

**ASA 35/002/2014**

***Under embargo until May 13<sup>th</sup>***

## **STOP TORTURE**

### **Country briefing: Philippines**

#### **Torture in the Philippines: In summary**

Amnesty International has serious concerns about the widespread use of torture and other cruel, inhuman or degrading treatment or punishment in the Philippines. State security forces including law enforcement officers continue to torture suspects and prisoners. Justice is out of reach for the vast majority of people who are tortured. And perpetrators are almost never held to account.

The country has an extensive legislative framework to stop torture, and the government has pledged to increase its efforts to ensure these laws are implemented. The Philippines is also party to key international anti-torture laws and mechanisms. And yet a culture of impunity persists.

This briefing is based on Amnesty research and individual case studies. It reveals that:

- Though torture is prohibited in the Philippines, it remains rife;
- Failings in the justice system prevent torture cases from being thoroughly investigated or effectively prosecuted;
- Five years after the Philippines' Anti-Torture Act was passed, not one person has been convicted of torture;
- In January 2014, a secret detention centre was discovered in Laguna province, where police officers tortured people for entertainment;
- Suspects in common criminal cases, repeat offenders, out-of-favour police informants and political activists are at particular risk of torture;
- Alleged torture methods include beatings with wooden batons and metal bars, burning skin with cigarette butts, pressing hard on fingers with bullets, electric shock, water boarding, suffocation with a plastic bag and – in one case that was captured on video – repeatedly pulling a piece of string attached to a victim's penis;
- Police officers have reportedly executed people after torturing them;
- Many people who have experienced torture live in fear of reprisals, so they do not report their experience to authorities;
- There is a widespread lack of confidence that the perpetrators of torture will be brought to justice.

The authorities in the Philippines must take urgent action. This should include: ensuring legal safeguards are implemented; investigating all complaints of torture; prosecuting perpetrators; providing full reparations to people who are tortured; strengthening non-governmental organizations that exist to fight torture; increasing the effectiveness of independent accountability mechanisms for torture and other human rights violations perpetrated by the police; monitoring and

improving police disciplinary procedures; and ensuring police procedures do not protect suspected torturers from facing criminal investigations.

Torture is never justified. It is illegal. It is barbaric. It is inhumane.

## **Country background**

In law, torture is prohibited in the Philippines. In reality, it remains rife.

The country's legal framework is undoubtedly robust. The 1987 Philippines Constitution prohibits the use of "torture, force, violence, threat, intimidation" and "secret detention", and promises "penal and civil sanctions" for anyone who uses torture, along with compensation for victims.<sup>i</sup> The country's Revised Penal Code makes all acts of torture punishable as crimes. And the 2009 Anti-Torture Act sets out criminal penalties – including life imprisonment – for torture and other forms of ill-treatment. The Act is designed to "ensure that the human rights of all persons, including suspects, detainees and prisoners, are respected at all times; and that no person... shall be subjected to physical, psychological or mental harm, force, violence, threat or intimidation."<sup>ii</sup>

At an international level, the Philippines' commitment to fighting torture also appears credible. The country ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1986, and ratified its Optional Protocol in 2012 (albeit with an agreement that the Subcommittee on Prevention would postpone its first visit for three years). It has also been a state party to the International Covenant on Civil and Political Rights since 1986.

And yet the UN Committee Against Torture expressed "deep concern" in its concluding observations on the Philippines in 2009. It described "numerous, ongoing, credible and consistent allegations, corroborated by a number of Filipino and international sources, of routine and widespread use of torture and ill-treatment". It also criticised the "culture of impunity for perpetrators of acts of torture", noting that allegations against police and military personnel are "seldom investigated and prosecuted, and that perpetrators are either rarely convicted or sentenced to lenient penalties."<sup>iii</sup>

The Philippine Government has acknowledged this stark discrepancy between its legislative landscape and everyday reality, but progress towards closing this gap remains slow. In 2012, the government highlighted its efforts to establish a National Monitoring Mechanism that would bring together government agencies, civil society organizations and the Commission on Human Rights to track progress and end impunity.<sup>iv</sup> Two years later, there has been little progress – and monitoring is only one element of improving accountability and addressing impunity.

