

SURVIVING THE FRONTLINES

Resisting Attacks Against
Human Rights Defenders

**Surviving the Frontlines:
Resisting Attacks Against Human Rights Defenders**

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Published by

National Union of Peoples' Lawyers (NUPL) with the support of the European Union (E.U.),
through its European Instrument for Democracy and Human Rights (EIDHR)
November 2013

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INTRODUCTION

Through the years, human rights defenders played a crucial role in the struggle for human rights. Aside from advocates of human rights, they are the ones who are actually doing the spade work, the ones in the battlefield, so to speak. In all cases of human rights violations, whether a case of extrajudicial killing, an enforced disappearance, or any other form of such violations, it is always the human rights defenders who respond, and almost always are the first ones on the scene.

They document, they interview, and they assist the victims and/or their families. Their line of work made them targets of human rights violations. They are either killed, disappeared, arrested based on trumped-up charges, and/or suffer other forms of intimidation and harassments.

This publication, “*SURVIVING THE FRONTLINES: Resisting Attacks Against Human Rights Defenders*”, published by the National Union of Peoples’ Lawyers (NUPL), with the support of the European Union (E.U.), through its European Instrument for Democracy and Human Rights (EIDHR), is a fitting tribute to human rights defenders who put their life on the line, and an opportunity to draw attention to their plight. It is a compilation of selected stories of human rights defenders who have fallen victims to human rights violations.

Through this publication, the NUPL tells their story, their struggle, their travails, their bravery and the fate they have fallen into. The publication highlights the fact that these human rights defenders are ordinary citizens who decided to sacrifice their comfortable life or even their own personal struggles to provide assistance to victims of human rights violations, and in the process became victims themselves.

While only selected stories are included in this publication, these give us a glimpse into the bravery and dedication of, and the danger faced by, all human rights defenders, who have unselfishly dedicated their work and their life for the protection of human rights.

We hope that these stories will not only convey the message that the human rights defenders in the Philippines are under attack, but also serve as inspiration not only to other human rights defenders, but to us all, and further strengthen our resolve for the struggle of human rights.

ATTY. EPHRAIM CORTEZ

Assistant Secretary General for Legal Services, Education and Research
National Union of Peoples’ Lawyers



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FR. FAUSTO “POPS” TENTORIO: One with the people

By Minnie Lopez

“Why kill him who takes care of the oppressed?”¹

On October 17, 2011, the town of Arakan in North Cotabato woke up to a heart-rending and tragic news: Fr. Pops is dead.

The man, who defended and championed the rights of peasants and indigenous peoples against exploitation, oppression and tyranny, was dead. He was ruthlessly shot at close range, his body riddled with 10 bullets from a 9mm pistol by a motorcycle-riding assassin.

Fr. Fausto Tentorio, fondly called Fr. Pops, was at the time of his killing, the 54th victim of extrajudicial killing under the Aquino administration. He was the first Roman Catholic priest to be so killed.

One with the Struggle

Fr. Pops was a newly-ordained priest when he came to the Philippines in 1978 as a missionary. He first served in the Archdiocese of Zamboanga and then in the Diocese of Kidapawan in Sultan Kudarat. He was transferred to

1 A comment posted online as a reaction to the murder of Fr. Pops and cited by former Bayan Muna Representative Satur C. Ocampo in his article entitled “Don’t Give Us Platitudes in Exchange For Our Grief” for his Philippine Star column, “At Ground Level.” The same article was re-published online at bulatlat.com, <http://bulatlat.com/main/2011/10/28/dont-give-us-platitudes-in-exchange-for-our-grief/> last accessed on 13 July 2013.

Arakan in 1985 and from then on, had devoted more than 30 years of his life learning from the masses, working for and with them and struggling with them.

Fr. Pops arrived in a time where the entire country was in a quagmire. It was martial law then. There was widespread poverty, oppression and human rights violations were rampant. He came to learn more of these, especially so in Mindanao where he was to serve his mission.

Being exposed to this poverty in Mindanao, Fr. Pops knew that he needed to devote his life for the welfare of the people. At first, he tried to do what he knew he needed to do: devote his time in raising funds for the peasants and the indigenous peoples in his area to increase their productivity and livelihood. He devoted himself to providing for the health and education in the poor communities.

His painstaking work and life in the poor communities in the province made him realize that it is not enough to give them farming tools or money to buy and raise farm animals. He learned that in order to solve the problems of poverty and oppression, there must be something more to do. He started organizing and giving support to farmers and peasants in poverty-stricken communities. He helped educate them and in solidarity, struggled with them in their fight against land monopoly and usury, against incursions in ancestral lands and militarization. In short, Fr. Pops believed that the only way to help the poor is through people's struggle.

But it was never a one-way thing. Fr. Pops also learned from the masses. His exposure to and life with the people raised his consciousness about their life, their plight and their struggles.

Fr. Pops became a staunch human rights advocate and defender. He organized the Tina-nanon-Kalamanon Lumadnong Panagh-huisa (Tikulpa), an organization for indigenous peoples' rights against land grabbing being perpetrated by agribusiness plantations in Arakan Valley. He also acted either as a convenor or member of various organizations and networks against large-scale mining and US intervention in Mindanao.

Fr. Pops served as one of the witnesses in a case filed against soldiers involved in the killing of campus journalist and human rights worker Benjaline Hernandez. He advocated for just and last peace and the peace process.

His involvement with the poor and his advocacy caught the ire of the military and paramilitary forces. In 2003, through the help of the Lumad community who were able to hide and protect him, he escaped an assassination

attempt in the hands of the Bagani Force – a paramilitary group operating under the 73rd Infantry Brigade of the Philippine Army.

Victim of Oplan Bayanihan.

“If you see Fr. Pops, kill him.”²

This was allegedly the marching order of John Corbala alias Commander Iring, to members of the anti-communist paramilitary group, Bagani Force. He was tagged as one of the perpetrators in the gruesome murder of Fr. Pops.

The use of paramilitary forces in the anti-insurgency campaign is not something new.

In 1985, at the height of the low-intensity conflict of then President Corazon Aquino, another Italian priest, Fr. Tullio Favali was killed by another paramilitary group, the *Ilaga*, notable for rattling communities searching for NPA and Moro rebels. Their leader, Norberto Manero was sentenced to jail for the killing of Fr. Favali.

Twenty-six years later and in the midst of the heightened resurgence of human rights violations, this time under the Noynoy Aquino administration, state-sponsored and state-perpetrated violence under the guise of the so-called counter-insurgency program dubbed as the *Oplan Bayanihan* claimed another victim, this time in the person of Fr. Pops.

The strategy, tactic (extrajudicial killing), the manner (motorcycle-riding assassin), the victim (human rights defender), and the perpetrator (military/paramilitary group): everything looks and sounds too terrifyingly familiar.

State-sponsored violence characterizes the culture of impunity hounding the country today, which already claimed thousands of victims, from extrajudicial killings, enforced disappearances, torture, and various forms of harassment. It respects no one: man or woman, child or adult, civilian or armed. As one newspaper editorial puts it, if one dedicates his life to help the

2 ‘Militiaman Surfaces as Witness in Fr. Pops’ Slay,’ Karlos Manlupig, Philippine Daily Inquirer, November 9, 2012 at <http://newsinfo.inquirer.net/304266/militiaman-surfaces-as-witness-in-fr-pops-slay> last accessed on 14 July 2013.

downtrodden, he will be viewed as a “communist”, and therefore an anathema. And, authorities, including their militias, continue to implement efforts to root out this “evil.”³

As justice becomes elusive, impunity continues.

Almost two years after his murder, Fr. Pops’ killers remain free. The Department of Justice has authorized North Cotabato Regional State Prosecutor for Al P. Calica to take charge of the investigation of the case. Clarificatory hearings were conducted last July 24 and 31, 2013. However, at present, the case is still under evaluation. The DOJ issued Department Order No. 35 prohibiting other agencies from issuing their evaluation of the case until the inter-agency task force comes up with its own findings.

While justice in the killing of Fr. Pops remains elusive, the extrajudicial killings continue. That justice is slow is an understatement. The killings and the disappearances must stop and the perpetrators must be held accountable for their crimes.

3 “Impunity in Arakan,” Philippine Daily Inquirer Editorial, October 19, 2011. The 3rd paragraph, for emphasis, reads in full as follows:

“Observers attentive to the lay of the land, as it were, would spot the key words—“a true servant,” “active among the poor,” empowerment of the marginalized—and recognize the cues. In this neck of the woods, men and women who take it upon themselves to fill the yawning gaps created by the government’s blatant absence, and who, for example, make it their life work to lift the downtrodden from the swamp of poverty and ignorance, continue to be viewed as “communist” and therefore anathema. And authorities, including their militias, continue to implement efforts to root out this “evil.”



