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Philippines: Handling of Maguindanao massacre case raises concerns about justice system

Dropping the charges against two prominent members of the Ampatuan family charged with involvement in the November 2009 Maguindanao massacre three weeks before national elections smacks of placing politics before justice and human rights, Amnesty International said today.

The decision by the Department of Justice, on 17 April, a Saturday, to drop charges against Zaldy Ampatuan, Regional Governor of the Autonomous Region in Muslim Mindanao, and Akmad Ampatuan, acting Vice Governor of Maguindanao province was based largely on their alibis showing that they were not in Maguindanao at the time of the massacre.

However, that they were not physically present during the murder is immaterial, as the two men were charged with conspiracy rather than direct participation. The timing and the manner in which the executive decision was made raises questions as to the reasons why the Secretary of Justice, a political appointee, intervened.

The worst pre-election violence in Philippine history—the Maguindanao massacre which killed 63 people including 33 journalists—focused global attention on the human rights situation in the country. The victims were on their way to file a certificate of candidacy for a provincial gubernatorial candidate when they were ambushed and killed by armed men.

Acting Justice Secretary Alberto Agra said that he made the decision to drop the charges because there was no probable cause, and their names should be struck off the charge sheet in the multiple murder case. The panel of government prosecutors, however, say that as they are pursuing a theory of conspiracy in the multiple murder case, the two men did not need to be in the scene of the crime to have been involved.

The government prosecutors also complained that they only found out about the executive decision by the Secretary through the media. They said:

“The evidence we have against the accused, our individual conscience, our sense of right and wrong and notion of justice and injustice, leave us no room to follow Secretary Agra’s orders....We are deeply concerned that the resolution will all the more convince a long sceptical public that our criminal justice system is impotent when the accused are politically influential.... We can not be a mute party to the grant of impunity to privileged accused.”

The Maguindanao massacre has placed the Philippine government under increased international scrutiny. The onus is now on the Department of Justice and the courts to demonstrate through the handling of this case that justice can be achieved.

Allegations of election fraud during the 2004 polls, particularly in Maguindanao where paramilitaries and militia groups are known to have abducted and unlawfully killed people under orders of local politicians, have cast a heavy shadow on the upcoming elections. With the elections coming up in May, the Philippine government needs to demonstrate that it will not tolerate impunity for human rights abuses for political gain.

The Maguindanao massacre illustrated all too clearly that local politicians and their armed groups can kill more than 50 people in broad daylight to forward their political interests.

The Philippines must abide by its obligations under international human rights law to ensure effective remedy for victims of human rights abuses and their families, and to prevent impunity, Amnesty International said.

Additional information:

Initially, the Maguindanao multiple murder case had been assigned to a local court. Under Philippine law, the local court can either honour the decision of the Secretary or assert its own jurisdiction as a separate branch of government.

In Philippine law, for a person to be charged, the quantum of evidence needed is “probable cause”, to be determined through a preliminary investigation conducted by prosecutors. If the prosecutors find probable cause, the case is assigned to the court. It is the court’s responsibility to then assess the evidence and to rule on the accused person’s guilt or innocence.

Acting Justice Secretary Alberto Agra ordered the multiple murder charges against Zaldy and Akmad Ampatuan to be dropped based on a flight manifesto, a phone bill and a witness testimony against other evidence, including from a former member of the Ampatuan’s private army testifying that the two accused participated in the planning of the murder.

Mr. Agra had assumed the post in February 2010. He was President Arroyo’s election lawyer during the 2004 presidential elections and again her private counsel during the 2006 impeachment proceedings against her.

197 people have been named suspects in the multiple murder case. According to media reports, as of 13 April, 59 suspects are in government custody: 47 policemen, two militiamen, and some members of the Ampatuan clan. Media reports also indicate that the remaining identified suspects, including 97 Civilian Volunteer Organization militiamen, 13 policemen, four soldiers, 13 other members of the Ampatuan family and other suspects, are still at-large.