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PHILIPPINES @The Killing of Gary Dalayhon

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Gary Dalayhon, a 16-year-old street child, died after he was shot - after being picked up and questioned by three members of the Philippine National Police (PNP) - on 23 July 1993 in Cagayan de Oro City, on the Southern Philippine island of Mindanao. More than two years after the killing and despite strong evidence pointing to the identities of the three policemen involved in the killing, the government has so far failed to conduct a thorough investigation and bring those responsible to justice.

Gary Dalayhon and two friends, Alexander Ladao and Johnny Ucat, also street children, were walking in the early morning of 23 July when a woman stopped them and accused them of stealing her karaoke machine. The boys denied the accusation.

According to a statement from one of the surviving boys, a PNP patrol car then drove past and the woman told the two policemen in the car that she was suspicious of the boys. The policemen forced the boys into the car and beat them as they drove around looking for more of the boys' companions. Another two police cars with police on board then drew up alongside the patrol car and joined in the interrogation and beating of the three boys. The boys would not confess and were then forced into one of the cars with three police officers.

According to the two survivors, the three police officers stopped the car in a secluded area and began shooting at the boys. Alexander Ladao managed to escape and although he was shot in the stomach, left leg and right arm, he survived. Johnny Ucat was also shot several times and was left on the road. He too survived his injuries. Both the boys have medical certificates and radiology reports which appear to corroborate their accounts of shootings and beatings.

Gary Dalayhon did not survive the shooting. According to an autopsy report issued by the National Bureau of Investigation, Gary was shot three times, twice in the chest and once in the middle of his forehead. He is believed to have died instantly.

The surviving boys have already identified the three police officers who they believe were responsible for the shooting. The boys claim that the three were already known to them. The three policemen have denied any involvement in the incident.

In August 1993 the Cagayan de Oro City Prosecutor recommended that the three policemen be brought to trial for the murder of Gary Dalayhon and attempted murder of Alexander Ladao and Johnny Ucat. However, in October 1993 the three policemen applied for bail which was granted in a court hearing in January 1994, after the judge decided that there was not enough evidence to convict them of murder. They are still free but have been dismissed from police service.

In January 1995, the regional trial court in Cagayan de Oro City determined that it had no jurisdiction over the case and recommended that it should be transferred to the Sandiganbayan Court in Manila, an administrative court set up by the President of the Philippines to deal with cases against government officials. The case has been pending for the past nine months and it remains uncertain whether it will go to trial. Amnesty International has not been informed of the full extent of the investigations carried out to date, nor the reasons for the delay in the trial and therefore urges the authorities to provide this information without delay.

Amnesty International is concerned that the case, having already taken two years, could take yet more years to be resolved. In the meantime, those responsible for Gary Dalayhon's death remain free. The organization is concerned for the safety of the witnesses, given the pattern of witness intimidation and the inadequate provisions for witness protection in the Philippines.

The organization is calling on the Philippine authorities to conduct an immediate, thorough and impartial re-investigation into the death of Gary Dalayhon. It is also urging the authorities to guarantee the safety of witnesses to the incident and to bring to justice any members of the PNP suspected of being responsible for the death of Gary Dalayhon and shooting of Alexander Ladao and Johnny Ucat.

BACKGROUND INFORMATION

Members of the security forces suspected of committing unlawful killings and other human rights violations are rarely brought to justice in the Philippines, despite the government's stated commitment to the protection of human rights and the substantial legal and constitutional guarantees of these rights. In addition, a lack of clarity in defining the respective responsibilities of the various investigative and prosecuting agencies has meant that these agencies often fail to take full responsibility for cases, preferring to pass them over to another agency for final resolution. Moreover, provisions for witness protection are inadequate. Witnesses and complainants involved in human rights cases are routinely subjected to intimidation and as a result are often afraid to come forward for fear of reprisals.

RECOMMENDED ACTIONS

Please send faxes/telegrams/express and airmail letters either in English or your own language:

- *calling for the government to provide details of the investigation into the killing of Gary Dalayhon and the shooting of Alexander Ladao and Johnny Ucat; ask to be informed why the case is taking so long to be resolved;*
- *appealing to the government to act immediately to protect witnesses in this case from intimidation or reprisals;*
- *calling on the government for assurances that all measures will be taken to bring the members of the Philippine National Police responsible for the death of Gary Dalayhon and the shooting of Alexander Ladao and Johnny Ucat to justice, and for the findings of these proceedings to be made public.*

PLEASE SEND APPEALS TO:

- Secretary Rafael Alunan III
Secretary of the Interior and Local Government
Department of the Interior and Local Government
PNCC Complex, Epifanio de los Santos Ave
cnr Reliance St, Mandaluyong
Metro Manila
Philippines
Fax: +63 2 6318814
Telegrams: Secretary Alunan, DILG, Manila, Philippines
Salutation: Dear Secretary Alunan

- Hon. Teofisto Guingona
Secretary of Justice
Department of Justice
Padre Faura, Manila
Philippines
Fax: +63 2 500772
Telegrams: Hon. Teofisto Guingona, Dept of Justice, Manila, Philippines
Salutation: Dear Secretary Guingona

- PNP Station Commander
Cagayan de Oro City
Philippines
Telegrams: PNP Commander, Cagayan de Oro City, Philippines
Salutation: Dear Commander

PLEASE SEND COPIES OF YOUR APPEALS TO:

• Sedfrey Ordoñez
Chairman, Commission on Human Rights
IBP Building, Doña Julia Vargas Avenue
Pasig, Metro Manila
Philippines
Fax: +63 2 631 6449

KEYWORDS CHILDREN1 / EXTRAJUDICIAL EXECUTION1 / ATTEMPTED KILLING /
TORTURE/ILL-TREATMENT / IMPUNITY / JUVENILES / POLICE / POST MORTEMS /

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