WILHELM

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WILHELM GEERTMAN: A foreign missionary who had a heart for Filipinos

By Liam Dennis

Wilhelmus Johannes Joseph Lutz Geertman, “Wilhelm”, “Willem” or “Wim” to his friends, was a Dutch national who dedicated more than 30 years of his life as a development worker and advocate in the Philippines.

He came to the Philippines in the late 70s as a volunteer lay missionary of the Prelature of Infanta. His mission was to establish a “Church of the Poor” starting with a program for health and adult education in the area. True to his mission, Wilhelm lived and worked among the poor in Baler, Maria Aurora, Dipaculao, and San Luis in the Province of Aurora. He was instrumental in organizing, uniting and empowering oppressed peasants and indigenous peoples. He led and supported them to form various sectoral and human rights organizations directed towards asserting their basic rights and resisting any form of exploitation and oppression by those in authority.

In 2009, Wilhelm was appointed executive director of the disaster response group Alay Bayan-Luzon Inc (ABI). At the time of his death, ABI served over 100 communities of the region affected by disasters and environmental degradation both in terms of relief and delivery operations and in empowering the people most vulnerable to disaster calamities.

Wilhelm oversaw projects which helped people prepare for and recover from the effects of natural disasters and to help people organize in areas where they risked economic, cultural and physical displacement due to government and corporate projects. He was also active in campaigning against corporate mining, logging and other projects that adversely affect the Filipino people and destroy the environment, such as the development of Aurora as an economic zone under the Aurora Pacific Economic Zone (APECO).

As a result of his work, Wilhelm was no stranger to threats, intimidation, vilification and harassment from government forces. For example, under former President Gloria Arroyo's Oplan Bantay Laya, the military propagated a fake letter of communication indicating Wilhelm was a ranking leader of the underground revolutionary movement and was gathering support for the making and stockpiling of improvised explosives.

Further, at one barangay meeting in Aurora, Wilhelm confronted soldiers who referred to him as a spokesperson of the National Democratic Front (NDF). On another occasion, Wilhelm and a colleague were almost run over by a speeding motorcycle which suddenly emerged from near a police station. Staff members of the ABI, and neighbors had observed suspicious looking men in the vicinity of ABI's office days before he was killed.

Nevertheless, Wilhelm was unwavering in his commitment to be among the poor, organizing them to defend their rights and the environment.

Murder

On the morning of July 3, 2012, Wilhelm, together with a colleague and a driver, went to the bank to withdraw some money. When he returned to the ABI office, Angeles City, Pampanga, Wilhelm alighted from the vehicle, walked to the gate and rang the doorbell. The gate was opened by another colleague and Wilhelm entered the premises. Suddenly, two armed men barged into the gate. They accosted and cursed Wilhelm and pointed a gun at him. Surprised by this turn of events, Wilhelm turned around to face the men and defenselessly raised both hands. He was forced by the men to turn his back and one of them took hold of his collar and forced him to kneel down. Then, one of the gunmen shot him in the back.

A witness who was on the terrace recounted that "the gunman was swift, but without rushing and with precision, chose a spot on Wilhelm's back and shot him."

One of the gunmen took Wilhelm's shoulder bag which contained the money he had withdrawn earlier. The gunmen poked their guns at the witnesses and rushed outside to a waiting motorcycle with a driver and swiftly rode away. Wilhelm was rushed to a nearby hospital but was pronounced dead on arrival.

Investigation and legal proceedings

The key issue in this case has been whether Wilhelm was the victim of extrajudicial killing and his being shot constitutes murder; or, the lesser charge

of robbery with homicide. The authorities were fast to conclude that the case was robbery with homicide and on July 16, 2012, the police filed a criminal complaint against a respondent and four (4) John Does to that effect.

Disagreeing with the findings of the police investigators, Wilhelm's fiancée, Maria Santiago filed an affidavit complaint on August 12, 2012 charging Harold Dela Cruz, the same respondent charged by the police investigators, and a new respondent, Marvin Marsan, for murder. Marvin Marsan, who was not included in the criminal charge filed by the police investigator, was identified as the one who shot Wilhelm. She alleged that Wilhelm was "a victim of extrajudicial killing because of his advocacy" and that any money that was taken from him was "a bonus to the assassins."

The respondents did not appear at the preliminary investigation, although Marsan filed a counter-affidavit on September 9, 2012. In his affidavit, Marsan simply dismissed Ms. Santiago's claims as "products of her wildest imagination, plain harassment, unmistakable manipulation and exaggeration." Despite this verbose and dismissive spray, the respondent affidavit failed to refute the factual basis of Ms. Santiago's claims.

Surprisingly, the police investigators filed a Reply to Ms. Santiago's affidavit disputing the allegations contained in the said affidavit. The investigators maintained their position that it was a simple case of robbery with homicide and argued that the perpetrators approached the victim and "without any justifiable reason" shot Wilhelm and then, "with intent to gain", took Wilhelm's bag.

The investigators surmised that if this was a murder case, they would have shot Wilhelm more than once and perhaps in the head. They also suggested that they might have killed him before he returned to his office. It is of great concern that the comments of the investigators clumsily neglect to appreciate both the facts of the case and the legal elements of the relevant offences as well as the new evidence presented by Ms. Santiago which were not considered during their initial investigation. They were quick to dismiss these evidence and blindly persisted with their conclusion that this was a case of robbery with homicide rather than murder.

To refute the claims of Marsan and the police investigators, Ms. Santiago filed a consolidated reply highlighting their factual and legal deficiencies. The consolidated reply was filed during the Preliminary Investigation held on October 25, 2012. In view of the continued absence of the respondents, the case was deemed submitted for resolution.

A resolution determining the outcome of the preliminary investigation, dated December 27, 2012, was procured by the victims lawyers from the National Union of Peoples' Lawyers (NUPL) on February 12, 2013. In a Resolution dated December 27, 2012, the Investigating Prosecutor recommended that the information for robbery with homicide be filed against the respondents. Although the Resolution is dated December 27, 2012, Ms. Santiago and her lawyers were never formally served with a copy of the said resolution.

On February 26, 2013, Ms. Santiago appealed the findings of the Investigating Prosecutor by filing a Petition for Review with the Department of Justice. In her Petition, Ms. Santiago again highlighted the deficiencies of the preliminary investigation emphasizing that the evidence presented during the preliminary investigation set out the facts and evidence demonstrating that there is a case of murder. At the time of writing, that petition is still with the Office of the Secretary of the Department of Justice, while the Information for Robbery with Homicide was filed with the Regional Trial Court of San Fernando City Branch 42 even as no one had been arrested.

Robbery with homicide v Murder

The essential legal question in determining the appropriate charge in this case comes down to the intent and purpose of the perpetrators. To establish robbery with homicide, the intent or purpose of the perpetrator must have been to commit robbery, with homicide being committed in the process either to facilitate the robbery or their escape. The Courts have held that there must be a "nexus, an intimate connection between the robbery and killing".

In finding that robbery with homicide was the appropriate charge, the prosecutor relied solely on the facts that Wilhelm withdrew money from the bank before he was shot, and that the respondents took his bag after they shot him. These facts alone are not sufficient to establish the "nexus" and "intimate connection" required to make the crime of robbery with homicide the appropriate charge. Indeed, the prosecutor seemed to ignore that there is no evidence beyond those circumstantial and coincidental facts which could establish a link between the robbery and the killing.

To establish Murder, the killing must be accompanied by an attendant circumstance which can include treachery and/or evident premeditation. The prosecutor ignored evidence that supports the conclusion that the intention and purpose of the perpetrator was not to rob Wilhelm, but to kill him. The evidence before, during and after the shooting makes it clear that the perpetrators' actions were carefully planned and premeditated to ensure that Wilhelm was killed.

Still photographs taken by CCTV at the incident show a car and a motorcycle identified as the vehicles used in executing the crime. The same cars were seen tailing Wilhelm from the bank to his office. The perpetrators also followed him into the office, where there was guard and the chances of escape were slimmer. These actions indicate that Wilhelm was under surveillance and the perpetrators had prior knowledge of his movements that day. It also indicates that the location of the assassination was predetermined with the effect of maximizing its impact on the organization and the public.

When the offense took place, Wilhelm turned to face the gunmen, defenseless, with his hands up. If robbery was the true intent, surely this was the time for the perpetrators to strike, without the need to kill. Regardless, the perpetrators made him ignominiously turn around and kneel down, shooting him in the back. These actions costed the perpetrators time and exposed them to several witnesses and they made no effort to conceal their faces. At the same time, they shot Wilhelm swiftly and with professionalism and then escaped on a motorcycle waiting outside. This supports the conclusion that they were hired guns with intent to kill.

