SHATTERED LIVES

BEYOND THE 2008-2009 MINDANAO ARMED CONFLICT

AMNESTY INTERNATIONAL

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Cover photo: During a peace caravan in Central Mindanao, a woman calls for the rights of internally displaced people to be respected, March 2009.
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Back cover photos from top: A peace caravan in Central Mindanao, March 2009; Waiting for food rations in Datu Piang, Maguindanao province, March 2009; Centre for internally displaced people in Shariff Kabunsuan, Maguindanao province, March 2009.
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ACRONYMS FOUND IN THE REPORT

AFP - Armed Forces of the Philippines

AFPHRO – Armed Forces of the Philippines Human Rights Office

ARMM – Autonomous Region in Muslim Mindanao

CAFGU - Civilian Armed Forces Geographical Unit

CCCH – Coordinating Committee on the Cessation of Hostilities

CESCR -- UN Committee on Economic, Social and Cultural Rights

CHRP – Commission on Human Rights in the Philippines

CRC – UN Convention on the Rights of the Child

CVO - Civilian Volunteer Organization

DDR – Disarmament, Demobilization and Reintegration

DOH – Department of Health

DSWD – Department of Social Work and Development

IB – Infantry Brigade

ICCPR – International Covenant on Civil and Political Rights

ICESCR – International Covenant on Economic, Social and Cultural Rights

ICRC – International Committee on the Red Cross

IED – improvised explosive device

IMT – International Monitoring Team

INGO – international non-governmental organizations

MILF – Moro Islamic Liberation Front

MNLF – Moro National Liberation Front

MOA-AD – Memorandum of Agreement on Ancestral Domain

NDCC – National Disaster Coordinating Council

PNP - Philippine National Police

SONA – State of the Nation Address

UNWFP – UN World Food Programme

LOCAL TERMS USED

bakwit – a displaced person, called "evacuee" by government and Philippine media

Moro – a term used to collectively refer to Philippine Muslims

rido – family feud/ inter-clan conflict that often involves violence and deaths

THE END OF YET ANOTHER ROUND

"We inherited an age-old conflict in Mindanao, exacerbated by a politically popular but near-sighted policy of massive retaliation. This only provoked the other side to continue the war."

- President Gloria Macapagal Arroyo during her State of the Nation Address, 27 July 2009

INTRODUCTION AND SUMMARY

One year after renewed violence between government security forces and armed groups, Mindanao is finally beginning to see a possible end to the unrest and uncertainty— and perhaps even an end to the 40-year armed conflict. On 29 July 2009, the 2008-2009 hostilities, which displaced more than 750,000 persons in total and led to numerous human rights abuses, officially ended with an agreement to resume peace negotiations. With a ceasefire now in place, both parties to the conflict must, as a matter of urgency, ensure the safe return to their homes of the more than 240,000 currently internally displaced persons.[1] They should also cooperate in facilitating a comprehensive, impartial and thorough investigation into all allegations of grave human rights abuses and violations of international humanitarian law during the recently concluded hostilities.

It is vital that those whose lives have been shattered by the abuses achieve justice promptly as armed conflicts, often borne out of perceived injustices, feed on unresolved grievances that arose from a history of conflict and many years of failure to hold to account perpetrators of grave human rights abuses.

The Philippine government declared a Suspension of Military Operations and the Moro Islamic Liberation Front (MILF) declared a Suspension of Military Activities as of 23 and 24 July 2009, respectively. At the same time the Armed Forces of the Philippines (AFP) stated that the pursuit of MILF commanders Ameril Umbra Kato, Abdullah Macapaar and Ali Pangalian and their fighters continues, and the military will remain involved in the operations, in support of the Philippine National Police (PNP), who will, in case of their capture, serve them their warrants of arrest for criminal acts such as murder, arson and robbery. Amnesty International calls on the Philippine government to ensure that such joint police-military pursuit operations do no result in further human rights violations in Central Mindanao[2] and the Autonomous Region in Muslim Mindanao (ARMM).[3]

JOINT STATEMENT

The Chairmen of the GRP and the MILF Peace Panels re-established official contact today under the auspices of the Malaysian Third Party Facilitator, to end nearly a year of impasse in the peace negotiations, and to complete the preparation for the resumption of the Talks.

The two-day Special Meeting ended on a high note with both sides expressing a common desire to restore trust and confidence in addressing major issues in order to pave way for the early resumption of the stalled peace negotiations.

In their meeting, they agreed on the following:

1. Mutual effort to sustain both the Government's Suspension of Military Offensives (SOMO) and the MILF's Suspension of Military Actions (SOMA);
2. Acknowledgment of MOA-AD as an unsigned and yet initialed document, and commitment by both parties to reframe the consensus points with the end in view of moving towards the comprehensive compact to bring about a negotiated political settlement;
3. Work for a framework agreement on the establishment of a mechanism on the protection of non-combatants in armed conflict;
4. Work for a framework agreement on the establishment of International Contact Group (ICG) of groups of states and non-state organizations to accompany and mobilize international support for the peace process.

The GRP Panel Chairman took serious note of the concern of the MILF on the implication of the exclusion from the SOMO of some MILF commanders tagged as "rogues" by the Government.

The Parties expressed their gratitude to President Gloria Macapagal-Arroyo for her desire and commitment to durable peace and sustainable development in Mindanao, and to Malaysian Prime Minister Dato' Sri Mohd. Najib bin Tun Haji Abdul Razak for his generous and steadfast support and assistance to the pursuit of these goals. Their joint efforts largely contributed to this significant advancement in the GRP-MILF peace process.

Done this 29th day of July 2009 in Kuala Lumpur, Malaysia.

For the GRP:

AMB. RAFAEL E. SEGUIS
GRP Panel Chairman

For the MILF:

MOHAGHER IQBAL
MILF Panel Chairman

Signed in the presence of:

DATUK OTHMAN BIN ABDUL RAZAK
Third Party Facilitator

Joint Statement between the Philippine Government and the MILF signalling the resumption of peace negotiations[4]

In May 2009 the Mindanao conflict was identified as having the highest number of new internally displaced persons worldwide[5] and having "the most neglected displacement situation"[6] in 2008.

Many displaced people, as of the end of July 2009, have still been unable to go back to their villages. They live in fear and uncertainty in overcrowded camps, with their relatives, or in makeshift shelters on roadsides. Unable to tend to their farms, they have become dependent on food rations and other aid. For many large families the food rations are not enough, and family members have been forced to go back to their villages to forage for food or something to sell, risking their lives in the process. In June 2009, the Philippine government discouraged aid agencies from giving large quantities of food to displaced persons, in an effort to prevent food from being diverted to the hands of the MILF or sold to traders.[7]

The armed conflict in Central Mindanao, which was officially between the Philippine government and the MILF, was further aggravated by violent acts by other armed groups, privately-armed militias and powerful feuding clans.

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Amnesty International and other human rights monitors and humanitarian workers have reported on cases of arbitrary arrests, torture and other cruel, inhuman or degrading treatment or punishment, enforced disappearances, political killings, house destruction as well as diversion and prevention of access to aid.

A senior official from the Office of the Presidential Adviser on the Peace Process, after a visit to Maguindanao in June 2009, described the situation as a "humanitarian crisis".[8]

In March 2009 Amnesty International visited Mindanao, including the cities of Davao, Cotabato and Iligan, and the provinces of North Cotabato and Maguindanao, to obtain updated first-hand information about the human rights situation there. The organization gathered reports from local human rights monitors, humanitarian workers, the military, the MILF, the Philippine Catholic Church, local and international non-governmental organizations and the media. This report is a follow-up to "Shattered Peace in Mindanao: The Human Cost of Conflict in the Philippines" (AI Index: ASA 35/008/2008) published by Amnesty International in October 2008.

This report focuses on the situation of internally displaced persons and human rights abuses and violations of international humanitarian law in the context of the armed conflict in Maguindanao province, which was the stronghold of the MILF and one of the centres of the armed conflict for most of its duration. Amnesty International interviewed victims, their families and witnesses as well as members of civil society in the province. Some of the cases raised in this report were taken from interviews and documentation by independent humanitarian workers and community human rights monitors.

Amnesty International does not take sides in armed conflicts generally, including conflict between the Philippine government and the MILF. In the context of armed conflict, the organization concentrates on documenting and campaigning against human rights abuses and violations of international humanitarian law, no matter who commits them.

AMNESTY INTERNATIONAL'S CONCERNS

Where armed conflict is prolonged, increased suffering and hardship invariably follow. Armed conflicts have, more often than not, been the breeding ground for mass violations of human rights.

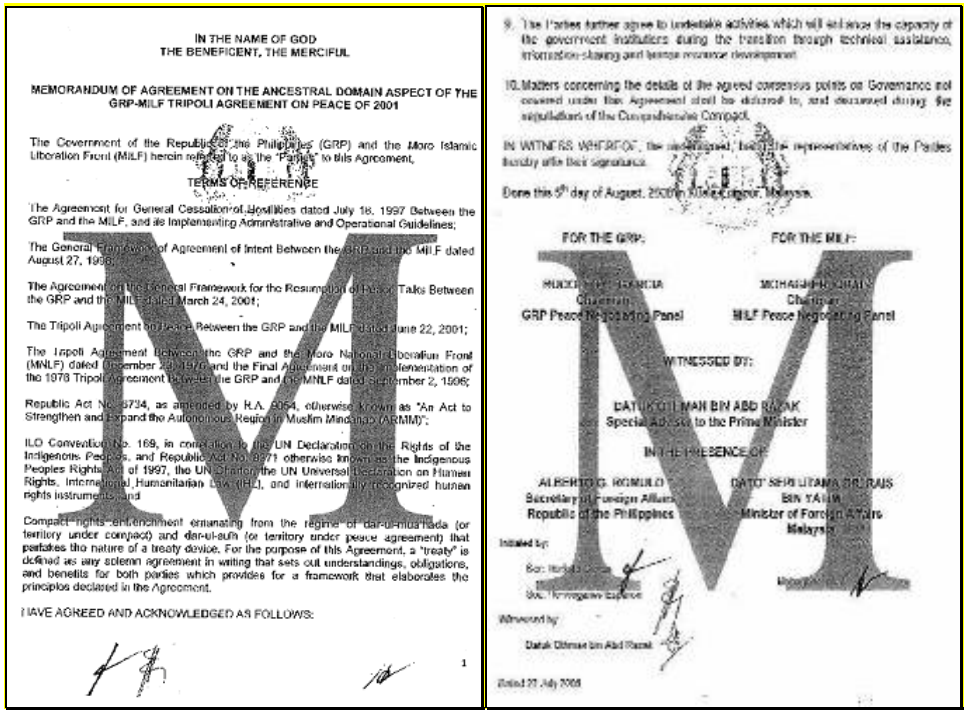
All parties to an armed conflict are obliged to comply with international humanitarian law, and in particular Common Article 3 of the 1949 Geneva Conventions, which prohibits any attacks on persons "taking no active part in the hostilities," and the Second Optional Protocol to the Geneva Conventions which contains similar provisions. Moreover, international human rights law applies in war just as in peace time. Amnesty International calls upon the parties, most notably the Philippine government and the MILF, to explicitly show commitment to putting an immediate and unconditional end to all violations of international human rights and humanitarian law, including but not limited to, attacks targeting civilians, indiscriminate attacks, burning and destruction of civilian properties, arbitrary arrests, torture, and other cruel, inhuman or degrading treatment or punishment, enforced disappearances and unlawful killings, including but not limited to political killings.[9]

The Philippine government must ensure the protection of civilians affected by the conflict, particularly displaced persons. It must also ensure that displaced families are provided with sufficient food, access to potable water and free medical treatment.

The Philippine government and the MILF must fully cooperate to facilitate prompt, impartial and thorough investigations into allegations of human rights violations and violations of international humanitarian law. Reports of the investigations should be made public. Perpetrators, irrespective of rank, must be brought to justice in proceedings which meet international standards of fairness, and victims must be ensured reparations.

THE MINDANAO ARMED CONFLICT IN CONTEXT

In June 2008, localised armed encounters between government security forces and MILF fighters began in several villages in North Cotabato.[10] By August, these escalated to heavy fighting in several provinces in Mindanao, including Lanao del Norte, Lanao del Sur, South Cotabato, Saranggani, Sultan Kudarat and Maguindanao after the Supreme Court issued a temporary restraining order on the signing in Putrajaya, Malaysia of the Memorandum of Agreement on Ancestral Domain (MOA-AD)[11] on August 5, 2008, which would have given broader political and economic powers to the Muslim leadership and widened the territories of the existing Autonomous Region in Muslim Mindanao in southern Philippines. The MOA-AD was previously "initialled" by representatives of the Philippine government and the MILF. On 14 October, the Supreme Court ruled that the agreement was unconstitutional.[12]



IN THE NAME OF GOD
THE BENEFICENT, THE MERCIFUL

MEMORANDUM OF AGREEMENT ON THE ANCESTRAL DOMAIN ASPECT OF THE GRP-MILF TRIPOLI AGREEMENT ON PEACE OF 2001

The Government of the Republic of the Philippines (GRP) and the Moro Islamic Liberation Front (MILF) herein referred to as the "Parties" to this Agreement,

TERMS OF REFERENCE

The Agreement for General Cessation of Hostilities dated July 18, 1997 Between the GRP and the MILF, and its Implementing Administrative and Operational Guidelines;

The General Framework of Agreement of Intent Between the GRP and the MILF dated August 27, 1998;

The Agreement on the General Framework for the Resumption of Peace Talks Between the GRP and the MILF dated March 24, 2001;

The Tripoli Agreement on Peace Between the GRP and the MILF dated June 22, 2001;

The Tripoli Agreement between the GRP and the Moro National Liberation Front (MNLF) dated December 23, 1976 and the Final Agreement on the Implementation of the 1976 Tripoli Agreement between the GRP and the MNLF dated September 2, 1996;

Republic Act No. 9054, as amended by R.A. 9054, otherwise known as "An Act to Strengthen and Expand the Autonomous Region in Muslim Mindanao (ARMM)";

ILO Convention No. 169, in correlation to the UN Declaration on the Rights of the Indigenous Peoples, and Republic Act No. 8371 otherwise known as the Indigenous Peoples Rights Act of 1997, the UN Charter, the UN Universal Declaration on Human Rights, International Humanitarian Law (IHL), and internationally recognized human rights instruments; and

Compact rights entitlement emanating from the regime of dar-ul-muahada (or territory under compact) and dar-ul-aufi (or territory under peace agreement) that partakes the nature of a treaty device. For the purpose of this Agreement, a "treaty" is defined as any solemn agreement in writing that sets out understandings, obligations, and benefits for both parties which provides for a framework that elaborates the principles declared in the Agreement.

HAVE AGREED AND ACKNOWLEDGED AS FOLLOWS:

1

9. The Parties further agree to undertake activities which will enhance the capacity of the government institutions during the transition through technical assistance, information-sharing and human resource development.

10. Matters concerning the details of the agreed consensus points on Governance not covered under this Agreement shall be discussed in, and discussed during the negotiations of the Comprehensive Compact.

IN WITNESS WHEREOF, the undersigned, being the representatives of the Parties hereby affix their signature.

Done this 5th day of August, 2008 in Kuala Lumpur, Malaysia.

