpetrated in the name of the fight against terrorism in the framework of its dialogue with the Filipino authorities.

⁶ See *Counter-Terrorism versus Human Rights: The Key to Compatibility*, FIDH, Analysis Report, N 429/2, October 2005. <http://www.fidh.org/IMG/pdf/counterterrorism429a.pdf>



Compostela Valley Provincial Jail, Davao, Mindanao



Metro Manila District Jail



Meeting with leaders of the Armed Forces of Philippines