## **Torture in the Philippines: In detail**

### **A justice system that fails victims of torture**

Five years after the Anti-Torture Act was passed in the Philippines, not one person has been convicted of torture. Even in high-profile cases that have prompted swift investigation, perpetrators have mostly faced administrative sanctions rather than criminal charges.

Failings within the Philippines' criminal justice system mean that many investigations, including some relating to torture and other human rights violations, fail to progress beyond the preliminary stages. As a result, Amnesty has serious concerns about the independence, efficiency, effectiveness and integrity of criminal investigations in the Philippines.

Though confessions extracted through torture are theoretically inadmissible in court, a lack of forensics capacity means that torture is used in many cases as part of criminal investigations, which largely depend on testimonial evidence. Prosecutions frequently proceed slowly, as courts are beset by a backlog of years' worth of cases. And these failings effectively shield the perpetrators of torture from prosecution and conviction: delay and uncertainty rarely lead to justice.

## **Case study: Laguna**

### **Torture as entertainment**

In January 2014, the Commission on Human Rights (CHR) in the Philippines discovered a secret detention centre in a residential neighbourhood in Laguna province. Police officers there apparently tortured detainees as a form of entertainment. Officers would spin a wheel to decide what method of torture to use, often fired up by "drinking sprees". The centre was not included in the Philippines National Police's (PNP) list of detention facilities – in violation of Section 7 of the 2009 Philippines Anti-Torture Act.

More than 40 detainees – some with bruises and torture marks still evident on their bodies when CHR staff discovered the facility – have since accused police officers of torture, ill-treatment and extortion. At least ten officers are suspected of involvement.

The existence of this facility – and the culture of impunity it highlights – belies recent claims by the Philippine Government that it has put in place "Institutional measures... to prevent torture and other human rights violations". These measures include: "inspection of police stations with custodial facilities... [and] the institutionalization of salient features of the Anti-Torture Act, including the principles of command responsibility, prohibition of places where torture may be done with impunity... and inadmissibility of evidence obtained through torture".<sup>v</sup>

The PNP has stated that police officers linked to the facility are being investigated internally, and that two senior officers with command responsibility have been relieved of their duties. But Amnesty believes that internal disciplinary proceedings are an inadequate response to the discovery in Laguna.

Torture and human rights violations are criminal acts under Philippine and international law, and must be explicitly criminalized by all signatories of the UN Convention against Torture. Perpetrators must be held accountable in a court of law. And yet the PNP has made no reference to the potential prosecution of police officers, despite its Internal Affairs Service having a legal mandate to file criminal charges against officers involved in unlawful activity.<sup>vi</sup>

And while the high level of media coverage generated by the Laguna facility prompted action by the PNP, most instances of torture and other ill-treatment in the Philippines are neither reported nor investigated.

## **Offenders, informants and activists targeted**

Certain groups are at particular risk from torture and other ill-treatment in the Philippines. Our research has found that these groups include suspects facing common criminal charges, out-of-favour police informants and repeat offenders – including juvenile offenders.

Political activists suspected of sympathizing with the Moro Islamic Liberation Front or the New People's Army also face particular risks. This situation has been exacerbated by the participation of police officers in military counterinsurgency and counterintelligence operations: a recent development that has blurred the line between military and law enforcement functions.

## **Case study: Alfreda Disbarro**

### **Beaten with a metal bar, threatened at gunpoint**

"The police officer asked: 'Can you take my kicks?' I said, 'No sir'. He then kicked me so hard that I fell against the wall. He punched me continuously and hit me with a wooden baton. He punched me in the stomach. He hit me in the face four times. He poked my eyes with two of his fingers. He slapped me six times and slammed my head against the wall twice... He took a mop and forced the dirty and damp rag at the bottom of the mop into my mouth. Then he took it out and smeared my face with it."

The vicious ordeal described by Alfreda Disbarro makes for harrowing reading. Arrested for charges she claims are invented and forced to sign a blank piece of paper that may have been used as a false confession, Alfreda was beaten until she had difficulty breathing and could barely move. She suffered multiple injuries during this and other attacks, including multiple contusions, pain in her abdomen and swelling in her groin.