After they killed Wilhelm the perpetrators took his shoulder bag. However, given the evidence, it is clear that this was a separate offense and was incidental to their main intention of killing Wilhelm. Taking the bag from Wilhelm could have been a “bonus” or, more cynically, a subterfuge to cover their true motives and divert investigative and public attention. Given the evidence, it is clear that the primary motive of the perpetrators of these offenses was to ensure that Wilhelm was killed that day.

Accordingly, the appropriate way forward is for the Court to recognize that the perpetrators committed two distinct crimes. That is, the robbery and the killing of Wilhelm. These are two distinct crimes that merit the filing of two different cases against the respondents: one for murder and one for robbery.

Ending impunity

The case for Wilhelm now forms an important part of the broader campaign to end impunity in the Philippines. Edre Olalia, secretary general of the National Union of Peoples’ Lawyers who is also one of the counsels for Wilhelm and his family said “this is not merely about an investigating prosecutor’s error in the appreciation of the facts and the pieces of evidence before him. The bigger picture is, as in this case, the propensity to ignore and cover-up state responsibility in extrajudicial killings contributes to the impunity and obscures the political nature of the attack.”

Wilhelm's killing, and the subsequent impunity to date, illustrates that the Aquino administration's national security plan (Oplan Bayanihan) is leading to an increase in human rights violations. It also makes a mockery of Aquino's recent plan to effectively investigate and prosecute old and new cases of extrajudicial killings, enforced disappearances, torture and other grave human rights violations.

On September 1, 2012, human rights advocates and defenders, civil libertarians, environmentalists, church people, members of the basic sectors, friends and colleagues of Wilhelm came together to remember his life and brutal death. On that day, the "Justice for Wilhelm Geertman Movement" (J4WGM) was launched. J4WGM aims to work for justice for Wilhelm and other victims of human rights violations and demand an end to impunity. It will also continue the important work of Wilhelm in protecting the rights of Filipino people and the environment.



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For defending ancestral land, B'LAAN FAMILY MASSACRED

By Nonafleur Rodriguez

The B'laans, a tribal community in Kiblawan, Davao del Sur, was living peacefully, enjoying the abundant natural resources of their ancestral domain.

Things drastically changed when a giant mining corporation entered the community. In 1995, the Sagittarius Mines, Inc. (SMI) was granted Financial and Technical Assistance Agreement (FTAA) for the Tampakan gold-copper project. The FTAA, which has a lifespan of 25 years, covers an area of approximately 10,000 hectares and is located in the boundaries of Kiblawan in Davao del Sur, Tampakan in South Cotabato, Columbio in Sultan Kudarat, and Malungon in Sarangani. SMI operates the project on behalf of its shareholders London-based GlencoreXstrata, Australian firm Indophil Resources NL and Tampakan Group of Companies.

The B'laans witnessed the impact of open-pit mining to their ancestral domain and started opposing the \$5.9-billion mining project. About 30,000 of them are threatened to be displaced.

The Capion family is one of the most vocal critics of the giant mining project. Juvy, the mother, was a member of local group Kalgad. Her husband, Daguil, is a tribal leader who has been waging pangayaw (tribal war) against the SMI-Xstrata project. For this, Daguil was branded by the local government and the military as a bandit.

On October 18, 2012, at about 6:00 in the morning, soldiers belonging to the 27th Infantry Battalion of the Philippine Army sprayed bullets at the hut where Juvy and her children were staying. Juvy, who was pregnant at that time, and her two sons, Mark John and Jordan, were killed.

According to the account of an eyewitness, a soldier, identified only as Murillo, also aimed his gun at Juvy's five-year-old daughter and Juvy's niece Rosita (not her real name). Murillo was heard as saying: "Let's finish off these two children so that there would be no witnesses." The two children were saved by relatives who were also there at that time.

Juvy's relatives Minerva and Eloisa (not their real names) were at the hut when Juvy and her sons died. They were able to run away and informed Daguil's sibling, Arminda, about the incident. Arminda, together with 50 other women, decided to go the hut. On their way, a soldier tried to stop them, telling them they have to see their commander. Angered, Arminda blurted out, "Is that your law? You do not have respect, you kill children. Have pity on them, Sir Jimenez! We can do nothing because you are the guards of the SMI!"

Worse, soldiers did not allow the relatives to care for the dead. For hours, the bodies of Juvy, Mark John and Jordan were laid outside. Relatives said the soldiers did this in an attempt to make Daguil surrender. The bodies were later placed inside a black garbage bag and a sack and brought to a nearby sitio.

Police authorities came but instead of interviewing the witnesses, they spoke only with the military.

After the incident, Lt. Col. Alexis Bravo of the 27th IB in a radio interview claimed the incident was "a legitimate encounter" between his men and Daguil.

A fact-finding mission held the following month by the Justice for Capion Family, Justice for All Network revealed that Dan Balandra, a known security consultant of SMI-Xstrata, visited the Capions three times before the incident.

The fact-finding mission deemed that Balandra's real motive was to ascertain Daguil and his family's whereabouts for members of the 27th IBPA to strike.

On February 22, 2013, during the Congressional hearing held in Koronadal City regarding the massacre, Col. Norman Marcos Flores, head of the Army's 1002nd Infantry Brigade, admitted that 60 members of the Citizens Armed Force Geographical Unit receive P2,500 each or P150,000 every month and regular gasoline allowance from SMI-Xstrata. In the same hearing, Kiblawan Mayor Marivic Diamante said that SMI-Xstrata allocates P7,500 each to 120 CAFGUs for a total of P850,000 every month. The same para-military forces who are being accused of committing the killings and harassments against the B'laan Tribe who are against the mining operations of SMI-Xstrata.

Impunity reigns

In March 2013, Juvy's father, Sulim Malid, filed murder charges against Lt. Col. Alexis Bravo of the 27th Infantry Battalion, as well as Lt. Dante Jimenez, head of the 27th IB's Bravo Company, and 14 other John Does at the Provincial Prosecutor's Office in Digos City, Davao del Sur.

One year after the massacre, Prosecutor Jayson Banjal dismissed the case against the suspects, saying that pieces of evidence filed by complainants are "circumstantial and insufficient to establish probable cause for murder."

The Union of People's Lawyer in Mindanao (UPLM), serving as counsel for the family, filed a petition for review before the Department of Justice (DOJ).

The UPLM enumerated "undisputed facts" that warrant a finding of probable cause and prosecution of the respondents: a) Respondents admit that they were in the place of the crime at the time it happened; b) Respondents were armed with M-16 rifles; c) Among the shells recovered from the crime scene were those from an M-16 rifle; d) Three of the respondents admitted having fired their guns; e) Their shots were aimed at the men who hid behind the hut; g) The victims were inside the hut where the shots were directed; h) Respondents admitted that they moved the victims out of the hut—a very unusual thing to do when one seeks to administer first aid as it could be done without moving them and risk further injury; i) Respondents failed to refute the witnesses' allegation that they cleaned the house; and j) Witnesses positively pointed to respondents as the persons present in the crime scene immediately after its commission.

After the massacre of Juvy and her sons, one of the eyewitnesses, Eloisa (not her real name) and her husband were shot by Jerry and Lang-lang Mamalumpang, known security guards of SMI-Xstrata based in Sitio Bong Mal. Fortunately, the two survived the attack.

But Juvy's cousin Kitari was not as lucky. On January 29, 2013, Kitari, a known leader of the B'laan tribe that is waging a pangayaw (tribal war) against SMI-Xstrata, was hit at the back when soldiers belonging to the Task Force Kitacom (Kiblawan, Tampakan, Columbio, Malungon) fired at his house. Kitari was rushed to a hospital in South Cotabato. He later died due to hemorrhage.

Tribal chieftain Anting Freay, 60, and his son, 16-year old Victor, suffered the same fate. They were killed by alleged paramilitary forces, who are under the payroll of SMI-Xstrata, early dawn of August 23, 2013 at their house in Sitio Bulol, Kimlawis village, Kiblawan town.



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JIMMY LIGUYON: Defender of His Tribe, Environment

By Ronalyn V. Olea

Jimmy Liguyon only wanted to continue the simple life he and his fellow Matigsalug tribe knew.

The Matigsalug tribe is an indigenous tribe living in southeastern Bukidnon and Davao del Norte. They subsist on swidden farming and hunting. Their ancestral domain is known to be rich in gold and the tribe people also engage in traditional small-scale mining to augment their income.

Jimmy, was the village chief of Dao, San Fernando, Bukidnon, vice chairman of Kaugalingong Sistema Igpasasindog te Lumadnong Ugpaan (Kasilo), and an active lay leader of the United Church of Christ in the Philippines (UCCP) in their community. He was a vocal opponent of large-scale mining, since it will destroy, not only the environment, but also the way of life of the Matigsalug tribe.