FOR THE GRP:
HERMOGENES ESPERON
Chairman
GRP Peace Negotiating Panel

FOR THE MILF:
MOHAGHER IQBAL
Chairman
MILF Peace Negotiating Panel

WITNESSED BY:

DATUK OTHMAN BIN ABD RAZAK
Special Adviser to the Prime Minister

IN THE PRESENCE OF:

ALBERTO G. ROMULO
Secretary of Foreign Affairs
Republic of the Philippines

DATO' SERI LIZAMA SULAIMAN BIN YAHYA
Minister of Foreign Affairs
Malaysia

Initialed by:

Witnessed by:

Datuk Othman bin Abd Razak

Dated 27 July 2008

The MOA-AD, "initialled" by the chairmen of both government and MILF peace panels in July 2008[13]

However, in Amnesty International's March and June 2009 meetings with insiders in the peace talks, it learned that during the recent years of negotiations, there was an "unspoken rule" that just as the MILF would cease to mention secession; the government side would not insist on working towards an agreement within the framework of the Philippine constitution. Otherwise, the negotiations would have been deadlocked.

The fighting in August 2008 included several attacks by MILF fighters on civilian communities. According to local sources, information that the government was not going to complete the formal signing of the agreement was leaked to MILF commander Abdullah Macapaar, who then launched attacks in the provinces of Lanao del Norte and Lanao del Sur in northern Mindanao on 18 August.

In September 2008, the president dissolved the government peace panel responsible for the nearly four-year -long negotiations that culminated with the MOA-AD, and announced that it would shift its focus from dialogue with the MILF to "authentic dialogues with communities and stakeholders", and that it would only negotiate with the MILF in the context of disarmament, demobilization and reintegration (DDR).[14]

On 30 November 2008, the term of the International Monitoring Team (IMT) expired and Malaysia, which facilitated the peace negotiations, withdrew its peacekeepers which comprised two-thirds of the 60 member International Monitoring Team (IMT).[15]

The next month, the Philippine government reconstituted its peace panel with new negotiators. On 26 December, the MILF through its chairman issued a public statement placing the following conditions on the resumption of the peace talks: international guarantors to ensure the implementation of any agreement reached; resolution of the status of the MOA-AD; return of the IMT with Malaysia as facilitator; and the termination of all operations by the AFP against the MILF. Earlier, the MILF vice chairman had said that the MILF would be willing to sign and honour a document pledging that they will no longer secede from the Philippines, if the government honours its commitment to give *Moros* (Philippine Muslims) their ancestral domain.[16]

In March 2009, after appeals from EU countries, the United States of America and Australia for the resumption of the Mindanao peace talks, the European Parliament urged the Philippine government "to clarify the status and the future of the Memorandum of Agreement after the Supreme Court Ruling" and called on the Philippines and the MILF "to do everything in their power to stop the displacement and to allow the hundreds of thousands to return home". The EU Parliament called on the European Council and Commission to "support the Philippine government in its efforts to advance the peace negotiations, including facilitation, if necessary" and suggested "that the role of the International Monitoring Team could be enhanced through a stronger mandate for investigations and through an agreed policy on making its findings public". The European Parliament also stated that it "is concerned that the failure to hold perpetrators accountable has a corrosive impact on public confidence in the rule of law…".[17]

In May 2009, the Philippines again sought observer status in the Organization of Islamic Conference (OIC) —a move which was strongly opposed by the MILF and the Moro National Liberation Front (MNLF); the latter having enjoyed observer status to the 57-nation body since 1977. The OIC did not act on the Philippine application.

As of June 2009, there were no indications from the MILF of any forthcoming resumption of talks, even as the Philippine government continued to assure the international community that the resumption of the peace talks was at hand. As the International Crisis Group noted in February 2009, "None of the political obstacles that killed the MOA had been removed; if

anything, positions have hardened…. An arrangement that the current constitution would permit would be unacceptable to the MILF because it would entail too much central control".[18]

On 23 July, days before the Philippine president was scheduled to give a report of her administration through her final State of the Nation Address, thousands of people affected by the armed conflict, including internally displaced families, took to the streets of Central Mindanao demanding peace. By the end of that day, President Arroyo declared a Suspension of Military Operations. The MILF followed suit the next day.

BACKGROUND OF THE MINDANAO CONFLICT[19]

After its split with the MNLF, which had signed a peace agreement with the Philippine government in in 1976 and in 1996, the MILF became the dominant armed group in Mindanao. It is widely believed, however, that the MILF lacks complete control over its troops and is divided along tribal lines. MILF's organizational structure, the close ties of some of its commanders with other armed groups, and the presence of these armed groups in Mindanao have all had an impact on the MILF's commitment and ability to bringing the peace process to a successful close.[20]

Peace talks between the Philippine government and the MILF central command have been going on since more than ten years ago, since January 1997, under three Philippine presidents and two MILF leaders. In 1997, the ceasefire agreement was signed,[21] but by 2006, after several breakdowns in the ceasefire, MILF negotiators had warned that the peace process was at serious risk of failure. At that time an observer commented: "The prevalence of violence and the resulting breakdowns in talks underline the mixed motives and internal struggles that affect both negotiating sides."[22]

At the same time the presence of influential spoilers in the peace process, the importance of the ARMM in national politics, and the relatively unchecked control of powerful political clans in Central Mindanao over its population are believed to have all influenced the government in its ability and commitment to ensuring that "2009 will be the comeback year for peace, progress and prosperity in Mindanao."[23]

The situation in Mindanao is complex and extends beyond the Philippine government-MILF armed conflict. Localized conflicts between clans and family feuds, abduction-for-ransom groups, in particular the Abu Sayyaf, and the presence of other armed groups complicate the peace process. As one observer noted in 2006: "A failed peace process… could further radicalise and splinter the local insurgency…".[24]

While the government focused on its military operations against the MILF, other groups have conducted their own violent activities. For example, in January 2009, Abu Sayyaf abducted three International Committee of the Red Cross (ICRC) staff. By July 2009, after much media and political attention, all three were free. Several civilians have also gone missing, and while it is often difficult to ascertain whether these are enforced disappearances or if they are family feud-related acts of retribution, in the cases that are raised in this report, the

allegations relate to members of the government security forces.

Fearing a repeat of a last minute retraction (in reference to the 2008 Philippine government refusal to sign MOA-AD days after its representatives had initialled the memorandum) in future agreements, the MILF and local groups have been calling for international guarantors and point to some inter-governmental organizations, citing both the Organization of Islamic Conference (OIC) and the European Union (EU). Malaysia continues to play a crucial role in the peace process as its facilitator.

MINDANAO IN THE PHILIPPINE CONTEXT

Mindanao accounts for one-fourth of the total Philippine population and 41% of the country's land area. The six regions in Mindanao, however, only account for 18 percent of the country's total domestic production and total income. In the 2009 budget, Mindanao was allotted only 14 percent of the total budget allocated to the regions.[25]

Mindanao, particularly in its conflict-ridden provinces, continues to lag behind the rest of the Philippines in economic and social development. According to the 2008/2009 Philippine Human Development Report which covers the period of 2004-2006, provinces with the lowest life expectancy in the country were Tawi-tawi, Sulu, Maguindanao and Lanao del Sur (all conflict-affected for decades). Those living in Tawi-tawi province are expected to live only 53.5 years, 21 years less than those who live in La Union, the province with the highest life expectancy. This disparity could be explained by disparities in access to quality healthcare.[26] Six of the country's provinces with the lowest high school graduate ratio are also in Mindanao.[27] Finally, people living in the conflict-affected provinces of Saranggani, Maguindanao, Zamboanga del Norte, Lanao del Sur, Basilan, Sulu and Tawi-tawi also had some of the lowest real per capita income[28] and the lowest human development index (HDI)[29] in the Philippines, with HDI levels of the provinces not significantly different from those of Uganda, Nigeria and Senegal.[30] The same provinces, except for Zamboanga del Norte, were also among the ten provinces with the lowest human poverty index, which captures deprivation beyond income poverty.[31]

Finally, while the island region is poor and lacking in basic social services, it is flooded with weapons. In a public statement on 18 May, a senior police officer said that 80 percent of the two million illegal weapons in the Philippines can be found in Mindanao. The official said, "in some communities, particularly in Mindanao, guns have almost become a fashion accessory to display power and authority". [32] In May 2009, the International Action Network on Small Arms (IANSA) reported that the Philippines ranked 10th in the world in the list of countries with the highest number of gun-related killings, with an average of almost 10 gun-related deaths per 100,000 people annually.

LAWS GOVERNING NON-INTERNATIONAL ARMED CONFLICT

Based on Amnesty International's research, including during visits to the Philippines, it appears that both the AFP, including its armed auxiliaries, and the MILF, directly or through its Bangsamoro Islamic Armed Forces, have violated international humanitarian law governing the conduct of hostilities in armed conflicts.

Article 3 common to the Geneva Conventions provides that in non-international armed conflict, each Party shall as a minimum "treat humanely without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth… persons taking no active part in the hostilities". Common Article 3 prohibits "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; taking of hostages; outrages upon personal dignity, in particular humiliating and degrading treatment…" with respect to civilians "at any time and in any place". Common Article 3 of the Geneva Conventions applies both to the Armed Forces of the Philippines, as a High Contracting Party to the Geneva Conventions, and to the MILF, as a party to the non-international armed conflict in Mindanao.

Since the Philippines is a High Contracting Party to Additional Protocol II to the Geneva conventions, which relates to the protection of victims of non-international armed conflicts, all parties to the armed conflict must also abide by its provisions, including that "The civilian population as such, as well as individual civilians, shall not be the object of attack." [33]

According to international humanitarian law a civilian is any person who is not a member of the armed forces.[34] Members of the armed forces comprise all organized armed forces, groups and units which are under a command responsible to the party, including militia and volunteer corps forming part of such forces.[35] With regard to non-international armed conflicts, Article 3 Common to the four Geneva Conventions, which as noted, protects "persons taking no active part in the hostilities", is understood to contain the principle of distinction as well.[36]

In the Philippine government - MILF Mindanao armed conflict, a wide range of groups are involved in the fighting. On the side of the state forces, combatants not only include members of the Armed Forces of the Philippines, but also paramilitaries such as Civilian Volunteer Organizations (CVOs; village sentries) and the Civilian Armed Forces Geographical Units (CAFGU; force multipliers of enlisted soldiers). On the MILF side on the other hand, there is no clear distinction between members of the 18 base commands of the Bangsamoro Islamic Armed Forces, which is under the MILF Central Command, and MILF fighters that "act on their own if deemed necessary",[37] or splinter groups which also act independently. Although they could all be considered combatants, they may also live among the civilian population as farmers or fishermen some of the time.

A fundamental principle of international humanitarian law is that parties to an armed conflict must at all times distinguish between civilians and combatants, and between civilian objects and military objectives. Operations may only be directed against combatants and military objectives, and never targeted against civilians or civilian objects. Additional Protocol I, Article 52(2) of the Geneva Conventions defines military objectives to include objects "which by their nature, location, purpose, or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definitive military advantage". This "principle of distinction" is a rule of customary international law, which binds all parties to armed conflicts. [38]

In the Philippine government - MILF Mindanao armed conflict mortars are known to have landed in at least one of the IDP camps and very close to several IDP camps in Maguindanao province, sometimes hitting displaced persons. Military detachments are positioned in residential areas or in close proximity to IDP camps. Accounts from local humanitarian workers document interviews with civilians pointing to CVOs, soldiers and other armed men attacking houses abandoned by their residents. MILF fighters, who may also be farmers during peace time, live amongst the civilian population—armed—thereby several of them present in a village puts the community at risk of an attack.

Attacks which although directed at a military target may cause disproportionate harm to civilians or civilian objects are also prohibited under international humanitarian law.

Additional Protocol 1 in the Geneva Conventions clarifies indiscriminate attacks as: those which are not directed at a specific military objective; those which employ a method or means of combat which cannot be directed at a specific military objective; or those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.[39] The definition of an indiscriminate attack includes: "…an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated". [40]

In the Mindanao conflict, whereas the military claims that its operations specifically target MILF combatants under the command of Ameril Umbra Kato and Abdullah Macapaar, Amnesty International's research and reports from local humanitarian organizations indicate that displaced persons and other civilians have become victims in military operations. Both parties to the conflict must ensure that civilians are not disproportionately harmed during fighting.

While there are no provisions for proportionality explicitly applicable to non-international armed conflicts, this obligation is considered to be inherent in the principle of humanity which is applicable to these conflicts.[41]

Moreover the doctrine of command responsibility extends responsibility for violations of international humanitarian law to those who occupy positions of authority, if they ordered their subordinates to commit such abuses, failed to take reasonable preventive action, or failed to punish the perpetrators.

This doctrine applies not only to the state's armed forces, but also to the Bangsamoro Islamic Armed Forces (BIAF), which operates with an established, military-style chain of command. Therefore, just as the doctrine of command responsibility applies to military commanders of the government security forces, and where appropriate, to their civilian leaders, it also applies to the military and political leadership of the MILF which claims to exercise responsibility and control over MILF combatants.

HUMAN RIGHTS VIOLATIONS IN THE CONTEXT OF THE ARMED CONFLICT

"We abhor conflict as an instrument of policy."
- AFP in a presentation outlining its commitment to human rights[42]

"My husband begged the soldiers not to hurt him. He kept on saying he was not a member of the MILF. I begged them to stop. I begged them to spare him his life because he is our family's breadwinner and that he is the father of young children, but they never listened to my pleas. Our children tried to cling to him while the soldiers beat him up."
- Wife of a man who was beaten up by soldiers and killed in front of his family

The authorities continue to treat many Muslim civilians as MILF-supporters or fighters. In some cases the security forces have arrested *Moros* arbitrarily, subjecting some of them to enforced disappearances, torture and other ill-treatment. Most of the reports of human rights violations received by Amnesty International during its March 2009 visit pointed to involvement by members of the government security forces, as well as government-supported paramilitaries.

When the government security forces arrest civilians, they are often held for no more than 24 hours. In the course of questioning, however, a degree of intimidation is usually involved, and sometimes violence.

THE UNGAP CASE: ARBITRARY ARRESTS, ENFORCED DISAPPEARANCE, TORTURE AND OTHER ILL-TREATMENT

In January 2009 approximately 60-100 soldiers, reportedly from Task Force *Tugis* ("search") of the Army's 6th Infantry Division, entered the village of Ungap, Sultan Kudarat Municipality in Maguindanao. The troops came in tanks and trucks,[43] and arrested at least 10 men without a warrant (three were arrested in the afternoon and seven in the early morning of the next day). The soldiers forcibly entered houses, pointing guns at the residents, rummaging through their possessions and destroying household appliances and food supplies.

Amnesty International interviewed the wife of one of those who were arrested. Eighteen years old and nine months pregnant, she travelled from Ungap to the town of Datu Piang to ask for help in finding her missing husband, Mansur Salih, 32, a tricycle driver. Here is her account of what happened:

"The soldiers came in two trucks. Ten soldiers came and barged into our house. They rummaged through our things. They never asked for permission to enter the house or to search through our things. They shouted at me, asked me to lie on the ground, and I complied. A few minutes later, I smelled something burning, so I

stood up to check our rice pot, but one of them followed me and when I bent down to put the fire out, he kicked me in my side, near my hip. I fell down. When I looked up at the soldier, he just laughed at me. Later, I saw that I had a big bruise. I was visibly pregnant—six months—but he kicked me anyway.

The soldier went back inside the house. When he was gone, I ran to my mother-in-law's house which is adjacent to ours. There were more soldiers there, destroying our things, breaking our glassware and even throwing our electric fan outside the window. The soldiers blindfolded Mansur, and then they handcuffed him and then kicked and pushed him around. They took him with them in their truck. A soldier then pointed his long gun at me. I know for certain that they are soldiers. They were in uniform, and I saw and remember the names of two of them.

At dawn the next day, one of our neighbours came to my house. He said he was arrested with Mansur. He begged me to give him a shirt to wear. He said they were brought to the provincial jail and that they have all been released except for Mansur. He said the soldiers electrocuted them and questioned them. I wanted to ask for more details but he was in a hurry to leave our town and immediately after I gave him a shirt he ran away. I never saw him or his family again.