A single mother and occasional police informant, Alfreda was arrested in an internet shop close to her home in Manila in October 2013, accused of possessing and selling illegal drugs. She denies the charges.

Alfreda says that during the arrest, an unofficial police auxiliary pointed a gun at her and one of the two arresting officers punched her in the chest. She was handcuffed and taken to the local police headquarters in an unmarked white van. She was not shown an arrest warrant or given any further reasoning for her arrest.

Alfreda told Amnesty that one of the officers repeatedly hit her torso and sides with his elbow during this journey. At the station, she was frisked but no illegal substances were found. Her handcuffs were then removed and her hands tied behind her back using black cord, before she was taken to a back room containing five other detainees. Alfreda was the only person with her hands tied.

A police auxiliary singled out Alfreda: placing a bottle of water on her head, lifting a firearm and repeatedly pretending to shoot her. Later that day, a police officer entered the room and took Alfreda to a kitchen area, where the torture described above took place.

Alfreda said this beating was intended to produce a confession. “The officer was forcing me to confess that I was just using the name of the police to make money, and that I was a drug dealer,” she says. “He said something about a protector, which I did not really understand. I could not confess anything because I knew nothing about what he was accusing me of.”

The beating continued later that evening. Alfreda told Amnesty that one of the arresting officers punched her chest, face and body, before using a wooden baton to repeatedly strike her hands, forearms, thighs, calves and back. She hid under a table, begging the officer to stop.

When a police auxiliary tried to strike her in the head, she raised her arms to stop the blow. Then, a police officer slapped her face repeatedly. He then dragged her to separate room, hitting her thighs, stomach and sides with a metal bar. The beating only stopped when the officer accidentally hit his fingers against a locker while swinging at Alfreda. In a rage, he forced the metal bar against her cheeks before leaving the room.

#### **Meeting relatives in darkness**

By dawn, Alfreda says she was hungry, feverish and barely able to move. Her sisters visited the following day. They were only allowed to meet in a darkened room and under the supervision of several officers, and Alfreda was warned not to mention her treatment. In return for her silence, the officers said they would help her to escape charges. She managed, however, to discreetly show her injuries to one of her sisters.

Two days after her arrest, Alfreda was taken for a hospital examination. Intimidated by the presence of three police officers, she stayed silent. On the journey back to the police station, however, one of the officers asked why she had not spoken and insisted they return to the hospital. Alfreda explained the cause of her injuries to the doctor, who admonished the officers. Her medical certificate shows she suffered multiple contusions to her left forearm, left thigh and left leg.

The following day, an officer forced Alfreda to sign a blank piece of paper and she was photographed with some money and a sachet of illegal drugs. Alfreda was later charged with selling and possessing drugs – charges she denies. Six months later, she remains in police detention. Her trial has been postponed twice, and her family has been threatened and moved house out of fear.

#### **The threat of extrajudicial executions**

Human rights violations in the Philippines can escalate beyond torture. Amnesty International has seen cases of torture victims being extrajudicially executed. These executions are informally known in the Philippines as “salvage operations”.

Criminal suspects have allegedly been tortured, driven to vacant lots and gunned down. In two cases since the Anti-Torture Act was enacted in 2009, victims have survived and told Amnesty of their ordeal. And in the case of Darius Evangelista, the act of torture was captured on film before the victim's severed head was discovered floating in Manila Bay.

## **Case study: Darius Evangelista Tortured on camera and decapitated**

"We knew it was Darius but I still didn't want to believe it was him. I just cried and cried. It was like a bad dream."

Darius Evangelista's severed head was found floating in Manila Bay, close to his home, in March 2010. His wife Margie identified the head, which had burns and bullet holes.

Around three days earlier, Darius had been taken into police custody, where witnesses suggest he was tortured. Five months later, video footage emerged of Darius, naked and writhing in pain, being tortured by a police officer.

Darius was arrested for robbery on 5 March 2010. Court documents and witnesses describe police officers in plain clothes taking him into the Binondo Police Station in Tondo, Manila, where detainees say he looked weak and had swollen eyes when he arrived.