Despite strong pressure, he refused to sign documents that would allow the entry of large-scale mining in their territory. The town of San Fernando is covered by the exploration permit (EP) of San Cristo Mining covering at least 13,000 hectares which also covers the land of the Matigsalug tribe. San Cristo is an associate of IndoPhil Mining, a partner of Australian mining company SMI-Xstrata in mining operations in Tampakan, South Cotabato.

The San Fernando Tribal Datus Association (SANMATIDRA), a group of Lumads that acquired from the government a Certificate of Ancestral Domain Title (CADT) over 52,000 hectares of land in several villages in San Fernando, had been forcing Liguyon to sign documents that would pave the way for the entry of large-scale mining in their land.

On March 5, 2012, at about 6:30 in the evening, Alde Salusad, the leader of paramilitary group New Indigenous People's Army Reform (NIPAR), and 15 of his men, arrived at Liguyon's house. Based on the factsheet prepared by human rights group Karapatan, Alde went inside the house, ordered Jimmy to transfer to the opposite bench and while pretending to shake Jimmy's hand, Alde shot him with his armalite rifle in full view of Jimmy's wife Sharon and his brothers Emelio and Arser. Jimmy was hit in the chest which instantly killed him.

After killing Jimmy, Alde declared: "*Akong gipatay si kapitan tungod kay wala kini mipirma sa SANMATRIDA o wala mohatag og certification sa Sanmatidra* (I killed the captain [village chief] because he wouldn't sign the Sanmatidra and refused to give certification to Sanmatidra)." After which, Alde also warned the people that whoever complains and fights back would also be killed.

After the incident, NIPAR issued a press release in the local media in Bukidnon, claiming responsibility for the killing and accusing Jimmy of being a supporter of the New People's Army (NPA), the armed group of the Communist Party of the Philippines (CPP).

Before he was killed, Jimmy was harassed and threatened by the Salusads and their men several times.

On October 13, 2011, Alde's father, Benjamin, a rebel returnee associated with the Army's 8th Infantry Battalion, called Jimmy, and said that should Jimmy go back to Dao, they would kill him. Three days later, on October 16, Jimmy was visited at their house by Angge Dal-anay, another leader of the paramilitary group. Because of the threats, Jimmy and his family were forced to vacate their house and moved to Dao.

On October 28, Jimmy and his wife, Sharon, who were coming home from a human rights' day rally in Cagayan de Oro City, were stopped by armed men led by a certain Dal-anay. The couple was led to a vacant house and there, Dal-anay threatened Jimmy and told him to stop joining rallies, and that he should allow mining in Dao village. Jimmy responded that the people in his village did not want large-scale mining.

Seeking for justice

Jimmy's wife Sharon, who is left to tend to their five children, is determined to seek justice.

The widow reported the incident to the local police station of San Fernando and filed a criminal case against the killers. She also sought an investigation from the Commission on Human Rights.

The criminal case filed by Sharon was later raffled to Branch 10 of the Regional Trial Court in Malaybalay, Bukidnon presided over by Judge Josefina Gentiles Bacal. The accused was charged with Murder, a non-bailable offense. The warrant of arrest was issued on April 30, 2012. However, the main suspect remains at large.

In justifying their failure to arrest Alde, the PNP in Bukidnon, through Supt. Rustom Duran, the Provincial Police Director, said that they had conducted three operations against Alde but failed to arrest him. He also pleaded for understanding saying that “(it) is not easy to arrest him as they are armed”. The statements of Supt. Duran was quoted in a report by *Mindanews.com* posted on June 26, 2012.

Sharon and members of the UCCP have knocked on the doors of every government agency. On December 7, 2012, the UCCP bishops sought an audience with Justice Secretary Leila de Lima. They were met by Undersecretary Francisco Baraan III. After the dialogue, Baraan ordered the National Bureau of Investigation (NBI) to assist the Philippine National Police (PNP) in arresting the suspect. Baraan later assured Sharon that their “commitment is for justice to move in this case and for the warrants to be immediately served.”

On the same day, the UCCP bishops wrote to President Benigno Aquino III, appealing to his administration “to swiftly restore order in Dao village.” The letter partly reads:

“[w]e continue to hear reports that Butsoy [Alde] Salusad roams freely throughout Barangay Dao and the greater San Fernando area armed with a baby armalite. We appeal for an urgent investigation into why the Philippine National Police has failed to arrest Alde “Butsoy” Salusad. Salusad should immediately be taken into custody.”

The UCCP claimed that Nipar was conniving with the Special Civilian Armed Auxiliary of the 8th Infantry Battalion of the Philippine Army. SCAA is reportedly headed by the suspect’s father, Benjamin Salusad. They further stated that: “The climate of impunity is only strengthened as warrants of arrest are not served, alleged perpetrators remain at large, and paramilitary forces are permitted to make death threats, harass, intimidate and sow terror amongst the indigenous peoples in far-flung areas.”

On January 16, the UCCP bishops sought a dialogue with the Department of Interior and Local Government (DILG). Undersecretary Rafael Santos met with the bishops. During the meeting, Santos vowed to look into the matter and to check on the local police for any development. After one week,

the UCCP made a follow up. The Church group was told that the local police will take immediate action.

Life is never the same

As the authorities continue to fail to arrest the suspect, Sharon and the residents of Dao face danger.

Since the killing of Jimmy, Sharon has not returned to their home.

Forty-three other families from Dao village also evacuated and encamped at the Provincial Capitol in Malaybalay City until August 2012.

Residents said Alde and his men harassed them.

In April 2012, Sharon learned that the new chieftain of Dao, Midy Mancilla, has signed the papers for Sanmatidra. These documents give certification for the Sanmatidra's claim over the 52,000 hectares of the Matigsalug ancestral domain in San Fernando and permit for Sanmatidra to work with large mining companies to operate in the land.

Still, Sharon and her supporters would not give up.

As what the UCCP bishops wrote in their letter to President Aquino: "Mining interests should not supersede concern for the environment and must not displace respect for human rights or the rule of law."



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THE CASE OF GENASQUE ENRIQUEZ, JALANDONI CAMPOS AND OTHER TRIBE LEADERS

By Maria Kristina Conti

For generations, the Manobos have passed on epic stories to gently craft and codify identity, ethos, and a way of life – enchanting much to describe the past but strong enough to deal with the future.

The Manobo folklore epic of Tulalang, the eldest son of poor farmers, tells of a hero rugged and industrious. By sheer hard work, his household grew productive and prosperous. He eventually became chieftain as people came and begged to be under his protection.

How he protected his tribe is the stuff of legends. His thumb-sized sister grew roses that wilted if danger loomed. He fended off an envious rival by fielding his charmed shield in battle. He won a war with the king of storms by tenacity in battle, and in the end, by outwitting the king when he disguised himself a servant boy.

Modern-day Manobo leader

Genasque Enriquez, a modern-day Manobo leader from Surigao del Sur, grew up on such stories that emphasized filial loyalty and tribal customs. “We all help each other to develop and adapt to the changing world,” he says in an interview during a rally in Manila.

The Manobos are itinerant farmers, roaming the valleys and mountains of Mindanao, interspersing harvesting of produce with hunting and gathering. Today different Manobo groups show diverse levels of development. Some are already engaged in advanced farming, while others remain traditional and primitive with slash-and-burn agriculture (*kaingin*).

Enriquez, like every Manobo some 30 years ago, was raised on the land. His father used to work in kaingin and his family harvested *camote* (sweet potato) every two to three months. Every threat to nature, thence, was a threat to their lives.

“I remember when I was young a logging company came into our village. Naturally my father, our community opposed their logging operations,” he says in strong, stilted Tagalog. “The company was so aggressive it started to post security personnel. Eventually, the military set up camp in our area.”

At a young age, Enriquez became used to the sight of soldiers patrolling their village, ostensibly to keep peace among the locals. He admits, in a moment of candor, to having been awe-struck: “My ambition then was to become a soldier when I grew up. My teachers said it was a decent, dignified job because the military protects the country.”

But at 12 years old, he was picked up by the military on suspicion of being a communist rebel. “I was caught and soundly boxed. They accused me of being an NPA (New People’s Army) rebel. But because they couldn’t get anything out of me they let me go. We lived in the mountains, so I knew these kind of men passed by but I had no idea what they fought for.” He surmises that he was singled out because of his father’s active stance against the logging operations.

The experience angered and fired him up, not simply against the soldiers and their “mercenary profession”, but against the roots of militarization in the area. “And so I began to help in going around and organizing people. I come from an activist family, so as the rest of my family took on the elders of the community, I organized the young ones,” he said.

Having been so young when directly exposed to brutality and human rights violations, Enriquez never faltered and carried on with his work getting people together, through school and beyond. Even when he drove a passenger motorcycle, when he settled with his wife and three children, he never ceased to be a community organizer. In 2005, he was chosen vice-chairperson of Malahutayong Pakigbisog alang sa Sumusunod or MAPASU (Persistent Struggle for Future Generations).