For days I could not sleep. My family told me not to worry too much as it would harm my unborn child. But how could I not worry? My husband was somewhere being tortured for a crime we do not even know.

Mansur's wife, as she told Amnesty International her story

I could not go to the provincial jail, because in our culture we first defer to the elder men to work problems out. But Mansur still did not come home. On 30 January, I went to a military detachment. I asked for one of the soldiers who came to our house when they arrested Mansur. I waited but they never presented him to me.

Mansur Salic was missing for 3 months

I just want information on where Mansur is and what he has done to be arrested like that. I would like to believe that he is still alive, but even if he is dead, I would like to know. It is more difficult to wait and not know if I am still waiting for someone to return."

Mansur's wife, who was nine months pregnant at the time of interview, gave birth to a daughter a few days after Amnesty International left Maguindanao.

The other men who were arrested with Mansur but were released the next day fled in fear to unknown locations. Amnesty International spoke to human rights monitors who were able to speak to them immediately after their release. Based on their information, Mansur Salih, Riduan Gulam and Andy Gulam were arrested on 9 January in the afternoon. Said Kanakan, Saidina Umpig, Uting Umpig, Magrib Umpig, Ila Umpig, Kasanudin Umpig and Kiut Umpig, were taken at 1:00 am the next day.

After persistence on the part of Mansur's family and tribe, and with the quiet intervention of other groups, in April, Mansur Salih surfaced in the provincial jail of North Cotabato. He had been forcibly disappeared for three months. Shortly after Mansur was surfaced, Amnesty International interviewed another member of Mansur's immediate family who had visited him. Below is an account given by a family member:

"For the first seven days of his arrest Mansur said he was detained in Kidapawan. He said he could hear airplanes close by, which meant he thought he was near an airport. Then, his abductors transferred him to Midsayap, where he was asked to sign a document which he did not see. The whole time after his arrest, he had been blindfolded. He did not know what he signed or who made him sign the document.

Then, he was moved again, to another location which he believes is somewhere in or near Kidapawan. He was detained in an outhouse, which he heard his abductors called Laica's house. He later found out that Laica is a dog; thus he was being held in a dog house. There, he was kept for approximately 10 weeks, blindfolded. All those weeks, he was fed only once every three days. He said that before they fed him, they made him eat three spoonfuls of very hot native chilli. If he refused, they forced the spoon into his mouth, causing him to gag. His abductors would take him out every day from the dog house and question him. He said that they kept on insisting that he admit to burning several houses in a village in Aleosan, North Cotabato. They beat him up and gave him electric shocks on his genitals. He never admitted anything, he said.

Then, in April, they brought him to the provincial jail in Kidapawan. He called us, and when we came, we saw the marks of his ordeal—he had bruises that have then begun to heal, but they were still visible.

We are glad that he is alive, but what life will he have now? After they arrested him, they made him sign an unknown document, they tortured him, and now they are charging him with 26 counts of arson. We are trying to get a lawyer to defend him, but we can not afford their services. Our family has been made victims of this conflict—they took Mansur away from us—and now they are saying he is a criminal."

As of June 2009, Mansur Salih remains in police custody for allegedly burning several houses in a village in North Cotabato province, a charge which he denies. No one has been held accountable for his torture and other ill-treatment in the hands of the military. He was detained incommunicado in the first three months after he was seized. He remains at risk of further torture or other ill-treatment while in detention.

The Philippines, as a state party to the International Covenant on Civil and Political Rights (ICCPR), and the UN Convention Against Torture And Other Cruel, Inhuman Or Degrading Treatment Or Punishment, both of which prohibit torture absolutely, is obliged to ensure that this prohibition is upheld. Moreover, like torture, enforced disappearance is a violation of human rights and a crime under international law. Amnesty International urges the authorities to initiate a prompt, impartial and thorough investigation into the reports of torture and other ill-treatment of Mansur and the other detainees, and his enforced disappearance. Those found responsible must be brought to justice. Mansur and his wife should be awarded reparations, in accordance with international standards.

Authorities must ensure that Mansur be given access to adequate legal representation and he must be tried in court according to international standards of fairness. No statements obtained under torture may be admissible in any proceedings against him.

During its visit to Maguindanao province in March 2009 and through ongoing contact with local sources through July 2009, Amnesty International was able to gather information on other cases of human rights violations in the context of the then ongoing low-level hostilities between the AFP and the MILF. The two cases below provide examples of the more common human rights violations experienced by internally displaced persons and other civilians affected by the armed conflict. More often than not, human rights violations which have not resulted in enforced disappearance, death or severe injuries are not reported. For people in Central Mindanao who have lived in conflict conditions intermittently for more than four decades, the tendency is to remain silent about abuses as long as their affected relative survives.

On 19 January 2009 in the village of Pagatin, Datu Saudi Municipality, Maguindanao province, a 32-year internally displaced man was reportedly gathering firewood and coconuts to sell when soldiers suddenly came upon him and confiscated his *bolo,* a knife-like blade used to cut grass and dried wood in rural areas. According to his account given to Bantay Ceasefire,[44] (Ceasefire Watch; a group monitoring human rights violations) the soldiers stripped him of all his clothes and hit him on different parts of his body. Then they asked him who he was and what he was doing. He replied that he was a civilian *bakwit* (local term for displaced person; derived from "evacuate") and he explained that he was merely trying to make money for food. He was then released.

In the morning of 22 January 2009, two neighbours, residents of the village of Sambulawan in the Municipality of Datu Saudi, Maguindanao province, were busy eking out a livelihood for themselves. One of them was making a roof out of nipa grass which he could later sell for a small profit. His neighbour was gathering firewood to sell. According to Bantay Ceasefire reports of their accounts, a group of soldiers suddenly appeared and without any warrant or explanations, arrested them. The soldiers took them to an unknown location, and beat them up. The two victims said that the soldiers hit them mostly in the chest and torso. They were released at around noon on the same day.

However, not all who have been arbitrarily arrested were released. In at least one case, two displaced persons arbitrarily arrested by soldiers turned up dead. On 7 May, in Datu Piang town, a group of displaced persons were waiting for the distribution of food aid when suddenly some soldiers, whose nameplates were covered with masking tape, appeared and arrested at least three men, giving no explanation for doing so. According to a witness, the soldiers came on a military truck and two armoured vehicles. The soldiers also covered parts of the vehicles that display which unit they come from, making identification difficult. The media reported that three people were arrested that morning, but the names of those who were arrested varied. According to Mindanews, Salipudin Zacaria, Sahid Mahmod, and Kaharudin Kusain were taken that day.[45] Philippine Daily Inquirer lists those arrested as Kaharudin Tasil, Law Mahmud and Harudin Melen.[46] One of the victims' family members told Amnesty International's contact that Lao Makmod, Kamad Ayob, Kamar Mlang and Kaharudin Kusain were arrested by soldiers that day.

On 12 May, the body of Sahid Mahmod was found floating on the Rio Grande (river), near the village of Duaminanga in Datu Piang. In line with Muslim tradition, he was buried the same day. No autopsy was performed, nor were there any further investigations. In an interview with the media, Mahmod's (Makmud in the news report) brother said that his body bore signs

of torture.[47]

As of July 2009, Kaharudin Kusain was still missing. One of Amnesty International's contacts who is in touch with Kaharudin's family reported that the family made sure to check the bodies of every person found dead or injured in their area. Although his family was afraid to ask for help from soldiers, one did go to a hospital in Camp Siongco, a military camp in Datu Odin Sinsuat town, Maguindanao province town, trying to find Kaharudin upon hearing that an injured civilian who was believed to have been tortured by soldiers was being treated there. During the visit, the family member learned that the man being treated in the hospital was not Kaharudin. However, this family member spoke to the injured man who said that soldiers did not stop beating him up until he "confessed" that he is an MILF commander. Amnesty International has no further information about the other men who were arbitrarily arrested that day, nor the other man allegedly tortured into confessing that he is an MILF commander.

Amnesty International calls upon the Philippine authorities to urgently investigate this case, establish the fate and whereabouts of Salipudin Zacaria, Harudin Melen, Kamad Ayob, Kamar Mlang and Kaharudin Kusain (who could be the same as reported missing person Kaharudin Tasil), and the circumstances of the death of Sahid Mahmod (also reported as Law Makmud), in line with the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.[48] Those found responsible for offences relating to human rights violations should be brought to justice in proceedings which meet international standards of fairness. Surviving victims or relatives should be awarded reparations.

A CASE OF TORTURE AND EXTRAJUDICIAL EXECUTION

On 3 June 2009, a group of five soldiers reportedly visited the home of a 37-year old charcoal maker, in the Municipality of Datu Odin Sinsuat in Maguindanao province. His name has been withheld for security reasons. Without any warning or explanation, the soldiers tortured him, beating him up in front of his children, and eventually killing him through multiple gunshots. The whole affair was witnessed by his family. What follows are excerpts from his wife's account of the day's events as told to human rights monitor Bangsamoro Center for Just Peace.[49]

"It was a few minutes past seven in the morning and we were getting ready to leave the house to enrol our children in school. My husband was outside the house, grilling some small fish that we can eat for breakfast. Suddenly I saw five soldiers come and they went straight to him. They immediately asked him if he was a member of the MILF. Then without any warning, one of them hit and kicked him. Then they ganged up on him. They punched, kicked and hit him with their guns. He tried to stand up the whole time, wanting to protect our seven year-old daughter who was with him when the soldiers came.

They brought him to the back of our house and there they continued beating him up and hitting him with their guns. It was there where they shot him many times. Our three children, aged eight, seven and four witnessed their father being killed. When I saw him, his skull was broken and his left eye popped out because of the trauma.

Fearing for our own lives, I tried to leave the house to bring the children to my sibling's house which was in the same village as where we were. But the soldiers stopped me. They told us we could not leave our house. But I pleaded for them to let us leave. I told them that we were not planning to go far. We just wanted to be with our relatives given what just happened. They agreed but they tailed us, making sure that we went where I said we would go. They asked me again if my husband was a member of the MILF, but I said that he was a civilian and that he was a farmer and makes charcoal for a living.

Later that day, I saw the soldiers bring my husband's body to the centre of our village. They borrowed a carabao (water buffalo) to transport his body. We buried his remains the same day, in accordance to our traditions. When we went back to our house, we found that they took our farm animals and slaughtered them. We went to our local police station, but found out that there was still no record of the incident."

Amnesty International calls on the government to initiate a prompt, effective, independent and impartial investigation into all reports of extrajudicial executions, arbitrary arrest, torture and other ill-treatment, and enforced disappearance. The investigation must be accessible to the public, in particular survivors and witnesses, who must be protected from any harm for coming forward. The report should be made public. Those suspected of crimes involving violations of human rights or international humanitarian law, including persons with command responsibility irrespective of rank, must be prosecuted in proceedings which meet international standards of fairness. Surviving victims and families must be awarded reparations.

In April 2009, the UN Committee Against Torture, the international expert body tasked with overseeing the implementation of the UN Convention Against Torture and Other Cruel, Inhuman Or Degrading Treatment Or Punishment, stated that it was "deeply concerned about the 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 of suspects in police custody, especially to extract confessions or information to be used in criminal proceedings." It cited "insufficient legal safeguards" against torture, including failure to bring detainees promptly before judges, the absence of systematic registration of detainees, failure to notify detainees of their rights and restricted access to lawyers and independent doctors. It made a series of recommendations, including steps to ensure that such legal safeguards are put in place, and that the Philippines "reinforce its training programmes for all law enforcement personnel, including all members of the judiciary and prosecutors, on the absolute prohibition of torture".[50]

The Committee was similarly concerned "that credible allegations of torture and/or ill-treatment committed by law enforcement and military services personnel are seldom investigated and prosecuted and that perpetrators are either rarely convicted or sentenced to lenient penalties that are not in accordance with the grave nature of their crimes." The Committee recommended, among other things, that the Philippines "ensure that all allegations of torture and ill-treatment are investigated promptly, effectively and impartially, and that the perpetrators are prosecuted and convicted in accordance with the gravity of the acts, as required by article 4 of the Convention."[51]

The Committee also expressed concerns over extrajudicial executions and enforced disappearances, and called, among other things for prompt, independent and impartial investigations into these crimes.[52]

Earlier, in 2003, the UN Human Rights Committee stated similarly that it was "concerned about the reports of persistent and widespread use of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials" in the Philippines. The Committee recommended, among other things, that the authorities "institute an effective system of monitoring treatment of all detainees," and "ensure that all allegations of torture are effectively and promptly investigated by an independent authority, that those found responsible are prosecuted, and that victims are given adequate compensation."[53]

PRIVATELY ARMED MILITIAS AND FAMILY FEUDS

"Strongmen, their armed retainers, and the military are the main manifestations of the Philippine state in Muslim Mindanao—and yet they thrive in symbiosis with their putative rebel enemies. Individual clans can be simultaneously represented in local politics, local military commands and local insurgency commands."
--from report "Mindanao: A Gamble Worth Taking" [54]

"We just want the government to resolve the rido [inter-clan conflict] *that led to the armed encounters in our village that caused us to flee."*
- Internally displaced person in Makasandeg, Maguindanao

What makes the situation in the conflict-affected areas of Mindanao even more complex is the local cultural practice of *rido* (local term for family feud or "inter-clan rivalry"[55]), which oftentimes involves a series of unlawful killings and other attacks. *Ridos* are common in Central Mindanao and other Moro areas there. If a family is involved in a *rido*, members of that family and its whole clan are at risk of attacks. A family member or a relative could then be randomly ambushed or gunned down. It is not uncommon that rich and politically influential clans in Mindanao are involved in a rido, and these families often employ privately-armed militias – loosely called private armies—that generally act with impunity.

The practice of *rido* has been a problem in Southern Philippines during peace time, but more so during times of armed conflict. In the last year, Amnesty International has received information that several of the incidents of human rights abuses such as burning down houses or abductions, may have been a *rido* attack or may have begun as an act of *rido*, but later expanded into a military-MILF encounter.

In Central Mindanao and the ARMM where money is scarce while guns are plentiful, privately armed militias, which may include enlisted soldiers or MILF supporters who are on the payroll of influential families, aggravate the already complex armed conflict situation.

AN ENFORCED DISAPPEARANCE COMPLICATED BY *RIDO*

Amnesty International, with the help of local groups, spoke to a family member of a farmer who was arrested by the military and later disappeared. While initial facts of the case pointed to enforced disappearance, follow-up information from local volunteers showed that the case was further complicated by the possible *rido*-connection, and that he might have been turned over by soldiers to a privately armed militia. For security reasons much of the details of the case have been withheld from the information which follows.

In March 2009, soldiers and other unidentified armed men seized the farmer from his house. They did not explain why they were there or where they were taking him. For the next few days, including the day Amnesty International interviewed the farmer's relative, soldiers surrounded their family's home. Members of the family had to inform the soldiers acting as sentries whenever they would leave the area. They had to report where they were going and what time they would return.

Male relatives with the help of village officials searched for him in various military detachments and jails. Information received by Amnesty International indicated that he was first brought to their municipal jail. He was then transferred by soldiers to their detachment. A few days after, his family received his release papers from a detention centre. They waited, but he never appeared. A witness told a member of his family that he was taken from the detention centre allegedly by members of a privately armed militia of a very powerful clan in Central Mindanao, which confirmed their worst fears. Local human rights workers monitoring his case reported that in their follow-up communication with the farmer's family, they had reason to believe that the family was either involved in a *rido,* or did something to anger a member of a powerful clan. Weeks after his abduction, the soldiers and armed men left the farmer's home. Members of his immediate family have since fled to an unknown location. At the time of writing, it is not known whether the farmer is still alive.