He was taken to a small room. Witnesses describe hearing him moaning in pain, before seeing him being carried out of the room with packing tape over his eyes. According to these witnesses, Darius was taken to a private office. When he was brought out of this office, a senior officer instructed other officers to "finish him off".

Darius was never seen alive again and his body was never recovered, but Margie and Darius' father were able to identify his severed head. Margie remembers seeing multiple gunshot wounds: one on the forehead, with the bullet emerging from the back of the skull, and one close to the mouth, where the bullet had pierced Darius' cheek. No autopsy took place, and after Margie was unable to produce Darius' dental records the police refused to release his head to the family. It was buried as 'Mr X'.

### **Televised torture**

Five months later, in August 2010, a disturbing video appeared in the Philippines, showing a naked man writhing on the ground in pain. He has a string attached to his penis, and a man in a white shirt can be seen forcefully pulling the string several times. Other men, including uniformed police officers, are watching this happen. The film was broadcast on national and international news.

Margie recognised the naked man as Darius. Other detainees from Binondo Police Station identified the man in the white shirt as a police officer. In fact, he was chief of the police precinct where Darius was detained.

“I felt so sorry for my husband,” says Margie. “I was furious at the policeman. If only I could grab my husband from the television screen.”

The Philippine National Police conducted an investigation through its own disciplinary body, the Internal Affairs Service, but all but one of the officers involved were cleared of any responsibility. One officer was dismissed from service, but on account of command responsibility including for failing to supervise subordinate officers – rather than on torture charges. No criminal charges were initiated by the PNP, even though its Internal Affairs Service has the remit to prosecute officers.

With the support of the Philippines Commission on Human Rights, Darius’ family filed a case with the Department of Justice (DOJ). The DOJ found a prima facie case for torture by means of conspiracy against seven officers and other unnamed individuals. Two of the officers handed themselves in to police in 2012, and the primary suspect was arrested in 2013. All have pleaded not guilty, and the other suspects remain at large. The case continues.

Since the video was released, Darius’ family have been approached several times by people trying to convince them to drop their case. They have now fled their home out of fear.

### **Torture victims living in fear**

Amnesty has interviewed a number of alleged torture victims who are still in government custody: either awaiting trial, on trial or serving prison sentences. Many have expressed fears that their torturers will gain access to their detention facility, despite legal safeguards being in place. In one case, we were told of a high-ranking military officer who allegedly gained access to a prison and attacked a detainee.

Many people who have experienced torture also fear reprisals against their families if they speak out or take complaints about torture to court. And there is a widespread lack of confidence that perpetrators will be brought to justice.

### **Stop Torture in the Philippines: Recommendations**

Amnesty International is calling for urgent action to stop the use of torture and other ill-treatment in the Philippines and to end the culture of impunity. Authorities in the country must:

- Ensure that existing legal safeguards to stop torture are implemented in law, policy and practice;
- Investigate all complaints of torture and ill-treatment promptly, thoroughly, impartially and effectively, and prosecute perpetrators in fair trials that meet international standards;
- Provide full reparations to victims of torture;
- Strengthen the effectiveness of accountability mechanisms that exist to help bring perpetrators of torture to justice – such as the Commission on Human Rights, the Civil Service Commission, the Office of the Ombudsman

- for the Military and Law Enforcement Officers, the National Police Commission and the National Prosecution Service;
- Ensure police disciplinary procedures are impartial and credible, and that these procedures do not prevent suspected torturers from facing criminal investigations.

#### It's time to Stop Torture in the Philippines.

---

<sup>i</sup> 1987 Philippine Constitution, Article III, Section 12(2) and (4).

<sup>ii</sup> Republic Act no. 9745, Section 2(b).

<sup>iii</sup> Committee against Torture, Concluding observations of the Committee against Torture: The Philippines, UN Doc. CAT/C/PHL/CO/2, 14 May 2009, paras. 7, 9 respectively.

<sup>iv</sup> Human Rights Council. UN Doc. A/HRC/WG.6/13/PHL/1, 19 March 2012, para.49.

<sup>v</sup> Human Rights Council. UN Doc. A/HRC/WG.6/13/PHL/1, 19 March 2012, para.56.

<sup>vi</sup> Republic Act No. 8551, sec. 39(e).