Trumped-up charges

MAPASU is an organization of 22 Manobo communities in Lianga, San Agustin, Marihatag, Cagwait, and Tago in the province of Surigao del Sur. It was established to spread and even out development among the

many Lumad groups, relying on old-fashioned self-governing methods to create self-sustaining communities. Recognized as a non-government organization, it launched projects and activities in coordination with a spectrum of religious, charity and foreign groups to recommend adequate and alternative livelihood sources. With formally-educated leaders like Enriquez at the helm, it became widely respected in a region set back by lack of knowledge and vision.

Because the Manobos are fiercely protective, MAPASU stood against logging companies who only came to ravage the forests, and against mining companies who had their eye on coal, copper and gold in the rich Andap Valley. It also spoke up against human rights violations committed by the military, and took all opportunities to report incidents to Philippine government agencies and international human rights bodies.

Even while visibly active with MAPASU, Enriquez was picked up by the military again in 2011 on multiple murder charges after an NPA raid incident. The case was eventually dismissed by government prosecutors, when it was discovered that he was a guest on a radio show at the exact time of the incident many miles away.

The unsuccessful attempt to lock up Enriquez was only the beginning. In March 2013, the chair of MAPASU Jalandoni Campos was arrested by the military coming out from a local radio station after an interview. He had been on air about the programs of a partylist for ethnic groups, human rights violations committed against the Lumads and the many dangers and destruction caused by mining activities.

A policeman in plain clothes showed him a warrant of arrest for the charge of rebellion, cuffed him and led him to jail. The Manobo community was sounded off in time, as people perked up with the strange story of 45-year old Campos, a lowlander familiar to many, accused of taking part in an NPA raid of a police station in Lianga town two years before. Before dawn of the following day, Manobos had set up a picket outside the Tandag City jail.

It only took two days of the noisy and brawny presence of 200 MAPASU members and their allies for the police to buckle. Campos was released on recognizance to the provincial governor on 25 March 2013, after what was dubbed a veritable display of people power. The intervention of the local government, MAPASU claims, prevented the National Intelligence Coordinating Agency (NICA) from gaining custody of Campos. NICA is the primary intelligence arm of the Philippine government in charge of carrying out overt and covert intelligence programs.

As it turned out, Campos was only one of 37 who were implicated in the charge, which is still currently under investigation. MAPASU and its ally, the partylist Katribu, contend that these were wildly-fabricated criminal cases designed to silence, if not impede the activities, of their leaders.

Enriquez, who is Katribu's second nominee for the 2013 elections, says the military has been constantly using alleged NPA presence in some areas to justify active combat operations and ruthless paramilitary movement, against civilian and the so called "enemies of the state" alike. "But with what we know, the military only serves to muzzle and quell legitimate dissent. Anybody who objects to government-backed development projects is routinely attacked legally, and in some cases, physically." Elsewhere in Mindanao, Lumad leaders who are anti-logging or anti-mining in large-scale are being slapped with trumped-up charges, threatened and harassed, and in some cases, abducted and killed.

And yet, Enriquez and his fellow Manobo leaders press on. "We do not think of the charges and the harassment as hindrances. Instead, we use these to expose how the indigenous peoples are being repressed, even as they only seek to exercise their democratic rights. We go on with our education, mobilization and organizing work," he says with steely resolve.

Sounding off the pangayaw

Radio is an important tool for community leaders, who work in rural areas, like Enriquez. With most of the hinterland villages not yet hooked to the electrical grid, a trusty radio powered by batteries is the most common means of communication from the city centers.

"Radio reaches more people. Many indigenous peoples listen to the radio regularly," Enriquez vigorously asserts. Of course there is television, he says, but in his experience even with the logistics in place, it fails content-wise. "Sometimes the stations are picky about what issues they showcase. And sometimes even, they present the wrong side," he laments that TV seeks glamour and entertainment at the price of truth, and because it is more commercial than radio it can ultimately be controlled for a price.

As with other ethnic groups, Manobos tend to preserve their culture and history orally, in allegories and tales interwoven with moral lessons and value statements. Even in today's fast-paced times, connections are made and maintained personally and verbally.

That's why Enriquez turns to radio to sound off the struggle against those who threaten their way of life. Surely, for all Manobos reared on the story of Tulalang, the ordinary man who married the daughter of the sun and the moon, and who slay the giant and the dragon, this is a call too urgent to let pass. "We have to struggle against those who take our territory away," he says. "We have to stand up and fight for our future."



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**RENE BOY ABIVA
AND VIRGILIO CORPUZ:
Development workers unjustly
portrayed as criminals**

By Rea Peñol

It was an experience that Rene Boy Abiva hoped would never happen. But it was not so. His worst fear happened, and to him, it was a nightmare after Christmas.

On December 28, 2012, while buying food for dinner at the public market in Tuguegarao, Cagayan, Abiva was arrested by elements of the Cagayan Philippine National Police (PNP) Intelligence Group. They showed him a warrant of arrest under the name of Rene Aviva, with an address different from his place of residence. He was immediately brought to the Tuguegarao City Police Station and eventually transferred to the compact jail in Sto. Domingo, Tuguegarao where he was detained for five days.

Abiva, a 23-year-old employee of the Department of Social Welfare and Development (DSWD) Cagayan Valley and an organizer of ACT Teachers partylist, was shocked when he was informed that he was charged with twelve (12) counts of murder, for allegedly participating in an ambush staged by the New People's Army (NPA) guerillas against the 86th Infantry Battalion of the Philippine Army in Duntogto, Gumbang, Tinoc, Ifugao on April 25, 2012. Twelve soldiers allegedly died in that ambush.

On January 2, 2013, Abiva was presented to the Regional Trial Court in Lagawe, Ifugao and then transferred to the Bureau of Jail Management and Penology (BJMP) facility in Tiger Hills, Kiangang, Ifugao. Hundreds of beneficiaries of the government's conditional cash transfer (CCT) who knew Abiva accompanied him all the way to Kiangang, Ifugao. He was in charge of the CCT program of the DSWD in their municipality.

Several days after, another development worker would join Abiva inside the jail in Kiangang, Ifugao, slapped with the same charges he is facing.

On January 4, 2013, at around 3 o'clock in the afternoon, more than ten PNP intelligence officers of Santiago City Police Station 116 under the command of Colonel Paul Bometivo went to the house of Virgilio Corpuz in Barangay Plaridel, Santiago City. The police arrived in two police cars, escorted by several motorcycle-riding men wearing bullet proof vests and armed with armalite rifles.

When Corpuz went out, the police asked him: “*Kaninong motor ito?*” (Whose motorcycle is this?), to which Corpuz replied: “*Hiniram ko lang*” (I just borrowed it) . Then, the authorities asked him if he was Harold Castillo, showing him several documents regarding a certain Harold Castillo. Corpuz said he was not the person the police were looking for, but the police officers answered in chorus “*Ikaw yan, sya yan*” (You are Harold Castillo). Again, the 61-year-old organizer of Piston partylist said he was not Harold Castillo and showed the police his Identification card (ID). The police confiscated his ID and told him to just explain to the person who issued the warrant of arrest. He was then grabbed by his belt and forced into a police car. The police also confiscated his Swiss carpentry tool, which they have not returned until now.

Corpuz was brought to the PNP station 116 in Santiago City, where he was asked to fill out a biodata form. His relatives and a barangay official visited him and asked from the authorities a copy of the warrant of arrest but the police officer refused to give them a copy. He was detained at the police station without having a copy of the warrant of arrest.

Later that day, Corpuz was brought to Southern Isabela General Hospital (SIGH) for a supposed medical checkup but only his blood pressure was checked and no medical certificate was issued. The police was in a hurry to bring him back to the PNP station 116 to avoid pressure from his family and human rights defenders accompanying him and protesting his arrest.

The next day, January 5, despite protest from his family and other human rights defenders, the Nueva Vizcaya Regional Mobile Group insisted on transporting Corpuz to the Hall of Justice in Ifugao. It was a Saturday and his relatives feared he might be brought somewhere else. At around 11 a.m., they arrived at the Hall of Justice. A certain Atty. Bugayan, a court employee, called up the BJMP officials in Tiger Hills informing them that Corpuz would be detained there. The old man was then brought to BJMP Tiger Hills in Kiangan, Ifugao without medical checkup, a requirement before detaining a person. Later, he was then brought to Ifugao Provincial Hospital for medical checkup, and brought back again to BJMP.

Partylist organizers, not NPA guerrillas

The arrest of Abiva and Corpuz happened a few months before the election period, which reinforces the suspicion of human rights groups and their relatives that their arrest and detention had something to do with the government's campaign against the progressive partylist groups which are critical of the Aquino administration.

Both denied the accusations hurled against them, saying they were legitimate organizers of the two partylist groups identified with Makabayan coalition.