Whatever the full facts of the case are, after the person was arrested by officials, it is the authorities' responsibility to release him into a safe environment. In such cases they must initiate an investigation, ensure the safety of the abducted person and bring the abductors to justice.

STILL NO JUSTICE

One year after the armed conflict escalated no perpetrators of the human rights abuses and violations of international humanitarian law are known to have been brought to justice. The newly declared ceasefire and resumption of peace talks is an opportunity for the two parties to the conflict to make a concerted effort to facilitate an investigation into the allegations of grave human rights abuses and violations, and bring the perpetrators to justice through proceedings that comply with international standards of fairness in a civilian court. Both the Philippine government and the MILF should demonstrate a commitment to human rights, and immediate, impartial, independent and effective investigations which lead to the successful prosecution of perpetrators will prove such commitment.

Until 23 July, the military continued to pursue through military operations the MILF commanders who led the August 2008 attacks on civilians. Shortly after the initial attacks, the government announced that it would only go back to negotiations with the MILF if its leaders surrendered the three commanders. The MILF has refused to do this. In the March and June 2009 meetings with Amnesty International, top officers of the MILF said that they have already imposed their own internal punishments of the commanders and their men, but these can not be made public.

Existing AFP policies include "punishing abuses through the military justice system".[56] However, anyone who is found responsible for serious human rights abuses in the context of an armed conflict should be brought to justice in a fair trial under the civilian justice system, and not in courts martial. Military courts are not appropriate bodies for carrying out trials for military personnel responsible for such abuses. Principle 9 of the draft UN Principles governing the administration of justice through military tribunals states: "In all circumstances, the jurisdiction of military courts should be set aside in favour of the jurisdiction of the ordinary courts to conduct inquiries into serious human rights violations such as extrajudicial executions, enforced disappearances and torture, and to prosecute and try persons accused of such crimes".[57]

This principle applies to both members of the AFP and MILF fighters, as the MILF claims to have a formal military-structure in its Bangsamoro Islamic Armed Forces. Moreover, Common Article 3 of the Geneva Conventions prohibits the imposition of sentences without a previous judgment pronounced by a regularly constituted court affording guarantees of fair trial, and armed groups such as the MILF are not in a position to provide the legal and other safeguards necessary to ensure a fair trial in line with international standards.

In the Philippines, few effective investigations have been conducted into allegations of enforced disappearances, extrajudicial executions and other human rights violations perpetrated by military or other government officials. Convictions of those responsible have been rare. Many cases have not been brought to court due to lack of documented evidence and often because families or witnesses fear reprisals. No high-ranking military or civilian government officials are known to have been prosecuted.[58]

To date, there have been very few successful prosecutions of perpetrators of human rights abuses and violations by members of the military, whether in peace time or in times of armed conflict. The only recent successful prosecution known to Amnesty International is that of a civilian court in Agusan del Sur province's ruling in 2008, which found an army corporal guilty of abducting and illegally detaining six individuals in 2000, who were suspected of being communist insurgents. In this case, a military witness stated that the victims were tortured. The army corporal was sentenced to life imprisonment. There is no available information on any related prosecution of his superiors, using the clause of command responsibility.

During its visit to the Philippines, Amnesty International, on separate occasions between March and May 2009, met with several AFP officers, including a general who heads the military's side in the Coordinating Committee on the Cessation of Hostilities (GRP-CCCH) and the AFP Human Rights Office (AFPHRO).

According to the government, the AFPHRO was established to "assist the Chief of Staff AFP on matters related to Human Rights and the International Humanitarian Law." In a submission to the UN Committee Against Torture the government stated that the AFPHRO's specific functions include, among other things:

- "Plan, implement and supervise programs, measures and mechanisms to uphold, protect and promote respect for HR and adherence to IHL and other international HR instruments.

[…]

- Receive formal complaints on alleged violations of human rights and IHL and cause investigation.

- Monitor or assess incidents of alleged violations as reported in open sources and conduct immediate inquiry for further actions.

[…]

- Monitor violations of HR and IHL by threat groups and cause the immediate filing of cases or complaints and assist the victims/families."[59]

According to an AFP memorandum dated 13 February 2007, which set out the functions of the AFPHRO, its officers are considered special staff of the Chief-of-staff of the Armed Forces. The office, located in a basement in a building in AFP's headquarters, is tasked with the responsibility of monitoring human rights and IHL violations committed by all members of the Armed Forces. The government has not made public the total number of the AFP forces, but academic reports and other public sources provide estimates of 100,000-130,000 on active duty.[60]

According to officers of AFPHRO, their office does not receive many complaints of human rights violations by members of the military. They also said that if there are complaints, they do not have the capacity to conduct the investigation themselves, so they rely on the reports of AFP commanding officers from the ground. That the AFP Human Rights Office has not achieved much impact in improving the human rights record of the military is not surprising. First, the AFPHRO does not have the mandate to investigate cases, but can only monitor, receive complaints and make recommendations. Second, the office, led by a colonel, and with a staff of less than 15 people, may potentially deal with cases which involve higher-ranking and more powerful military officers, particularly if the principle of command responsibility is included in the investigations. Without genuine support from the Chief of Staff of the Armed Forces, the AFPHRO will just be window dressing by the military.

Based on AFPHRO's records, as of 20 February 2009, 16 cases have been filed against 30 suspects. Twenty-four of these are soldiers, two are CAFGU members and four are "military assets". The cases involved 19 victims of alleged extrajudicial executions.[61] Out of the 16 cases, no one has been prosecuted in either civilian courts or court martial proceedings. Some of these cases are still pending. While these numbers present a low percentage of complaints, it is important to note that most victims of human rights abuses do not come forward to file a formal complaint.

As of April 2009, according to the AFPHRO, there had been no formal complaints filed against soldiers related to the recent escalation of the armed conflict in Mindanao.

As a matter of priority, the AFP needs to demonstrate its commitment to human rights and international humanitarian law through action; that is prompt, effective, impartial and thorough investigations into all allegations of violations by the military, and prosecution of perpetrators when found guilty. Although the AFP claims that all the mechanisms to adhere to human rights law and international humanitarian law are in place, it remains questionable if these mechanisms had been actually used effectively to prevent violations and achieve justice for victims of abuses perpetrated by its troops.

VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW

Civilians have been injured or killed by frequent mortar shelling and bombings in IDP camps and residential areas that include townships where displaced persons have sought safety. Local monitors and the media have also reported multiple cases of improvised explosive devices (IEDs) detonated on roadsides and in one instance, in a primary school compound.

A house in Maguindanao hit by an OV10

MORTAR SHELLING OF AN IDP CAMP AND OTHER AREAS INHABITED BY CIVILIANS

On 15 June 2009, between 10:00 and 11:30 pm, a mortar shell hit an IDP camp in Maguindanao province. There were military detachments near the IDP camp. The incident injured four people: Paidsa Kahar, aged 7, Said Abas, 17, Kagi Sapia Simpal, 38, and Abdulbayan Tunaji, 29, who later died as a result.[62]

In an interview with a local human rights worker, a family member said that they were about to go to sleep when the blasts started. Upon hearing the explosions from the mortar shellings that seemed very close to their camp, Abdulbayan Tunaji, one of the three victims, stepped outside of their tent to bring his daughter to safety. As soon as he did so, a piece of metal believed to be from a 105 howitzer shrapnel hit Tunaji in the back and entered his intestine and kidney. He underwent surgery, but died of complications a few weeks later. The other three victims survived.

The mother of seven-year old Paidsa said that her daughter was sleeping inside the tent when the shrapnel hit her. It is not known if the mortar shelling came from the military or the MILF.

This house, close to the tents in the IDP camp in Libutan village was hit by mortar shelling

As noted, all sides to an armed conflict must refrain from targeting civilians or civilian objects for attack and from launching indiscriminate attacks. In addition, Principle 10(2) of the UN Guiding Principles on Internal Displacement,[63] which reflects internationally agreed principles on the treatment of displaced persons and encompasses both international human rights and international humanitarian law, provides, among other things, that "Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances." The Guiding Principles go on to specifically remind states (in Principle 2(d)) that they are prohibited from launching "Attacks against their [IDPs'] camps or settlements."

IDP camps must be considered as safe zones for civilians fleeing armed conflict. Amnesty International calls on both sides to immediately cease all attacks on IDP camps, and to refrain from carrying out military operations in the vicinity of these centres for displaced families. All credible reports on attacks on IDP camps must be investigated, and the perpetrators brought to justice.

IMPROVISED EXPLOSIVE DEVICE IN A SCHOOL'S PREMISES

Amnesty International received information from local contacts that a bomb exploded near a primary school. On the early morning of 14 June 2009, an IED exploded at the entrance of Nabundas Elementary School in the village of Nabundas, Shariff Aguak Municipality, Maguindanao province. No casualties were reported, but according to a local contact, there

were students and teachers in the school at the time of the incident. The explosion happened on a Sunday, but schools are open on Sundays as most of the students are Muslim. A government website reported that the IED used was mobile phone-operated and was made from M203 and 81 MM bomb shells.[64]

OTHER ATTACKS ON CIVILIANS AND HOSTAGE-TAKING

The August 2008 attacks on civilians by fighters under the command of the two MILF commanders were the government's main motivation for renewed military operations. Philippine media reported that on 15 May 2009, the MILF struck once more as around 50 men from its 104th command attacked the village of Basak in Lebak town, Sultan Kudarat province, causing approximately 200 families to flee. According to media reports, the MILF fighters ransacked stores, set four houses on fire, stole farm animals and took 20 civilians hostage. They have since been released and there were no reported casualties. In a media interview, the MILF denied that the incident was an attack on civilians and instead said that it was a "settling of scores" with the MNLF.[65] Either way, attacks on civilians and civilian objects, including the wanton destruction of houses, hostage-taking, pillage and terrorising the population are all prohibited under international humanitarian law. Intentionally directing attacks against the civilian population or against individual civilians not taking part in hostilities is a war crime.

Article 3(1)(b) common to the 1949 Geneva Conventions and Art. 2(c) of Additional Protocol II prohibit the taking of hostages. Articles 2(g), 13(2) and 14 of Additional Protocol II prohibit "pillage" and "acts or threats of violence, the primary purpose of which is to spread terror among the civilian population". Civilian objects must be protected against attacks, unless and for such time as they are military objectives.[66]

Bombings, which have been a common occurrence in Mindanao, particularly in highly populated urban areas close to or economically significant to the conflict-ridden provinces in Central Mindanao and the ARMM, are also considered unlawful attacks targeting civilians. In July 2009, in a span of four days, five bombing incidents occurred in several urban centres in Mindanao. The attacks, which took place in Datu Piang, Maguindanao; Cotabato City; Iligan City; Kauswagan, Lanao del Norte; and Jolo, Sulu, killed at least eight people, including two children and injured approximately 90 people, the overwhelming majority of them civilians. In reaction, the two main parties to the conflict accused each other while denying any involvement in the attacks. Military officials have called it an act of desperation on the part of the MILF, while the officials of the MILF attributed the attacks to the military, saying that there is a bigger agenda behind the bombings. As of this writing, the government is studying the possibility of the bombings being orchestrated by members of foreign armed group Jemaah Islamiyah or other groups with a vested interest in maintaining armed conflict as the status quo.[67]

These bombings are deliberate attacks targeting civilians. These attacks show contempt for the most fundamental principles of humanity and can never be justified under any circumstances. Individuals' right to life must be protected at all times, and the civilian population must never be treated as expendable tools for achieving political or ideological ends.

The Philippine government must initiate prompt, impartial and thorough investigations into the attacks and bring to justice those found responsible. It must not react to the bombings with any measures which themselves violate human rights.[68]

INTERNALLY DISPLACED PERSONS

"We sit here and we wait. We wait for food rations, relief supplies, and other aid. We wait for the latest news: Did one of our neighbours get picked up? Will the food trucks be delayed like last time? We also wait for peace to come. Only then can we leave this place and go home."

-- a 52 year old internally displaced person

"The biggest new displacement in 2008 came in the Philippines, where 600,000 people fled fighting between the government and armed groups in the south."

-- UNHCR Internally Displaced People Figures[69]

Displaced persons in Mindanao are a very mobile group, known to move from one place to another at any given time.[70] While many of those displaced by the initial escalation of armed conflict and the August 2008 attacks by the MILF have returned home or resettled elsewhere after months of displacement, hundreds of thousands remain displaced, and their number changes with the volatile security situation in the region.

It is very difficult to obtain an accurate picture of just how many displaced persons there are in Central Mindanao. Different government agencies and international organizations have provided significantly different figures. According to a 14 July report by the NDCC, the cumulative total of persons displaced from August 2008 – July 2009 was 756,554. It also reported that as of 7 July, the number of currently displaced persons stood at 254,119.[71] In the same week, however, various media reports quoted a different government figure which estimates 348,000 persons as currently displaced.

On 14 July, after the series of bombings in several town centres from 4 – 7 July in South and Central Mindanao, the UN Office for the Coordination of Humanitarian Affairs reported a sharp increase in the number of displaced persons. Using data from the Philippines' Department of Social Welfare and Development (DSWD), it stated that the number of internally displaced persons in Mindanao had risen to 430,000. The DSWD Secretary, however, "cited figures closer to 300,000".[72]

The large disparities between different government figures illustrate the complexity in the situation of internally displaced persons in Central Mindanao, characterized by "very fluid" movement of internally displaced persons in Maguindanao.[73]

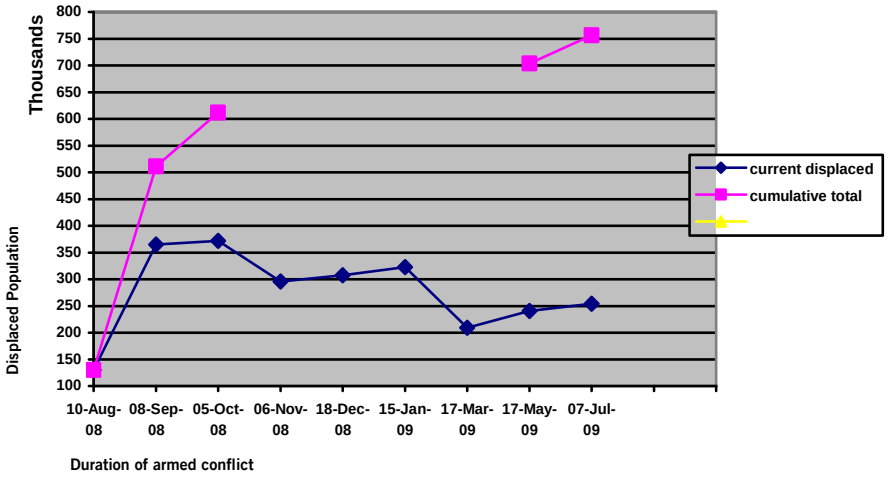
Government data from NDCC report that from 10 August 2008 to 18 May 2009, 432,996 persons or more than half of the displaced population stayed with their relatives in other towns or villages, while 312,767 persons stayed in 586 IDP camps, locally known as "evacuation centres".[74] As of 7 July, the NDCC reported that there were still 147 evacuation centres housing 118,907 displaced families.[75] Smaller camps and other temporary settlements mushroom from time to time in areas close to highways.

The entire displaced population in the year-long government-MILF conflict came from 435 villages spread over 51 municipalities (or townships) in 11 provinces, mostly within Central Mindanao. The ARMM is home to more than 55 percent of the total number of displaced persons between August 2008 and July 2009. In the ARMM, 89 percent of the displaced persons are from the province of Maguindanao.[76]

In an effort to gain a better understanding of the impact of the displacement, this section attempts to: present graphically the progression of displacement since August 2008, estimate the average number of internally displaced persons each month, and summarize the extensive but incomplete data made public by NDCC.

Graph 1 plots the monthly fluctuations of the internally displaced population in Mindanao during randomly selected dates. Please note that this only gives a broad idea of the fluidity of movement of internally displaced people. The more detailed summary of the actual figures as reported by the NDCC follows later in this section. The NDCC did not release any data on the cumulative total of the displaced population between October 2008 and May 2009. The last reported number of internally displaced people was at more than 600,000. In May 2009, NDCC released another figure for the cumulative total, which exceeded 700,000. This shows that even as the number of currently displaced persons consistently decreased after its peak in October 2008, tens of thousands of people were still being displaced by the continuing military operations. All the figures that follow were taken from NDCC data.

Graph 1 Progression of displacement: Mindanao armed conflict

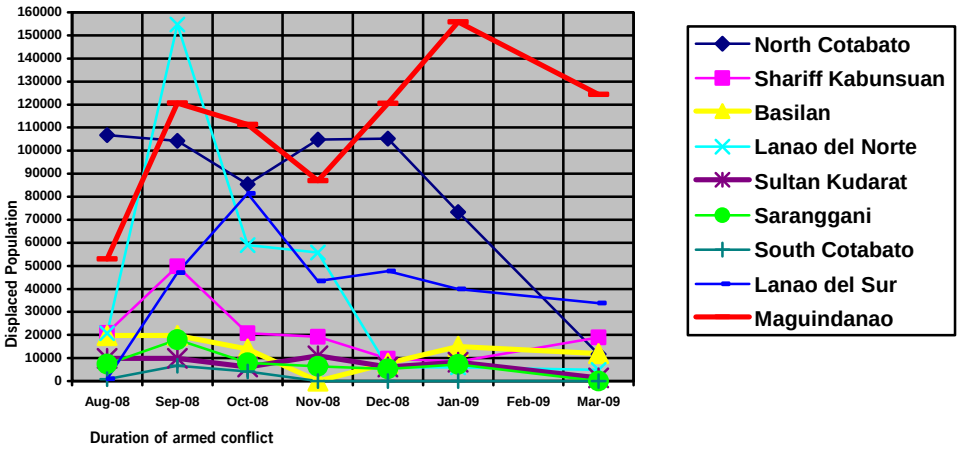


Based on data from the NDCC, the displacement peaked in mid-October 2008 with figures of "currently displaced population" reaching a high of 391,266.[77]

Graph 2 disaggregates the figures of population displacement by provinces, from August 2008 to March 2009. No further disaggregated data was made public by the NDCC after March 2009. The data used to plot the graph below came from NDCC's available data on approximately the third or fourth week of each month. Note that the provinces with the highest number of internally displaced persons throughout were Maguindanao and North

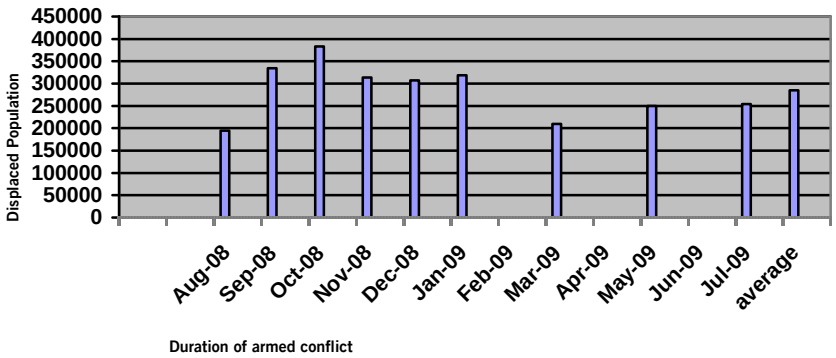
Cotabato provinces. Lanao del Norte and Lanao del Sur peaked in the earlier months of the armed conflict before eventually decreasing. Provinces in the periphery of the main areas of fighting consistently had displaced populations of not more than 20,000.

Graph 2 Progression of displacement by province (Aug 08-Mar 09)



Graph 3 provides an estimate of the average number of internally displaced people each month. Note that the NDCC did not release any data for several months. The average was calculated from available data of "currently displaced persons" from NDCC's updates. No updates were released in February, April and June 2009. Using available NDCC data, the average number of displaced persons throughout the one year conflict was at 284,890.

Graph 3 Monthly average "currently displaced"



Finally, the table that follows gives a comprehensive summary of the figures of displacement. All of the information on the graphs above were taken from Table 1. Data which did not indicate any change from previous information from the NDCC were not included in the table.

Table 1 Summary of population displacement (10 August 2008 -7 July 2009)

	NCot	Shrf Kbnsn	Basilan	LdN	SuKdr	Srgni	SCot	LdS	Mgndn	current	Total
Aug											
10[78]	129,819									129,819[79]	129,819
11[80]	153,123	6,000								159,123	159,123[81]
12[82]	155,625	6,000								161,625	161,625
13[83]	153,251	6,000	3,007							162,258	162,258
15[84]	153,851	8,025	3,007							165,063	165,063
16[85]	153,941	8,025	3,007							164,973	164,973
17[86]	94,895	8,025	3,007							105,927	105,927
18[87]	94,895	8,025	3,007	13,288	9,850	3 ,280	9 00			36,668	36,668
19[88]	104,105	8,025	3,007	43,367	9,850	3 ,280	9 00			170,852	170,852
20[89]	104,105	8,025	3,532	23,017	9,850	1,640	9 00	100		143,416	143,416
21[90]	106,717	17,085	8984	17,864	9,850	1,640	900	1,000	16,340	180,380	180,380
22[81]	106,717	17,085	23,357	17,085	9,850	6,579	900	1,000	16,340	199,692	199,692
23[92]	106,717	17,086	23,357	20,666	9,850	6,060	900	1,000	16,340	201,975	201,975
24[93]	106,717	20,805	19,825	20,666	9,850	7,309	900	1,000	53,029	240,101	240,101
25[94]	106,717	20,805	19,825	51,957	9,850	8,784	900	1,000	53,029	272,867	272,867
26[95]	106,717	31,990	19,825	51,957	9,850	8,784	900	1,000	56,194	287,217	287,217
27[96]	106,717	50,085	19,825	55,776	9,850	8,065	900	47,388	63,869	362,475	362,475
28[97]	106,717	50,085	19,825	64,941	9,850	17,625	900	47,388	63,869	137,473[98]	381,200
30[99]	104,105	43,975	19,825	53,762	9,850	18,015	6,045	13,378	80,319	283,023	360,843
31[100]	104,105	43,975	19,825	128,260	9,850	18,015	6,045	13,378	80,319	317,375	423,772
Sep											
1[101]	104,105	43,975	19,825	128,260	9,850	18,015	6,045	13,378	80,319	317,375	423,772
3[102]	104,105	47,755	19,825	132,945	9,850	18,015	6,045	46,971	93,712	3 83,582	4 79,223
4[103]	104,105	47,755	19,825	139,596	9,850	18,015	6,045	46,971	109,487	3 89,860	5 01,649
5[104]	104,105	47,755	19,825	139,656	9,850	18,015	6,045	46,971	109,487	3 75,340	5 01,709
7[105]	104,260	47,755	19,825	139,656	9,850	18,015	6,070	46,971	109,487	374,530	501,889
8[106]	104,260	47,755	19,825	148,857	9,850	18,015	6,070	46,971	109,487	3 65,012	5 11,090
11[107]	104,260	47,755	19,825	150,306	9,850	18,015	6,070	46,971	109,487	313,279	512,539
15[108]	104,260	47,755	19,825	151,397	9,850	18,015	6,070	46,971	109,487	292,827	513,630
16[109]	104,260	47,755	19,825	152,286	9,850	18,015	6,070	46,971	109,487	300,504	514,519
18[110]	104,260	47,755	19,825	152,719	9,850	18,015	6,070	46,971	109,487	296,934	514,952
19[111]	104,260	47,755	19,825	154,665	9,850	18,015	6,070	46,971	120,642	322,705	528,053
23[112]	104,260	47,755	19,825	154,665	9,850	18,015	6 ,710	46,971	120,642	318,613	528,693
24[113]	104,260	49,760	19,825	154,665	9,850	18,015	6 ,710	46,971	120,642	292,977	531,686
Oct											
4[114]	104,260	49,760	1 9,825	154,928	9,850	18,015	6 ,710	47,959	120,642	292,632	531,949
5[115]	104,260	59,875	23,190	155,920	9,850	18,015	6 ,710	84,448	149,485	371,762	611,753
9[116]	85,040	24,485	13,870	55,756	10,085	6,775	4,180	62,258	123,324	385,773	No data
10[117]	85,040	24,485	13,870	58,549	10,085	6 ,775	4,180	62,258	123,324	388,566	No data
11[118]	87,555	24,485	13,870	58,549	9,850	6,775	4,180	62,258	123,324	390,846	No data
12[119]	85,450	24,485	13,870	58,549	10,805	7,910	4,180	62,258	123,324	391,266	No data
21[120]	85,450	20,610	13,870	58,993	6,150	7,910	4,180	62,258	111,285	370,697	No data
22[121]	85,450	20,610	13,870	58,984	6,150	7,910	4,180	81,329	111,285	389,768	No data
23[122]	85,450	20,610	0	58,984	6,150	7,910	4,180	81,329	111,285	375,898	No data
28[123]	84,765	19,540	0	55,803	6,150	7,910	4,180	69,146	128,370	375,864	No data
Nov											
6[124]	85,440	6,899	0	55,792	6,375	6,775	4,180	43,372	86,683	295,516	No data
18[125]	104,885	9,683	0	55,792	11,050	6,425	0	43,372	86,683	317,890	No data
27[126]	104,785	19,164	0	55,792	11,050	6,425	0	43,372	86,896	327,484	No data
Dec											
6[127]	105,145	6,937	0	55,088	6,150	6,425	0	43,372	86,896	310,013	No data
12[128]	103,935	10,363	0	6,467	6,150	5,285	0	47,195	123,032	302,427	No data
18[129]	103,935	9,680	7,757	6,467	6,150	5,285	0	47,716	120,442	307,432	No data
24[130]	105,145	9,680	7,757	6 ,000	6,150	5,285	0	47,716	120,442	308,175	No data
Jan											
15[131]	105,145	8,513	15,021	6,000	7,450	5,285	0	36,403	138,960	322,777	No data
27[132]	73,295	8,513	15,021	6,000	8,165	7 ,260	0	39,909	155,884	314,047	No data
Mar											
17[133]	11,730	18,926	11,964	4,933	1,380	0	0	33,746	124,319	209,320	No data
May											
17[134]	No data	No data	No data	No data	No data	No data	No data	No data	No data	240,650	703,949
19[135]	No data	No data	No data	No data	No data	No data	No data	No data	No data	258,522	756,554
July											
7[136]	No data	No data	No data	No data	No data	No data	No data	No data	No data	254,119	756,554

DISPLACED PERSONS IN MAGUINDANAO

During its March 2009 visit Amnesty International went to IDP camps in Maguindanao province. The town of Datu Piang is where most displaced persons from the towns and interior villages of Maguindanao and surrounding areas have converged.

The displaced families in Datu Piang come from surrounding villages and towns of Midsayap, Aleosan and Pikit from the province of North Cotabato and from all other affected areas around Maguindanao.

Most of the displaced persons are subsistence farmers who plant rice or corn and raise chickens and goats. Very few have enough money to purchase larger farm animals such as horses, cows or carabaos. Most affected villages and towns in Central Mindanao were characterised by their poverty—with very limited employment opportunities apart from farming, and lacking basic social services, even before the resumption of the armed conflict in 2008. Many of the displaced families are large, as extended families tend to stay together. It is therefore not uncommon for a displaced family with more than seven members to live in one cramped tent in IDP camps.

THE PEACE CARAVAN: MINDANAWONS' MESSAGES IN PICTURES

In March 2009, Amnesty International participated in a peace caravan through towns and villages from Davao City to Maguindanao province to observe the situation and talk to internally displaced persons. With the efforts of the Mindanao Peoples Caucus, national and international organizations, including Amnesty International, were able to visit areas which are not normally accessible.

Mindanaowons[137] braved the heat and stood along the roadsides the whole day, waving their flags, presenting their placards in the hopes of making their voices heard by the world outside the conflict zones. Placards read: save the IDPs, implement MOA-AD, rebuild our homes, restore our livelihoods, respect human rights, respect IDP rights, respect children's rights, issues rarely discussed at length in the national discourse. In Manila, when the Mindanao conflict is mentioned in the news, discussions have centred on the military's pursuit of the MILF commanders, the stalled peace talks, and the numbers of displaced persons which increase each time there is a new AFP-MILF skirmish in the villages. What follows are photographs illustrating concerns of internally displaced persons in North Cotabato and Maguindanao provinces.

Military checkpoints were common throughout the highways between Davao and Maguindanao

Muslim and Christian residents awaited the peace caravan accompanied by armed soldiers

Displaced persons hold up their signs in an effort to communicate their concerns to the wider world

Displaced persons in Guindulongan Municipality, Maguindanao

Not all displaced persons live in government-managed IDP camps or with their relatives. Some groups of families chose to put up temporary shelters made of indigenous organic materials in vacant lots close to the IDP camps. They report that the camps are overcrowded and tents made of tarpaulin or plastic sacks are not suitable in the hot and humid conditions.

IDP camp in a roadside in Guindulongan Municipality, Maguindanao

While in the first months of the conflict, the displaced people were mostly from the provinces of North Cotabato and Lanao del Sur, as government troops pursued the two MILF commanders, the military operations then focused on Maguindanao province, the MILF stronghold and location of their central command.

Almost a year after the onset of armed conflict in several areas in Mindanao, many of the displaced persons have been unable to return to their normal lives. If there are skirmishes or military operations in a village, civilians flee to IDP camps; pitch makeshift shelters along highways; or stay temporarily with relatives in other towns or villages closer to highways. Because aid distribution is usually scheduled monthly or every six weeks depending on the aid agency, the displaced families in these temporary sites are not included in the official count of displaced persons, and may not receive food rations from aid agencies. A few weeks after a military operation, some of them return once more to their villages, even if no clearance had been given by the military to do so. Many of them who fled in the night were unable to bring their possessions, so they return to collect them. Fleeing and then returning

to their villages—or evacuating as they say—has become a way of life for many of them over the sporadic 40 year conflict there.

IDP Camp in Lumpong, Shariff Kabunsuan

Forced displacement can occur when civilians are forced to flee because of the outbreak of fighting, or because parties to a conflict are terrorizing the civilian population or committing other violations, as well as when they are physically expelled. The Guiding Principles on Internal Displacement,[138] which have been recognized by the General Assembly as an important international framework for the protection of internally displaced persons, address this situation.[139] According to Principle 5: "All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons."

Additionally, Principles 28 and 29 of the Guiding Principles on Internal Displacement set out four basic rules regarding the return of internally displaced persons to their places of origin.[140] First, states must make available three solutions for internally displaced persons: return to their former homes; local integration; and resettlement in another part of the country. Second, internally displaced persons, as citizens of the country, have freedom of movement and the right to choose their place of residence, like anybody else. They must have the ability to freely choose between these options and competent authorities are responsible for creating the conditions that allow displaced persons to rebuild their lives in any one of these locations, and ensure that displaced persons participate fully in the planning and management of their return, resettlement and reintegration. Third, decisions to return must be voluntary, that is free of coercion and based on an informed choice, and return must occur in conditions of safety and dignity, which would allow returnees to live without threats to their security and under economic, social and political conditions compatible with the requirements of human dignity. Finally, internally displaced persons and returnees are entitled to be protected from discrimination and to recover their property, and/or receive compensation in cases of damages or loss.