Abiva graduated with a degree in Business Administration at the Polytechnic University of the Philippines (PUP), and became a member of Lakas ng Kabataan para sa Bayan – Cagayan Valley (Lakbay – CV), a socio – cultural youth organization that supports the advocacies of the people of Cagayan Valley. To discourage him, several military elements warned him against joining the sociocultural organizations and told him to “go back to government's fold.” But this did not deter him from becoming an active member and an organizer of Lakbay-CV.

After his graduation, he pursued his passion to serve the people by organizing them. He became a member of the ACT Teachers party list, the largest organization of progressive teachers and employees in the education sector, engaged in the democratic processes to advance the rights and welfare of teachers and education personnel.

On the other hand, Corpuz is the current regional coordinator of the Piston Party List and Piston – Cagayan Valley. He is also acting as field Staff II of the Disaster Preparedness and Mitigation for Typhoon-Prone Philippine Regions of the Center for Relief and Rehabilitation Services – Cagayan Valley. Corpuz also works as legislative researcher of Board Member Marcelino Espiritu of the Provincial Board of the Province of Isabela. He is also the provincial correspondent for *Northern Dispatch*, a weekly newspaper covering the three regions of Northern Luzon: Ilocos, Cordillera, and Cagayan Valley.

Before his arrest, Corpuz reported that he was under intense surveillance by the Santiago Police and by the Philippine Army, specifically those from the 54th Infantry Battalion of the 5th Infantry Division. He was constantly tailed in offices and places he visited. The complainants in the case for which Corpuz is being charged are soldiers from the Army's 86th Infantry Battalion, which is also under the 5th Infantry Division.

Not an isolated case

The case of Abiva and Corpuz is not isolated. From December 2012 to January of this year, 29 activists, human rights defenders and/or leaders of peoples' organizations were arrested based on fabricated charges and/or on the basis of generic "John Doe" warrants as documented by the human rights watchdog Karapatan.

The filing of trumped-up charges against human rights defenders, political activists, leaders of peoples' organizations and sectoral organizations is not a new scheme. This has been utilized as a form of harassment during the previous regime, especially with the formation of the Inter-Agency Legal Action Group (IALAG) tasked to file cases against dissenters. IALAG was supposed to have been abolished upon the recommendation of Philip Alston in 2007, then the United Nation Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. However, the same schemes devised and used by IALAG in filing fabricated charges are being employed by the present administration as a form of harassment against dissenters, in addition to extrajudicial killings and enforced disappearances.

Human rights defenders/advocates, leaders and activists who survived the rash of extrajudicial killings and enforced disappearances during the past regimes are now being subjected to legal harassments through the filing of fabricated criminal cases, and are vulnerable to ending up unjustly in jail for a time.

In the case of Abiva, his arrest was made by mechanical insertion, which is done by simply putting in the name of someone who is not involved in a crime or is not there in the first place. On the supposed date of the incident, Abiva was in fact doing field work in Baggao, Cagayan as shown in the certification issued by barangay officials.

Abiva joined other political activists and leaders who had the same experience of finding themselves included in criminal charges through mechanical insertion, although their names have not been included in the complaint filed before the prosecutor's office or the information filed before the court. Their names are mechanically inserted without complying with the requirement of the law before their names are included in the complaint/information.

Abiva's wife Mildred believes that his arrest was due to stronger and broader membership of ACT party list in the area where her husband is the organizer. It was also noted, that in places where Abiva is the municipal link of the conditional cash transfer program of government, peasant organizations that advocate for land for landless keeps growing.

In the case of Corpuz, authorities insist that the name Harold Castillo, the name stated in the warrant of arrest and the name Virgilio Corpuz refer to one and the same person. Preferring to ignore the fact that on April 25, 2012, the date that ambush was allegedly committed, Corpuz was attending and serving as a documentor in the Training on Comprehensive Agreement on Respect on Human Rights and International Humanitarian Law with the human rights group Karapatan and the Joint Monitoring Committee at Aaron Hotel and Resort, Barangay Rizal, Santiago City which was held from April 23 to 28, 2012.

This is a pattern employed as a matter of practice by the police and the military against the members of Karapatan, Bayan, ACT, Kilusang Mayo Uno (KMU), Piston, Gabriela, Courage, and other similar legitimate organizations advocating for the civil, political as well as socio economic rights of the Filipino people, but referred to by the government as their loud critics and their enemies.

Under the present regime, dissenters are killed, disappeared or falsely charged. The methods are different, but the result is the same, it sends the chilling message to human rights defenders and activists of what they may end up to if they will not shut up.

For Abiva and Corpuz, the state was able curtail their liberty, however, they remained steadfast and were not silenced even under detention.

Quest for justice and freedom

Abiva and Corpuz add to the growing number of political prisoners who are still languishing in jail for crimes they never committed.

They filed a motion to quash information and a motion for reinvestigation but to this date, the court has yet to resolve the motions. The delay in the resolution of the case is due to the non-availability of the judge presiding over the case. The pace of justice is slowly moving against them in contrast to the speed by which their illegal arrest and detention were effected.

Press statements condemning their illegal arrest and continued detention and calling for their release were issued. Conferences, rallies, even torch parades were organized to push for their immediate release. Organized jail visits were also initiated to give support and solidarity.

However, all of these fell on deaf ears. The Aquino regime remains unmoved.

As time goes by, their families and supporters hold on to the hope that someday Abiva and Corpuz will be freed by the people that they passionately served.



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RAUL CAMPOSANO AND RANDY VEGAS: Union Organizers Branded as Rebels

By Ronalyn V. Olea

It is an irony he never imagined would happen.

Raul Camposano, 51 years old, studied law, and for eight years, served as a sheriff for a Makati City court. On the night of December 3, 2012, armed men forced him into a van. He was told he was under arrest for charges he did not know.

On the morning of that day, Raul joined the protest action of the Metropolitan Manila Development Authority (MMDA) employees. As a national staff member of the Confederation for Unity, Recognition and Advancement of Government Employees (COURAGE), a federation of government employees' unions, providing support for the union of MMDA employees is among the tasks assigned to Raul.

After the protest action, Raul noticed several men tailing him. In an attempt to lose those following him, he went to a mall. After a few hours, he decided to go home. Between 8 p.m. and 9 p.m., when Raul was just a block away from their house in Talaba VI, Bacoor, Cavite, a man held him by the neck and another pointed a gun at him. He was forced inside a white SUV vehicle, where he was handcuffed and blindfolded.

The men introduced themselves as policemen. Raul was told that he was being arrested for murder charges but he was not shown any warrant of arrest. Knowing his rights, Raul asked for a chance to contact his lawyer but the men ignored him. His personal belongings, including his wallet, keys and USB flash drive, were taken.

Raul was brought to a place he did not know. His blindfolds were removed. A man who introduced himself as the team leader said his arrest was a joint operation of the NCR-Intelligence Service and the Intelligence Service of the Armed Forces of the Philippines (ISAFP). The man asked Raul what was his business at the MMDA.

The following day, Raul was brought to the office of the Criminal Investigation and Detection Group (CIDG) of the Philippine National Police (PNP) in Daet, Camarines Norte. There he saw his fellow Courage organizer, Randy Vegas. Randy, 40 years old, was arrested first.

On December 3 at around 7:10 a.m., on the same day that Raul was arrested, Randy alighted from a passenger bus at GMA-7 along Epifanio Delos Santos Avenue (EDSA). He was on his way to the Courage national office. After taking five steps, someone grabbed his neck and another man snatched his backpack, and he was dragged and forced inside a red Innova van. He was immediately handcuffed; his face was covered with a towel.

One of the men partially lifted the towel and showed him a paper with his name on it. Randy could not read the document. Like Raul, he was told he is facing murder charges.

Clueless

Both Courage organizers were shocked to find out that they are being implicated in the assault of New People's Army (NPA) guerillas against soldiers on April 29, 2012 at Barangay Maot, Labo, Camarines Norte.

The two were charged with five counts of murder, frustrated murder, and theft for the death of five military personnel, the wounding of one civilian, and the loss of several government-owned firearms and equipment during the ambush. The warrant of arrest was issued by Branch 64 of the Labo Regional Trial Court.

On the day of the alleged encounter, Raul was at the Laperal Compound in Makati City for a meeting with local leaders. After that, he went straight to a mall to meet with Randy and leaders of the MMDA union.

On the other hand, Randy attended a meeting with residents of Southville B in Rodriguez, Rizal to discuss their problems on relocation. After that, he went to the Courage national office to get some posters and flyers in preparation for the May 1 rally. He met Raul and leaders of the MMDA union at a mall in Pasay City that early evening.

Courage national president Ferdinand Gaité belied the accusations that Raul and Randy are NPA guerrillas and said that the two are Courage organizers. “Courage is a legitimate organization with a track record of advancing the rights and welfare of government employees,” Gaité said.