Furthermore, the fulfilment of economic and social rights cannot be put on hold until return becomes politically viable. In particular the government must ensure that the rights of the displaced to an adequate standard of living, as well as rights to health and education, are fulfilled and respected, while waiting for the moment when return in safety and dignity becomes possible. It is the responsibility of national authorities to ensure that these rights are progressively fulfilled for the duration of displacement without discrimination.

As highlighted repeatedly by the UN Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin, three elements must be in place for successful return operations: "(i) ensuring safety for the life and limb of returnees, (ii) returning property to the displaced and reconstructing their houses, and (iii) creating an environment that sustains return and re-integration, that is, which allows life under adequate conditions, including income-generation opportunities, non-discrimination and possibilities for political participation."

Amnesty International calls on the Philippine authorities to uphold its obligations under international human rights law to respect and protect the human rights of internally displaced persons, in particular their right to life, security, an adequate standard of living, food, adequate housing, adequate health, children's rights, including to education. These rights are provided for in the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the UN Convention on the Rights of the Child (CRC), all of which are binding on the Philippines as a state party.[141] Theses treaties apply both in times of war and in times of peace.

A MATTER OF SURVIVAL

Conditions were tense in Datu Piang town when Amnesty International visited in March 2009. Military surveillance was evident; displaced persons were afraid to talk to outsiders, fearing reprisal from the military. Once it starts getting dark at around 5:30 in the afternoon, everyone rushes back to their camps or to their homes. On many nights there is no electricity, and the nights are punctuated with sounds of villages being shelled. The main concern is survival, including the immediate need for food as displaced families have become dependent on food rations. The long term concern is their uncertain future—when will they go back to their villages, where will they live, how will they revive their farms, how long until the next surge of the armed conflict?

The elderly and children await for food rations in Datu Piang, Maguindanao

Many of those that remain in IDP camps came from remote villages where intermittent military operations took place. Some stay in IDP camps because they have nowhere else to go and they have nothing to come back to in their villages. Their houses may have been burned, reportedly by soldiers, CVOs, CAFGUs or the MILF; their crops have already been harvested (by themselves to supplement the food rations or by others who have taken advantage of their absence); and there is no money to plant a new crop.

Various government agencies, intergovernmental and international organizations collaborate to address the needs of internally displaced people. While the following list of government agencies and NGOs is not comprehensive, it provides a summary of the major actors in assisting the displaced population. Relief operations are conducted by the NDCC, DSWD, relevant local government units, International Organization for Migration, UNWFP, ICRC and PNRC. Health-related matters were being addressed by DOH Center for Health Development (CHDM), supported by NGOs such as Save the Children and Médecins Sans Frontières. Water and Sanitation for Health (WASH) facilities were provided by DOH-CHDM, DSWD and the World Health Organization. Nutritional needs were being addressed by the DOH, Department of Education, WFP and the MSF. Psychosocial needs, particularly conducting critical stress incidence debriefing among internally displaced persons were being addressed by DSWD, UNICEF, Community and Family Services International (CFSI). DSWD and the Department of Public Works and Highways, together with the Red Cross have provided emergency shelters. [142]

In January to March 2009, the Philippine government through the Department of Health (DOH), UNICEF and the UN World Food Programme conducted a joint emergency nutrition and food security assessment of conflict-affected internally displaced persons in Mindanao. The joint assessment, which covered the provinces of Lanao del Norte, Lanao del Sur, Maguindanao and North Cotabato, examined the current nutrition and food security strategy of internally displaced persons, including those who were staying in IDP camps and those

who were staying with relatives. The study also analysed the underlying causes of food insecurity and malnutrition in the conflict-affected areas.

The main findings of the joint assessment were:

> More than 80% of the displaced population currently face food insecurity;
>
> Internally displaced persons experienced the loss of assets and loss of, or sharp reductions in, their primary livelihoods;
>
> Displacement has caused higher expenditure for displaced families;
>
> Displaced persons resorted to "frequent and excessive borrowing to meet their basic needs".[143]

According to this research, "loss of, or sharp reductions in primary livelihood means a decline in food access through primary livelihoods (e.g. own food production)"[144] and this has caused more than 35% of the displaced families having expenditure higher than before they were displaced. The joint assessment also reported that the sale of assets, such as livestock, "would not be a viable option to compensate for the reduction and loss of food access emanating from the loss of livelihood".

Without a means of livelihood and faced with higher cost of living expenses, displaced families were found to resort to "frequent and excessive borrowing to meet basic needs". Based on their sample population, the study reported that 80% of the displaced families borrowed money to purchase food, and therefore face food insecurity. The study defined food security as having "acceptable food consumption that is backed by a livelihood-based good food access".

In Central Mindanao, relief assistance including food aid over the last year was provided mainly by the DSWD and the NDCC (under the Department of National Defence) on the government side and from the international community, the UN World Food Programme (UNWFP) and the International Committee of the Red Cross (ICRC) together with the Philippine National Red Cross (PNRC). As of 7 July, according to NDCC figures, the government has provided a little over USD 2 million in emergency relief assistance, and intergovernmental organizations (IGOs) and international non-governmental organizations (INGOs) have given a little over USD 1 million.[145]

During Amnesty International's trip to Mindanao in March 2009, the delegates spoke to various displaced persons to get a sense of what food and basic necessities aid displaced families receive.

One of them was a displaced person residing at Tinding Evacuation Centre in Datu Piang who gave Amnesty International a summary of the relief goods his family of five received from July 2008 to March 2009 from the UNWFP, ICRC and other relief organizations. According to him, in the previous seven months, the Red Cross distributed goods to their IDP camp three times, each time giving 25 kilos of rice, two family-sized packets of coffee, six litres of cooking oil, two bars of laundry soap, 24 packs of instant noodles, 1 kilo sugar, half a kilo of

salt, 10 large tins of sardines and one bottle of vinegar, for every family, regardless

Food distribution in an IDP camp

The typical contents of one set of food rations

of their number. He said the World Food Programme, as of March 2009, has also distributed goods twice, giving each family five kilos of mung beans (pulses) and 25 kilos of rice. They also received old clothes and tarpaulin to use as shelter in making their tents.

According to displaced persons whom Amnesty International spoke to, a family of six consumes the 25 kilos of rice within two weeks. As the food rations are their main source of food, a diet mainly consisting of rice, mung beans, instant noodles and sardines is insufficient to meet the nutritional needs of the families.

On 23 July 2009, four days before the Philippine president gave her State of the Nation Address, a broad coalition of groups working with Mindanao's internally displaced persons and the media organized the "State of the *Bakwits* Address", which reported to the country the human cost of the armed conflict to the displaced population. One of the cases they raised to illustrate the malnutrition and hunger faced by many of the displaced families, particularly children was:

"Baby Boy Kureg was two months old when he died on June 20. He died because he had nothing to eat but "simbug" – a mixture of water and sugar. His mother, herself lacking in food, could not feed him and could not afford to buy him a can or bottle of milk. Baby Boy Kureg is just one of many children who died from illness, lack of nourishment and difficulties brought by war."[146]

Universally accepted minimum standards in nutrition require access to a range of foods, including staple, pulses or animal products, fat sources, iodised salt for more than 90% of households, access to vitamins A, C and iron-rich or fortified foods or appropriate supplements, additional sources of thiamine if polished rice is the staple, and access to adequate sources of riboflavin if the people are dependent on a very limited diet.[147] The minimum nutritional requirements are estimated at 2,100 kcals per person per day, of which 10-12% of total energy is provided by protein and 17% of total energy is provided by fat, and where there is adequate micronutrient intake through fresh or fortified foods.[148]

Nutrition-related results of the DOH-UNICEF-UNWFP joint assessment indicate "a serious situation", with almost half of the children surveyed having chronic malnutrition or stunting. One of the findings is that the prevalence of stunting among the internally displaced children

is well over that of the national prevalence, and that while chronic malnutrition has declined consistently over the last 20 years, the prevalence in Mindanao remains high both in ARMM and Central Mindanao region (Region XII).[149]

One of the recommendations of the joint assessment team is that "food ration should be increased from current half ration to a full ration". It further recommended that "In absence of any significant improvements in the livelihoods of the IDPs (to access diversity of foods), assistance should include essential food items—rice, pulses, oils, and sugar to ensure adequate caloric intake and nutritional balance" and specifically mentioned that "food assistance programs should cover all IDP households—i.e. all IDPs in evacuation centres and host communities".[150]

Finally, looking at the imminent return of the displaced population to their homes and villages, the study recommends that: "IDPs should be supported with assistance in the form of food and non-food items when they return to their homes when the security situation in their place of origin improves. In the initial phase of return, IDPs would require a food assistance package and this should be a full ration for 2-4 months. It should then be adjusted in subsequent months to reflect improvements in their food access."[151]

Amnesty International supports the above mentioned recommendations, which if implemented could help protect and promote the right to food and to freedom from hunger, in this case, of internally displaced people.

Article 25 of the Universal Declaration of Human Rights states that "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food....". Article 11(1) of the ICESCR provides: "the States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food...." Article 11(2) of ICESCR further recognizes "the right of everyone to be free from hunger". The right to adequate food is part of the fundamental right to life.

POVERTY AND DEPENDENCY ON AID

Central Mindanao and ARMM have seen little economic development in the last century, compared to other regions in the Philippines. Certainly, four decades of intermittent armed conflict have not helped. However, even during peace time, economic opportunities for people who live in these regions in Mindanao have been extremely limited. Apart from large tracts of farmland tilled by local farmers and owned by influential clans, the only other large economic contributors have been projects paid for by government and international development and aid agencies.

In conflict situations where there is food aid earmarked for internally displaced civilians, there is always the risk of having aid diverted into the hands of armed groups. Moreover, with a high incidence of poverty in most armed conflict-affected areas, there is also the risk of food aid being siphoned off. The case in Mindanao is no different.

The media have reported at least two cases wherein unidentified armed men have open fire on trucks carrying food aid. On 23 December 2008 in Lanao del Sur province, two groups of armed men open fire at a WFP truck headed to its warehouse in Cotabato City. The driver's

assistant was killed in the attack. In September 2008, a group of armed men stopped another WFP truck in Mamasapano town, Maguindanao province. The armed men reportedly stole at least 30 sacks of rice intended for displaced families.[152]

A mother scrapes the bottom of their pots to stretch the food rations

Local organizations and coalitions have criticized the Philippine government, particularly the military, for delaying or preventing the entry of food rations into certain IDP sites. In several instances, the media have reported cases of "food blockades", referring to instances when trucks of food aid were stopped at military check points, sometimes delaying or preventing the distribution of food rations for days. Below are some examples:

On 7 May, 2009 food aid trucks from Cotabato City were reportedly stopped at a military checkpoint in Datu Anggal Midtimbang Municipality, Maguindanao. [153] A military spokesperson told the media that the measure was temporary and "due to the ongoing clearing operations in the area". However, in the same news report, a humanitarian worker was similarly stopped at another military checkpoint, questioned in detail, and was told by a soldier (after calling his officers) that they were not letting the media and NGOs pass, including those from the ICRC.[154] This humanitarian later confirmed the report to Amnesty International, saying, "It was curious because the military let everyone else pass through, and I was singled out".

On 27 May 2009, a locally well-known humanitarian worker trying to deliver sacks of rice to newly displaced families was also barred entry to the area by the military, stating that he had no security clearance. The humanitarian worker told Amnesty International that the displaced families in that particular village had nothing to eat, having just fled their village. Others were later able to enter the same village, having divided the sacks of rice in different vehicles. If security was really the issue, he said, it was curious that the vehicles that did not appear to contain any aid were not stopped by military.

In May 2009, in a coordination meeting among humanitarian agencies and leaders of displaced persons, "groups dealing with humanitarian response complained [that] the military is undermining the relief operations by dictating when and how much relief should come in".[155] In the same meeting, humanitarian agencies reported that in the province of Maguindanao alone, out of the 50,333 displaced families at that time, only 15,522 families had received relief assistance. Moreover, the humanitarian agencies reported that there were civilians trapped in some villages in the province, particularly in Libutan.

On 30 June 2009, Mindanews reported that in the village of Libutan, Mamasapano Municipality in Maguindanao, displaced persons who "have subsisted on food rations" did not receive any aid from relief agencies for more than 10 weeks since 20 April 2009.[156]

The military consistently denied in numerous media reports any food blockades on their part and insisted that the temporary blocks or delays were for security purposes. In June, the government asked aid agencies to limit their distribution.[157] In a media interview, the DSWD undersecretary said, "we discourage big amounts of rationing by the World Food Programme as it encourages selling". [158] The Philippine government stated that it is trying to control the distribution of food rations to ensure that they are not passed on to MILF combatants.

Delays in the arrival of food rations have a direct and immediate effect on the health and well-being of families in IDP camps. Limited variety in their meals and the lack of food supply at times have caused many families to try to supplement the food rations by fishing from the rivers in the villages or digging up root crops. Returning to their villages puts them at risk of being caught in the crossfire or being suspected by the government security forces as MILF combatants or by the MILF as government soldiers or militias. [159]

Amnesty International obtained video documentation and a powerpoint presentation of the AFP briefing for Philippine media on 30 June 2009. In the briefing, the military presented evidence of the diversion of relief assistance to the MILF: photos of medical supplies (donated by an international organization) allegedly recovered by soldiers in an MILF satellite camp in the village of Butilen, Datu Piang Municipality; a photo of displaced women and children in a tricycle loaded with food rations, alleged to be supporters of the MILF that "slipped out" food rations to them in Pagatin village, Datu Saudi Ampatuan; distribution cards from a suspected MILF-supporter taking food rations from an IDP camp in Dapiawan and distribution cards allegedly taken from a man who was captured and believed to be an associate of a Jemaah Islamiyah member. Part of the presentation was a slide entitled "IDP as enemy reserve forces".[160]

Referring to the above comment, a military spokesperson told the media, "MILF-LMG [lawless MILF groups; term used by government to refer to MILF commands the military is pursuing] pose as IDP and they are the ones planting IED… at their target area. So MILF … actions are executed within the immediate environs of the IDP centres." The spokesperson elaborated on this citing "the liquidation of two 54th IB personnel;[161] after the execution, the perpetrators merged with the IDPs…. These [area where soldiers were killed] are very near IDP centres and it is very easy for them to merge with internally displaced persons. Of course, IDPs as reserve forces."[162] The military official further said, "We cannot substantiate our claim … but there are lawless elements within the IDPs."[163] To this, an MILF leader replied, "The Constitution mandates that the AFP serve as protectors of the

people. If this is the way the AFP thinks, then the MILF is on the right track on secession."[164]

Amnesty International is not in a position to evaluate these reports firsthand, and recognizes that it is the legitimate duty of the government to prevent aid from being diverted for the use of armed groups. At the same time the government has a primary obligation to ensure that internally displaced civilians receive much-needed food rations and essential supplies without unnecessary delay.

International humanitarian law expressly prohibits starvation of civilians as a method of combat in both international and non-international armed conflicts.[165] This prohibition is violated not only when lack of food or denial of access to it causes death, but also when the population suffers hunger because of deprivation of food sources or supplies.

As a State party to the ICESCR, the government of Philippines has an obligation to ensure that "every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement".[166] The government is also obligated to ensure the satisfaction of, at the very least, the minimum essential level of food required to be free from hunger.[167] This is a core obligation, which the government is under a duty to prioritise and a failure to do so would amount to a violation of the Covenant. The prevention of access to humanitarian food aid in non-international conflicts or other emergency situations is also a violation of the right to adequate food[168] which the CESCR describes as: "the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture; the accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights."[169]

According to the UN Guiding Principles on Internal Displacement, "The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities.... All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced."[170]

Amnesty International calls on the Philippine authorities to ensure that adequate and timely distribution of nutritionally balanced, healthy and sufficient food is supplied to all displaced families without discrimination or delay.

INADEQUATE HEALTH SERVICES

The government, in coordination with UN agencies, INGOs and other organizations reported the following interventions as of July 2009: conduct of medical consultations, disease surveillance, health education campaign, mass immunization and vitamin A supplementation among displaced children and women. It reported no outbreak of communicable disease.[171] While acknowledging that the government, supported by other agencies, have provided some health services for the internally displaced population, Amnesty International is concerned by reports from humanitarian workers of high incidences of common illnesses that persist in IDP camps and numerous cases of deaths caused by preventable illnesses continued, particularly

among children.

In the DOH-UNICEF-WFP joint assessment cited above, among the displaced persons that participated in their research, 55 percent of the mothers "reported a child sick in the last two weeks". Of these children, half complained of fever, 24 percent had "repeated cough/cold" and 17 percent had diarrhoea. The joint assessment found a significant association between the incidence of malnutrition and illness, with illness being significantly associated with lack of access to clean drinking water.

Deaths, particularly of newborn babies, caused by preventable diseases and unsanitary conditions reportedly persist in IDP camps. In the town of Datu Piang alone, based on government data combined with data from a volunteer disaster team, at least 46 children died in IDP camps since August 2008.[172] The volunteer disaster team told Amnesty International that many of the children died due to the conditions in the camps and from preventable illnesses. Many mothers have also given birth in IDP camps, sometimes prematurely because of the adverse conditions. According to humanitarian workers in Maguindanao, it is possible that some deaths, especially of babies, were not recorded because of the practice of immediate burial and the fluid movement of displaced families.

In a span of two weeks in February 2009, 24 people died in one IDP camp in Talayan town, Maguindanao. Six of those that died were children who mostly suffered from diarrhoea which is easily treatable. Approximately 8,000 people live within the camp. In the same month, UNICEF stated that about half of the then 132 recorded deaths were of children, with most of them dying from diarrhoea, pneumonia, malnutrition or measles.[173]

CASE: PREVENTABLE DEATH OF AN INFANT

"She was lying on the middle of the bed, her still warm body swathed in a baby blue blanket, her eyes in a fixed gaze which her grandmother gently shut closed while caressing her face," described a writer documenting stories of displaced families and human rights abuse. She was referring to the death of Zaida Ponso on 28 June 2009.

Seven-month old baby Zaida Ponso died in an IDP camp in Datu Piang at 11am on 6 June 2009. She was earlier rushed to a clinic after suffering from a night of diarrhoea.

The Ponso family has been living in a tarpaulin tent in an IDP camp since April 2009, when they fled their village in Datu Saudi Ampatuan Municipality after Zaida's older brother was nearly hit by a howitzer bomb. Mortar shelling was at that time sporadic in the village of Ganta, which is located close to the Rio Grande de Mindanao where intermittent fighting continued as late as June.

The DOH-UNICEF-WFP assessment stated that 85 percent of those who reported "having a child sick in the last two weeks" went to government-provided health facilities (rural/urban health unit, village health centre or government hospital) when seeking treatment. Government health facilities are supposed to provide free basic health services. A humanitarian worker informed Amnesty International, however, that many times displaced persons have approached him after going to the rural health unit in Datu Piang, complaining of being asked to give a donation for medicines which they should have been receiving free of

charge. He said that the displaced persons complained that if they did not give a donation, they would be told that there is no stock of the particular medication needed. Often the health centre was only able to provide paracetamol.

As a State party to the ICESCR, the government of Philippines has to respect, protect and fulfil the right to health. States are obligated to ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalised groups. It is also under a core obligation to prioritise the access of all persons to essential primary health care services and also to take measures to prevent, treat and control epidemic and endemic diseases. Principle 18 of the UN Guiding Principles on Internal Displacement requires authorities to provide displaced persons, at the minimum and regardless of circumstances, with access to essential medical services and sanitation. Principle 19 also provides that: "All wounded and sick internally displaced persons as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones.... Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons.

The Philippine government must comply with its obligation to ensure that internally displaced persons are able to access health facilities, goods and services, in particular essential medical services.

NO SAFETY FOR CIVILIANS

International humanitarian law provides for the possibility of parties to an armed conflict establishing safety zones away from military operations, as well as neutralised zones within areas of such operations. Both are aimed at sheltering the wounded, the sick and civilians from the effects of war.[174]

In Maguindanao and other conflict-affected areas, it appears that not only have such zones not been officially agreed or declared, there are no clear delineations between civilian and military areas.

Military detachments are often located in villages, or along the highways, near houses which are still occupied by residents. Civilians living near military detachments are at risk of getting hit in the crossfire, as brief attacks by the MILF—when its fighters attack military detachments and a low-level gun fight begins—have not been uncommon.

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Such practices violate the obligation of parties to a conflict to avoid, to the extent feasible, locating military objectives within on near densely populated areas. This is part of the general obligation of parties to armed conflicts to protect those not involved in hostilities, discussed above. Article 13(1) of Additional Protocol II provides that "the civilian population and individual civilians shall enjoy general protection against the dangers arising from military operation," a provision which is believed to contain the obligation to locate military objectives away from populated areas.[175]

Amnesty International has regularly received reports from local sources on skirmishes

between the government security forces and the MILF inside or in the close vicinity of villages, towns, IDP camps and other civilian areas. Below is a partial list of the incidents in 2009:

- On 20 May 2009 at around 9:00 in the evening, MILF fighters opened fire at the 54th Infantry Brigade (IB) detachment some 25 metres from Datu Gumbay Piang Elementary School in the village of Buayan, and a short exchange of fire ensued.

- On 31 May, unidentified armed men similarly attacked a military detachment in the village of Bagan at around 7:25 in the evening.

- On 4 June, at 6:07 pm, armed men believed to be from the MILF again attacked the detachment of the 54th IB. Civilians, including a local human rights monitor, were passing by the detachment at that time and were caught in the exchange of fire. The human rights volunteer told Amnesty International, "I was on my motorcycle when I began hearing the shots and then I heard some of them whizzing close to my ear, so I jumped from my motorcycle and rolled to the roadside. I saw one of the soldiers and said, 'I'm a civilian, help me.' And the soldier said that I should just stay on the ground. The exchange of fire ended after ten minutes. Thank God there were no casualties."

Many other similar cases are not reported in the media unless they result in casualties. The incidents mentioned above are just a sample of what often happens in and around military detachments in Central Mindanao. While these military detachments may be considered military objectives, entire civilian communities around the detachments are at risk of attack.

While there is no available independent comprehensive listing of all the cases of shelling in Central Mindanao, Amnesty International obtained information on some of the cases of shelling, some of them resulting to deaths. The cases that follow were primarily documented by local human rights monitors who are in regular contact with Amnesty International.

On 11 May 2009 displaced persons from an IDP camp in the village of Dapiawan, Municipality of Datu Saudi Ampatuan left the IDP camp, saying that bombs were falling within 100 metres from their tents. In the same report, a displaced person said, "We do not know what to do anymore. We are not safe here at the evacuation centre anymore because they drop the bombs here, too. We also can not go back to our villages because the military would suspect us as MILF rebels."[176]

An 8-month pregnant woman died on the spot when mortar shelling hit this house in Maguindanao

The photo above shows a destroyed house which used to be the home of the Dimaudtang family from the village of Muntai in Datu Piang. Mohanie Dimaudtang, the heavily pregnant mother, died as a result of mortar shelling in their neighbourhood which lies close to the Rio Grande de Mindanao (river). According to a human rights volunteer who spoke to her family immediately after the incident, despite the continuous shelling, villagers chose to stay in their area because at that time the relief supply in evacuation centres was not enough for their needs. If they took their chances and stayed, they could at least plant corn and have something to eat. On 22 or 23 September 2008, mortars began landing very close to their house. Mohanie's family decided to flee. When the second mortar exploded, her husband and her children left the house and began to run for safety. Mohanie came out last because she went back to retrieve her wallet which contained what little money the family had. The third mortar to land hit their house, killing Mohanie instantly. Her daughter, who fell with the collapsed floor of the house, saw her and said that Mohanie was most certainly killed, with her internal organs and the baby she was carrying exposed.

Amnesty International received information on a case of two displaced children who died after being electrocuted by an electric fence set up by government security forces around the 46th Infantry Brigade Macasampen detachment. There was no warning sign about the presence of a live wire around the detachment which was by the highway and close to an IDP camp in the village of Macasampen, Guindulungan Municipality.

CASE: CHILDREN KILLED BY AN ELECTRIC FENCE

According to the records[177] of humanitarian workers who talked to the father of one of the victims, on 1 March 2009, at around 5:10 in the afternoon, Mohammad Bayan, 15, and Mentato Mamalinta, 16, went to obtain some metal roofing material from their old house not far from the IDP camp in Guindulungan where they were currently staying. The two children set out, riding on the family cow.

When the two young men did not come back as expected, their father asked Mohammad's younger brother Yusof to find them. Yusof found his older brother and cousin lying on the ground, with burns all over their body. He tried to pull his brother, but when he did, he received an electric shock. They were apparently lying unconscious on top of the live wire. Yusof immediately ran to call their father. They went to the detachment, asking help from the soldiers, who did not come to their assistance. Frantic, Mohammad's father used his *bolo* (knife-like blade used to cut grass) to cut the live wire and then pulled Mohammad and Mentato into his three-wheeled motorcycle and brought them to their family's tent in the IDP camp. By then, they were already dead.

Their father said that he believes that the cow accidentally stepped on a live wire which was planted by soldiers as protective fencing for their detachment. Because of the high voltage coursing through the live wire, the cow jerked, causing the two boys to fall on the live wire themselves. As it happened a little before sunset, the victims probably did not see the live wire on the ground. There was no warning sign about the presence of the live wire.

Amnesty International calls on both sides to agree on safe and neutralised zones for the protection of civilians. Irrespective of whether or not they reach such agreements, the parties to the armed conflict are obliged, under international humanitarian law, to avoid whenever possible conducting military operations from within or near civilian localities or locating military objectives, including military camps, in their vicinity.

UNCERTAIN FUTURE: NO HOUSES TO GO HOME TO

Hundreds of thousands of displaced persons, still unable to go back to their homes and villages, continue to face uncertainty—oftentimes there is neither home nor farm to go back to. Many have been burned or otherwise destroyed either during fighting or sometimes even if there had been no fighting there. Some empty houses were looted, and then burned to disguise this.

Houses in the villages of Lapok and Tapikan in Shariff Aguak, Maguindanao hit by air strikes and artillery shelling

Government soldiers, paramilitaries and MILF fighters have all been accused of burning and looting houses in villages. Both sides to the conflict have also publicly accused each other of such acts in several instances. The information below is by no means comprehensive, but provides some of the information received by Amnesty International—in the form of sworn affidavits, interviews, media reports, or from other sources on the ground. Amnesty International calls on both the Philippine government and the MILF to investigate the following reports of the burning of houses (as well as those detailed in other reports), which constitute violations of both international humanitarian law and human rights law.

- On 2 May 2009, at 6:30 in the morning, an estimated 30 houses of civilians were burned in the village of Balanakan, Datu Piang Municipality, allegedly by soldiers from the 64th and 54th Infantry Brigade and CVOs. On 17 May, soldiers from the 46th, 64th and 69th Infantry Brigades together with CVOs and CAFGUs reportedly burned hundreds of houses in the Municipality of Talitay. On the afternoon of 31 May, in the village of Reina Regente in Datu Piang Municipality, houses were burned, with flames visible from the town centre.

- Philippine media reported that MILF combatants burned 40 houses in the villages of Sangay and Paril in January 2009, after mutilating statues of saints in a Catholic chapel and firing rockets at a coastal village in the Municipality of Kalamansig, the province of Sultan Kudarat.[178] On 3 May 2009, at around 6:00 am, the MILF reportedly burned at least 30 houses in a banana plantation reportedly owned by a politician in North Cotabato, who was involved in the filing of the petition against the MOA-AD. In addition to burning the houses, MILF fighters burned several pieces of heavy equipment and stole five horses and carabaos.[179] On 26 May 2009, according to a report by the NDCC, approximately 20 houses were burned in the village of Reina Regente".[180]

On 7 May, residents of the village of Nunangan in Talayan Municipality, Maguindanao, filed a case of "destructive arson" against government soldiers. The residents who filed a complaint had been displaced by the fighting nine months earlier and were not living in their houses at the time of the incident. They accused the soldiers of burning more than 100 houses in this village. As the Commission on Human Rights in the Philippines (CHRP) did not have a presence in ARMM, the displaced persons had to go to another region to file their case. As of July 2009, there has been no outcome of the complaint.

Amnesty International received copies of their sworn affidavits.[181] Below are selected excerpts from some of the affidavits.

BURNED HOUSES: AFFIDAVIT FROM A MOTHER OF SIX CHILDREN

The complainant is a displaced person who has been staying in an IDP camp in Talayan, Maguindanao province for the last 9 months. She filed the case on 29 May 2009 in Cotabato City.

"On May 7, 2009, I left the evacuation center at early dawn to go home to Sitio Patulan where I arrived at about 7:00 a.m. There at about 9:00 a.m., while I was looking after my children working on the farm, the military arrived and instructed us to leave Sitio Patulan for we might be caught in the crossfire. The military claimed that enemies were approaching.

Out of fear, I immediately left sitio Patulan without bringing with me any of our belongings and headed towards Katibpuan…. I arrived there at about 12:30pm.

While I was in Katibpuan, I did not hear any gunfire or any sound that would indicate that there was an encounter going on between the military and their enemies. At about 3:30 p.m., I saw thick smoke coming from Sitio Patulan indicating that fire had been set ablaze in the area. The following morning, at about 7:00 a.m. … I saw the military making their way from Sitio Patulan. Thereafter, as the military were already leaving, I went back to our area and I discovered that our house, along with other houses in the area, was totally gutted down by fire making it totally uninhabitable."

She holds the military accountable for the torching of her house, together with "more than 100 homes" in her village, for the reason that "they were the only ones who were left in the area when the incident happened. "At that time, our community was under the effective control of the military and there were no other people there except their own soldiers." According to her sworn affidavit, all the civilians were made to evacuate Sitio Patulan although there was no gunfire or any sounds that would indicate that an encounter was taking place between the military and the MILF. Her affidavit also stated that her village was exclusively under the control of the military who were in the area between 9:00 a.m. on 7 May to 7:00 a.m. the next day, and the fire occurred at approximately 3:30 p.m. in her village.

BURNED HOUSES: AFFIDAVIT FROM AN ELDERLY FARMER

The complainant is a displaced person residing in an IDP camp in Talitay, Maguindanao. His two-storey house, small store and his family's belongings were burned.

"On May 7, 2009, at around 7:30 in the morning, at the Nunangen Public Market, together with other residents in the area, I personally saw several trucks belonging to the 46th IB of the Philippine Army entering our vicinity at that time. I was sitting at the public market and watched the soldiers as they passed by."

The soldiers told the residents in the market, including him, to leave immediately.

"Because of fear, I decided to immediately… proceed to the evacuation center. At around 3:30 pm… I heard about the burning of houses in Barangay Nunangen (his village) and saw some smoke coming from its

direction hours after the elements of the 46th Infantry Battalion entered Nunangen on the same day.

Two days after the… burning of houses… I decided to visit my house in Nunangen…. What I saw were houses already burned including my own house and my small *sari-sari* (general merchandise) store. All of my belongings… were also burned.

Based on my latest ocular visit, I have observed that ninety (90) percent of civilian homes were razed to the ground numbering to about more than a hundred homes. The entire public market and community completely turned to ashes."