From 2003 to 2006, Raul was president of the Makati Association of Court Employees while at the same time president of the Makati Sheriffs Association. Raul was one of those who organized the Judiciary Employees’ Association, an organization of court employees, in 2006.

In 2010, he resigned from the government to join Courage as a member of its national staff. He has been active in the organization of unions among employees in the government sector since then.

Randy, meanwhile, was a student leader before he joined Courage. He studied Psychology at the Manuel L. Quezon University and was a member of the *Quezonian*, the student publication of the university.

He also served as the secretary general of the College Editors Guild of the Philippines (CEGP), a national alliance of student publications in various universities and colleges in the country.

Randy joined Courage in 1998 as member of its national staff. He was initially assigned as union organizer in government agencies such as the MMDA, National Printing Office (NPO), and the Department of Education (DepEd).

In 2004, the organization of unions of government employees at the Makati City Hall, the National Telecommunications Office, the Supreme Court, Court of Appeals, Sandiganbayan and the Regional Trial Courts were added to his assignments.

Starting January 2012, he was assigned by the COURAGE National Executive Committee as union organizer for employees of the Department of Environment and Natural Resources and its attached agencies. He was also tasked to assist Raul in helping employees of the judiciary deal with the various issues confronting them such as their demand for the P6,000 salary increase and other issues.

No due process

The two are being represented by lawyers from the Pro-Labor Legal Assistance Center (Pro-Labor) who filed an Omnibus Motion in January 2013 where they questioned the legality of the inclusion of Raul and Randy in the

indictment. Their lawyers asserted, among others, that the two were not granted the benefit of a valid preliminary investigation, as in fact, their clients have not received any notice from the Prosecutor's Office scheduling the complaint for preliminary investigation. As a result, they were not given the opportunity to file their counter-affidavits and to submit other evidence.

The lawyers said the Prosecutor merely certified that, on the basis of the sworn statements of the complainant and his witnesses, and of other evidence on record, there is reasonable ground to believe that subject offenses have been committed and the accused are probably guilty thereof. They noted that there was no certification that the prosecutor or any authorized officer has conducted a personal examination of the complainant and his witnesses. This is contrary to what is required by the Rules of Court where it is mandated that Prosecutors should personally examine the complainant and his witnesses under oath, and that he should make a corresponding certification to this effect. The absence of the certification shows that no such personal examination of the complainants and the witnesses was conducted in contravention of the requirements of the Rules of Court.

The lawyers also noted that assuming that a preliminary investigation was conducted, such proceeding was null and void because the right to due process of Randy and Raul was violated.

The lawyers also observed that in the complaint-affidavit executed by the complainant, he provided erroneous addresses for Raul and Randy. "Through the use of these misleading addresses by the complainant, the two accused did not receive whatever subpoena that may have been sent to them, and were effectively prevented from submitting their counter-affidavits and other evidence in their favor. There is no dispute that their right to due process has been violated," they said in their motion.

In fact, it was only on January 18, 2013 that Randy and Raul were able to obtain copies of the records of the case against them through the request made by their relatives to court personnel.

Relatives and colleagues of Raul and Randy were shocked to find out that their names were also included in another murder case, along with 14 others, in connection with alleged NPA ambushes on April 25, 2012 in Tinoc, Ifugao.

"The charges are clearly fabricated," Gaité, Courage national president, said. "How can they [Randy and Raul] participate in two alleged NPA ambushes in Camarines Norte and in Ifugao in the same month?"

Raul and Randy are now detained at the Camarines Norte Provincial Jail in Labo as they wait for the resolution of their case.



WABR
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women's
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A WEB OF LIES: Harassing Negros Activists

By Ronalyn V. Olea

They chose to thread the path less travelled, sacrificing their own personal comfort to serve the interests of the poor, the oppressed and the marginalized. By doing so, they all ended up being arrested and jailed for crimes they never committed.

Zara Alvarez, 32, a licensed teacher, and a single mother hails from Cadiz City, Negros Occidental. She could have landed a teaching job after school and could have a regular income and a relatively comfortable life but instead, she has chosen to tread the dangerous path of a human rights defender.

She immersed herself in human rights works when she became a volunteer of the human rights watchdog Karapatan in Negros, as its campaign and education officer. Expanding her advocacy and involvement, Zara was elected deputy secretary general of the multisectoral alliance Bagong Alyansang Makabayan (Bayan), Negros chapter. After her stint with Bayan, she returned to human rights work as a staff of the Northern Negros Alliance of Human Rights Advocates (NNAHRA). Her involvement with Karapatan, Bayan and NNAHRA made her a prominent human rights advocate and a political activist in Negros. This also made her a natural target by the military, which treats human rights advocates and political activists as enemies of the state.

On October 30, 2012, Zara was waiting for a tricycle in front of the Cadiz City Public Market when a man in civilian clothes grabbed her hand. Roughly 30 armed men in military uniform encircled the five-foot young activist. One of the men shouted to the people witnessing the incident: "Do not intervene!"

Knowing her rights, Zara asked the soldiers who turned out belonging to the 62nd Infantry Battalion of the Philippine Army and Special Action Forces

why she was being arrested. To her surprise, she was shown a warrant of arrest for murder. Minutes later, policemen arrived. She was brought to the Cadiz City Police Station, accompanied by soldiers on board two military trucks. She was later transferred to the Bureau of Jail Management and Penology (BJMP) detention facility in Cadiz City where she is now detained.

Zara later found out that the name Sara Alvarez was included in the amended information in the murder of a certain 1st Lt. Archie Polenzo who was killed in an encounter between the Armed Forces of the Philippines and the New People's Army on March 7, 2010 at Sitio Aluyan, barangay Caduhaan, Cadiz City, Negros Occidental.

At the time of her arrest, Zara, a single mother to a four-year old daughter, was the second activist in Negros to be arrested in the same case.

Elizar Nabas, 35 years of age, has been engaged in trade union work as a member of the National Federation of Sugar Workers (NFSW). His work with the NFSW immersed him in the plight of sugar workers, which comprise a majority of the workers in the two provinces of Negros, especially in their struggle for decent wages, better working conditions and the right to organize. Having sided with the sugar workers, and actively participated in their struggle, Elizar was likewise considered a threat by the military.

On April 19, 2011, Elizar Nabas, was arrested by elements of the 62nd IB while he was eating lunch at an eatery in Escalante City, Negros Occidental. According to the fact sheet of Karapatan, which was based on the accounts of eyewitnesses and that of Elizar himself, upon his arrest, he was blindfolded with his head covered with a cloth, and was brought to the headquarters of the 62nd IB in Barangay Bato, Sagay City where he was interrogated and tortured to admit that he is a member of the NPA. Two soldiers held Elizar's head and two others held his arms as the soldiers forced him to admit that he was a member of the NPA. The interrogation lasted for three hours.

He was transferred to another military detachment in Barangay La Libertad where the interrogation ensued for an hour. He insisted that he is a member of the NFSW and not of the NPA. He was then brought to the police station in Escalante City.

The following day, Elizar was shown a warrant of arrest against a certain Diro Pancho Sanchez. His captors insisted that he is Diro Pancho Sanchez, which he consistently denied. He refused to sign any document, insisting his name is Elizar Nabas and not Diro Pancho Sanchez. Pancho Sanchez is included in the original complaint for the murder of a certain 1st Lt. Archie Polenzo filed

on August 15, 2011. Elizar was arrested and detained for the same crime for which Zara Alvarez was arrested and detained.

Aniceta Rojo, 48 years of age, is a church worker. She is a pastoral worker of the Diocese of Bacolod, and is involved in her church's social action advocacies. However, her church involvement did not insulate her from harassment and threats. On December 7, 2012, Aniceta was nabbed inside the convent of Saint John the Baptist in Bago City, Negros Occidental, a place she considers a sanctuary¹.

Aniceta, a mother of four, was accused of being a member of the NPA, and was arrested and detained for her alleged participation in the March 10, 2010 encounter that left a certain 1st Lt. Archie Polenzo dead, the same incident for which Zara and Elizar were charged.

Unfortunately, the three were not the only one arrested and detained based on the said false charge of murder.

On April 15, 2013, Greg Tuayon, organizer of NFSW, was arrested by elements of the 47th IB of the Philippine Army and Special Action Forces in his house in Manapla, Negros Occidental. Rogina Quilop, an administrative officer of Bacolod-based non-government service organization Center for People's Resources and Services (CPRS) and a board director of Ma-ao Parish Multi-Purpose Cooperative Inc. (MPMPCI), was arrested on March 3, 2011 for the same charges.

In the case of Zara, Elizar, Aniceta, Greg and Rogina, they are among the 52 Negros activists who have been falsely implicated in the death of a certain 1st Lt. Archie Polenzo. As now commonly practiced by the military establishment, the false charges against Zara, Elizar, Aniceta, Greg, Rogina and their co-accused in the case were based on the perjured statement of an alleged former member of the NPA, a certain Freddie Clerigo Sanchez.

According to reports¹, Sanchez executed his affidavit in 2010 implicating the fifty-two (52). He claimed that he was a platoon leader when the encounter happened on March 7, 2010 at Sitio Aluyan, barangay Caduhaan, Cadiz City, Negros Occidental. To implicate the Negros activists, Sanchez claimed that he

1 "The Military's Top Five Ways to Harass Activists," Julius Mariveles, Bulatlat.com, February 7, 2013 at <http://bulatlat.com/main/2013/02/07/the-military%E2%80%99s-top-five-ways-to-harass-activists/>

was “ordered” by more than 50 persons and all of which he allegedly knew “personally” to kill Polenzo. He identified the 52 Negros activists as the ones who ordered him to kill Polenzo. The military claimed Sanchez was later killed by his former comrades in 2011.

The original Information for murder, filed on August 15, 2011, named 19 accused and several John Does and Jane Does. The Information was amended several times to include the names of additional forty-two (42) accused. Sanchez’s affidavit listed 52 individuals, most of whom are known human rights defenders and activists.

Aside from the five, Sanchez implicated provincial leaders of human rights organizations peoples’ organizations in Negros like Fred Caña, secretary general of Karapatan provincial chapter, Clarizza Singson, chairwoman of Gabriela; Ronald Ian Evidente, spokesman of the Kilusang Mayo Uno; Bernardino Patigas, chairman of the Northern Negros Alliance of Human Rights Advocates; and Gualberto Dajao, chairman of the Alliance of Concerned Teachers. Another activist, Romulo Bito-on, was also implicated in the murder charge.

Romulo’s inclusion in the murder charges is an apparent attempt to put him back to jail. Romulo was earlier arrested on April 5, 2010 for charges of robbery-in-band and arson, but he was released March 9, 2011 after the local court “temporarily dismissed” the case against him due to the absence of the complainant and witnesses.

The charges against Romulo which led to his arrest was based on the perjured testimony of a certain Gordoncillo. Gordoncillo who lived in the southern city of Himamaylan, named Romulo and 17 other supposed members of the NPA and 15 John Does as the ones allegedly responsible for the burning of a sugar transloading station in Toboso.

Right to due process violated

In utter disregard of the constitutional rights of those implicated in the murder charges, especially their right to due process, the accused were not afforded the opportunity to refute the charges against them during the preliminary investigation. In the case of Zara, her lawyer, Atty. Cesar Beloria, noted in the motion to quash he filed on behalf of his client was impleaded in the case by mere supplemental affidavit of one Edward Baynosa without the benefit of preliminary investigation.

In fact, when the original Information was filed, only 19 individuals were named as accused. What the prosecutors did was to simply amend the Information based on affidavits of witness to include additional names in the Information. They were all included without the benefit of a preliminary investigation in violation of their right to due process. Fifty-two individuals, most of whom are prominent human rights defenders and activists were included in the Information.

Counterinsurgency

Human rights organizations, especially those from Karapatan-Negros attributed the series of arrests and the filing of what it calls “fabricated” charges to the Aquino administration’s counterinsurgency program Oplan Bayanihan.

In fact, following the arrest of Aniceta, Colonel Oscar Lactao, commander of the 303rd Brigade of the Philippine Army in Negros said in a news report² that the arrest is “a big blow to the rebel movement.” When Major Gen. Jose Mabanta assumed his post as commanding general of the 3rd Infantry Division in February 2012, he declared Negros as a top priority area for Internal Peace and Security Plan or Oplan Bayanihan. These statements are indications that the military establishment makes no distinction between the NPA who are engaged in armed struggle, and human rights defenders and activists who are unarmed and engaged in legal struggle. Those arrested and accused maintained they are not NPA guerrillas but human rights defenders.

The arrest and the inclusion of human defenders and activists in the false charge of murder drew serious concerns from leaders of peoples organizations and human rights defenders, knowing that they too face the same risks and are obvious targets of the same type of harassment.

In reaction to the murder charges and the arrests made, Christian Tuayon, secretary general of Bayan-Negros, and also among those implicated in the subject murder charges said that “It seems that they do not know the difference between a placard, a microphone and an M-16 rifle.”

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- 2 “Army: Top-rank rebel’s arrest a big blow to NPA,” Teresa Ellera, Sunstar, December 11, 2012 at <http://www.sunstar.com.ph/bacolod/local-news/2012/12/11/army-top-rank-rebel-s-arrest-big-blow-npa-257774>)
 - 3 “Local News: North Negros Priority of New Army Head,” Danny Dangcalan, Negros Daily Bulletin, February 9, 2012 at <http://www.ndb-online.com/020912/local-news-north-negros-priority-new-army-head>

Another human rights defender, Jose Luis Blanco criticized this considered act of harassment and said that “The Aquino government is relentless in its legal assaults against individuals affiliated with organizations critical of its policies such as BAYAN, NFSW, and Kilusang Magbubukid ng Pilipinas. Negros has now become the AFP’S testing ground in its legal assaults against organizations and specific personalities.” He added that the Aquino administration “proves yet again that it is not different from the bloody Arroyo regime as illegal arrests and the IALAG- era legal assaults versus the progressive forces intensify in Negros Island”, and concluded that “The impunity in which this legal assault is executed hounds every individual working among the oppressed and the marginalized. It seriously hampers the work of developmental workers and their organizations. This also endangers the liberty and lives of activists and their families.”

IALAG is the Inter-Agency Legal Action Group created by the administration of former President Gloria Macapagal-Arroyo. Its mandate was to build up cases against leaders and members of progressive organizations. The process and the scheme used in the filing of charges against the Negros activists are obviously patterned after the scheme used by the IALAG.

The plight of Zara Alvares, Elizar Nabas, Aniceta Rojo, Greg Tuayon, Rogina Quilo, and Romulo Bitoon and their co-accused, is not an isolated case. Other human rights defenders and political activists in different parts of the country are in the same predicament. This is the new form of harassment against human rights defenders and political activists, so that those who have not been killed or abducted are now increasingly and more systematically being falsely accused as members of the NPA and are unjustly implicated in cases involving the killings of military personnel during encounters with the NPA.

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ABOUT THE AUTHORS

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Minnie, a lawyer by profession, took her undergraduate studies from the University of the Philippines in Diliman. She was a former staff of peasant organizations such as the Kilusang Magbubukid ng Pilipinas (KMP), Pambansang Pederasyon ng Kababaihang Magbubukid (Amihan) and the Pambansang Lakas ng Kilusang Mamamalakaya ng Pilipinas (Pamalakaya). She was a member of CODAL and later on, the NUPL.

Minnie is currently an officer of the NUPL-NCR chapter and is also a legal consultant for the Gabriela Women's Party.

LIAM DENNIS

Liam just completed a 12-month placement with NUPL as part of the Australian Youth Ambassadors for Development Program (AYAD) administered by AusAID.

Liam is a solicitor who worked with the Australian government, with experience in the field of administrative law, industrial relations, federal crime, refugee law and human rights. Liam is currently studying a Masters in International Law with a particular focus on human rights.

REA PEÑOL

Rea is a fulltime staff of the national office of the National Union of Peoples' Lawyers (NUPL) and is one of the founding associate members of the same. She has held various secretariat positions in NUPL activities and programmes including the Fifth Conference of Lawyers in Asia Pacific (COLAP V) last 2010.

Rea is taking up law at the Arellano University School of Law and applies her knowledge of the law to advance her advocacy for justice and human rights.

NONAFLEUR RODRIGUEZ

She is currently taking up law at Mindanao State University in General Santos City.

Nona also served as secretariat of regional anti-mining alliance, Soccksargens Agenda. Established in 2005, the alliance leads the campaign against the large-scale mining operations of SMI-Xstrata. She was also the regional chairwoman and secretary general of Gabriela-Soccksargen.

Nona is a proud mother to baby Red.

MARIA KRISTINA CONTI

Krissy is the law student representative to NUPL's national executive board, and is in charge of the group's campaigns and international affairs. She graduated law from the University of the Philippines.

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ACKNOWLEDGEMENTS

Grace Saguinsin

Mildred Abiva

Katribu Partylist

Karapatan Alliance for the Advancement of People's Rights

Pro Labor Legal Assistance Center

Union of Peoples' Lawyers in Mindanao

Atty. Catherine Salucon

Regine Amor Tenorio

REDUCING VULNERABILITIES : EMPOWERING HUMAN RIGHTS VICTIMS AND DEFENDERS
A PROJECT OF THE EUROPEAN INSTRUMENT FOR DEMOCRACY AND HUMAN RIGHTS
AND THE NATIONAL UNION OF PEOPLES' LAWYERS

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