While most of Mindanao's displaced families fled because of the violence, or threat of violence, resulting from the armed conflict, there were also families that were allegedly forced by members of the government security forces to leave their homes in villages where there were reportedly no armed encounters taking place. Notwithstanding the subsequent burning down of houses allegedly by members of the AFP, if there was no clear and apparent security reasons why soldiers have ordered the residents to leave their homes against their will, then it appears that members of the government security forces may have violated the human rights of the residents of the village of Nunangan, including but not limited to the right to adequate housing, in a case of forced evictions.

The UN Committee on Economic, Social and Cultural Rights defines "forced evictions" as "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection."[182] The Committee includes among such evictions those resulting from "international armed conflicts, internal strife and communal or ethnic violence."[183]

Article 17 of Additional Protocol II to the Geneva Conventions prohibits the forced displacement of civilians for reasons connected with the conflict. Such displacement is only permissible for "imperative military reasons" or the "security of the civilians". The parties to the conflict need to demonstrate that these reasons exist.

Finally, with regard to the burning and destruction of civilian property, including houses, it is a basic principle of international humanitarian law that persons fighting in armed conflict must, at all times, distinguish between civilians and combatants and between civilian objects and military objectives. The "principle of distinction", as this rule is known, is one of the cornerstones of international humanitarian law. It is a rule of customary international humanitarian law, binding on all parties to armed conflicts, whether international or non-international. Parties who were involved in the burning of down of homes of civilians indiscriminately, be it from the government security forces or the MILF, have violated this essential rule of customary international humanitarian law.

Amnesty International calls upon the Philippine authorities to ensure that all incidents of such property destruction, by both sides, are investigated promptly, impartially and thoroughly, that perpetrators are brought to justice in fair proceedings and that victims are awarded reparations. Collective punishment and any destruction or seizures of property not required by imperative military necessity are prohibited under international humanitarian law.[184]

RECENT DOMESTIC LEGAL DEVELOPMENTS

In March 2009 the Philippine Congress approved on its third and final reading the Anti-Torture Bill (House Bill 5709) and the Anti-Involuntary Disappearance Bill (HB 5886). At the time of writing they await approval by the Philippine Senate. However, enforced disappearances, torture and other cruel, inhuman or degrading treatment have continued to be reported in Mindanao. The immediate passing and enforcement of such laws could help to protect the right to be free from enforced or involuntary disappearances, torture and other cruel, inhuman or degrading treatment in the future.

The draft Anti-Torture Bill of 2009 defines torture as: "an act by which severe pain or suffering, whether physical or mental is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession; punishing him or her for an act he/she or a third person has committed or is suspected of having committed; or intimidating or coercing him/her or a third person; or for any reason based on discrimination of any kind when such pain or suffering is inflicted by or at the instigation of or within the consent or acquiescence of a person in authority, public official or agent of a person in authority". The bill also clarifies other cruel, inhuman and degrading treatment or punishment to refer to "a deliberate and aggravated treatment or punishment [not enumerated under torture]... inflicted by a person in authority or agent of a person in authority against a person under his/her custody, which attains a level of severity causing suffering, gross humiliation or debasement to the latter."

The draft Anti-Torture Bill states that physical torture includes, but is not limited to: systematic beatings, head banging, punching, kicking, striking with truncheon or rifle butt or other similar objects, jumping on the stomach; food deprivation, forcible feeding with spoiled food, animal or human excreta or other substances not normally eaten; electric shock; burning by cigarettes or electrically heated rods, hot oil, acid, by the rubbing of pepper or other chemical substances on mucous membranes or acids or spices directly on the wound(s); the submersion of the head in water or water polluted with excrement, urine, vomit and/or blood until the brink of suffocation; being tied or forced to assume fixed and stressful bodily positions; rape and sexual abuse, including the insertion of foreign bodies into the sex organ or rectum or electrical torture of genitals; mutilation or amputation of the essential parts of the body such as the genitalia, ear, tongue, etc.; dental torture or the forced extraction of the teeth; pulling out of fingernails; harmful exposure to the elements such as sunlight and extreme cold; the use of plastic bags and other materials placed over the head to the point of asphyxiation; the use of psychoactive drugs to change the perception, memory, alertness or will of a person, including drugs that induce confession or reduce mental competency or induce extreme pain.

The draft House Bill 5709 also defines mental or psychological torture as "acts committed by a person in authority or agent of a person in authority which are calculated to affect or

confuse the mind and/or undermine a person's dignity and morale, such as: blindfolding, threatening a person(s) or his/her relative(s) with bodily harm, execution or other wrongful acts; confinement in solitary cells or secret detention places; prolonged interrogation; preparing a prisoner for a "show trial", public display or public humiliation of a detainee or prisoner; causing unscheduled transfer of a person deprived of liberty from one place to another, creating the belief that he/she shall be summarily executed; maltreating a member/s of the person's family; causing the torture sessions to be witnessed by the person's family, relatives or any third party; denial of sleep/rest; shame infliction such as stripping the person naked, parading him/her in public places, shaving the victim's head or putting marks on his/her body against his/her will; deliberately prohibiting the victim to communicate with any member of his/her family....".

The draft Philippine Anti-Enforced or Involuntary Disappearance Act of 2009, declares as a matter of policy that "the State values the dignity of every human person and guarantees full respect for human rights for which highest priority shall be given to the enactment of measures for the enhancement of the right of all people to human dignity, the prohibition against secret detention places, solitary confinement, incommunicado or other similar forms of detention, the provision for penal and civil sanctions for such violations, and compensation and rehabilitation for the victims and their families, particularly with respect to the use of torture, force, violence, threat, intimidation or any other means which vitiate the free will of persons abducted, arrested, detained, disappeared or otherwise removed from the effective protection of the law".

The draft act defines enforced or involuntary disappearance as "the arrest, detention, abduction or any other form of deprivation of liberty committed by government authorities or by persons or groups of persons acting with the authorization, support or acquiescence of such person in authority, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such person outside the protection of the law."

CHALLENGES IN HUMAN RIGHTS MONITORING DURING THE MINDANAO ARMED CONFLICT

In conversations with local groups and volunteer human rights monitors, Amnesty International delegates learned just how difficult it is to assess the human rights situation on the ground in Mindanao.

1. Humanitarian workers and local journalists have been closely followed and monitored by soldiers when visiting IDP camps.

2. Many cases of human rights abuses that occurred in the conflict-affected areas in Maguindanao, North Cotabato, and the Lanao provinces remain under-reported in national media. To non-locals, including Filipinos from outside Mindanao, travelling to these areas remains dangerous and sometimes even journalists and humanitarian workers who do travel there are stopped by the military citing security reasons. The lack of media reports and limited access for independent monitors may mean that some human rights abuses are unreported, and perpetrators can therefore act with impunity. Families of victims are also hesitant to give accounts of their experience, fearing that working with the media will expose their identities the public and put them at risk of reprisal from the perpetrators, and sometimes, this fear has basis.

3. Absence of Commission on Human Rights in the Philippines office in ARMM. At present, complaints are received in oftentimes one-person satellite offices in Cotabato City for ARMM provinces in Central Mindanao (annexed to CHRP's regional office in General Santos City) and Jolo for the Sulu and Tawi-tawi archipelago (satellite office annexed to CHRP's regional office in Zamboanga City). Thus, there is no government body to monitor the human rights situation in the main conflict-affected areas. NGOs then take on this role. According to CHRP, an executive order from the president or an administrative order from the executive secretary is needed to devolve a regional CHRP office in ARMM, but the orders have not been issued.

4. Disempowered AFPHRO. Although the military has a human rights office that is tasked to receive complaints on human rights violations committed by members of Armed Forces of the Philippines, this consists of a small office in the military headquarters which is not easily accessible—its existence is unknown to many soldiers on the ground, let alone victims of human rights violations. This means almost all cases of human rights violations by soldiers remain undocumented, unreported and un-investigated by the military.

5. Limited manpower, technical skills and financial resources for community human rights monitors. Local NGO monitors receive leads via SMS about enforced disappearances, arbitrary arrests, sometimes involving torture or other ill-treatment, house destructions and other human rights violations, but because of lack of financial and manpower resources, they are unable to follow-up on many of the leads. If they are delayed in going to the communities by more than a day, they often arrive to find that surviving victims and their families have already fled elsewhere to unknown locations, fearing for their lives. This has made the systematic documentation of human rights violations and abuses particularly challenging.

6. General lack of coordinated effort in documenting and reporting human rights violations and abuses. If documentation and reporting of abuses is difficult in the conflict-affected areas, so is the coordination of local NGOs in systematic monitoring of the violations. Most local NGOs work at the grassroots level without

much funding. Travel to the most remote villages where many of the human rights abuses occur is almost always risky. Many of the local monitors are protected only by the trust given by the community which they have been serving for years.

7. In the limited instances when humanitarian workers or human rights monitors are able to document a case of abuse, most of the victims refuse to file any formal complaints either to the Commission on Human Rights of the Philippines or in the cases of alleged military violations, to the AFP human rights office, fearing reprisal, having no or very limited access to free legal advice and representation, and lacking the confidence that their complaints will reach the investigation stage, much less prosecution of perpetrators. The country's weak witness protection program also leads to the lack of formal complaints.

CONCLUSIONS AND RECOMMENDATIONS

The failure of both the Philippine military and the MILF to ensure that their forces comply with international law during the 2008 – 2009 conflict has resulted in human rights violations and abuses and violations of international humanitarian law. The lack of a neutral human rights monitor respected by both parties to the conflict has meant that effective investigations and bringing the perpetrators to justice has not occurred.

The presence of armed groups and privately armed militias, and localised attacks between feuding clans, has aggravated the already volatile and complex situation. At the centre of the armed conflict are the lives of the hundreds and thousands of civilians who have been displaced. Dependent on aid, with no sure prospects of livelihood, no safe communities or sometimes even standing homes to go back to, theirs is an uncertain future.

The recent suspension of hostilities provides a much-awaited respite for the conflict-affected population. The re-opening of the peace talks provides the Philippine government and the MILF with an important opportunity to put human rights at the heart of their new round of negotiations. Just like other armed conflicts in the world, the Mindanao armed conflict has fed on unresolved grievances that arose from a history of conflict. These grievances are often about grave human rights abuses, and historically, perpetrators of these abuses have not been held to account.

Amnesty International makes the following recommendations to the Philippine government, the MILF and the international community.

Recommendations

To the Philippine authorities

1. The government security forces, comprising the AFP and government-armed paramilitaries, such as the CAFGU and CVO, must immediately cease all violations of human rights and take all measures necessary to ensure they are not repeated in the future.

2. The Philippine government, especially the Department of National Defence with regard to members of the government security forces, should initiate prompt, impartial and thorough investigations into reports of violations of international human rights and humanitarian law.

- Witnesses and families of the victims should be protected from violence, threats or any other intimidation and those under investigation should be suspended from any position where they can exert power or influence over them.

- Individuals identified by the investigation as responsible, including those with command

responsibility irrespective of rank, must be brought to justice in proceedings which meet international standards of fairness. An order from a superior officer or a public authority may not be invoked as a justification for committing serious human rights violations or violations of international humanitarian law.

- The reports of these investigations should be made public.

- Victims must be ensured reparations in accordance with international standards. Such reparation must include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

3. The Armed Forces of the Philippines must demonstrate its commitment to human rights, by providing its human rights office with the resources needed to effectively investigate all cases of violations of international humanitarian law and human rights violations perpetrated by the government security forces, including but not limited to, destruction of civilian houses and property, arbitrary arrests, enforced disappearances, unlawful killings including political killings, and torture and other cruel, inhuman and degrading treatment.

- The AFP human rights office must be given the mandate and sufficient capacity to conduct the detailed and impartial investigations itself, and not only rely on investigations done by regional commands on their own men.

4. The government should ensure the safety and well being of internally displaced persons, in accordance with international law and standards, including the UN Guiding Principles on Internal Displacement.

- In particular it must ensure that the lives of displaced persons are not at risk of direct or indiscriminate attacks or other acts of violence.

- It must provide or ensure the provision of, as a minimum, adequate food and potable water; adequate shelter and housing; appropriate clothing; and essential medical services and sanitation.

- It must grant unimpeded access to all areas under its control to humanitarian actors so that they may reach internally displaced persons and other civilians at risk without further delay.

- It must, in cooperation with the displaced persons, implement a sustainable and comprehensive plan of action for their safe and voluntary return to their villages, in conditions that allow returnees to live without threats to their security and under economic, social and political conditions compatible with human dignity. This includes provisions for adequate food, housing and livelihood upon resettlement, as recommended by the DOH-UNICEF-UNWFP in their joint nutrition and food security assessment of the internally displaced persons.

- It should ensure that their property and other rights are fully restored, and in the case of destroyed or inaccessible property, that they receive adequate compensation, irrespective of their return to their place of permanent residence.

5. The Philippine government must take responsibility for the security of all civilians residing in areas affected by the conflict regardless of their religion, political affiliation, or ethnicity. Specifically, it must take concrete steps to protect Philippine Muslims, otherwise known as Moros, from reprisal attacks and other violations, particularly by members of the government security forces.

6. The Philippine government should prioritise the establishment of an office of its national human rights institution in ARMM, starting with the issuance of an executive or administrative order which permits this. The Commission on Human Rights of the Philippines should then re-establish office/s within the Autonomous Region in Muslim Mindanao, to make the agency accessible to victims of human rights abuses. The ARMM regional government must fully cooperate to support this effort.

7. The national government, particularly through the Office of the Presidential Adviser on the Peace Process, in consultation with ARMM regional officials and civil society, should establish a culturally accepted mechanism of monitoring, investigating and bringing a just end to abuses perpetrated by privately armed militias, feuding clans and other armed groups in their practice of *rido*, to facilitate governance that is based on the rule of law in the conflict-affected region and to prevent localised clashes that could escalate into heavy fighting.

8. The Philippine senate, as a matter of priority, must ensure that the Anti-Torture Bill and the Anti-Involuntary Disappearance Bill fully accord with international human rights law, in particular the International Convention on the Protection of All Persons from Enforced Disappearance and the Convention against Torture, and expedite the approval of the proposed legislations before the end of the next session.

9. As a matter of priority, the Philippine state should ratify the International Convention on the Protection of All Persons from Enforced Disappearance, and to make the declarations required under Articles 31 and 32 of the Convention, thus recognizing the competence of the Committee on Enforced Disappearances to consider communications from individuals and state parties.

10. The Philippine government should implement urgently the recommendations contained in the 2008 UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions' report and 2009 follow-up report on the Philippines which remain unfulfilled.

11. The Philippine government should extend an open invitation to the UN Special Procedures to visit Central Mindanao, in particular the Special Rapporteur on the promotion and protection of human rights while countering terrorism and the Working Group on Enforced or Involuntary Disappearances, who have both requested to visit the Philippines several times.

Recommendations to the MILF

1. The MILF should publicly declare a commitment to respecting the human rights of all peoples and immediately order its fighters, followers and supporters to cease all acts that constitute to human rights abuses, particularly in the context of the armed conflict.

2. The MILF must ensure that its fighters, followers and supporters adhere strictly to their obligations under international humanitarian law by clarifying to its fighters, followers or supporters, irrespective of rank, that IHL violations would not be tolerated, particularly attacks on civilians and civilian properties or objects, and indiscriminate attacks. Members suspected of committing violations must be removed from any positions where they may repeat them.

3. The MILF must cooperate with the Philippine government in facilitating joint investigations of allegations of grave abuses and violations of international human rights and humanitarian law, and bringing to justice perpetrators of such abuses, in a civilian court, through proceedings that comply with international standards of fairness.

4. The MILF should divulge the results of its investigations of the attacks on civilians perpetrated by three of its commanders in August 2008 and the punishments which it stated that it has imposed on those it found to be responsible.

Recommendations to the International Community

Amnesty International calls on the international community to support measures for independent human rights monitors to document reports of abuses by the parties to the conflict, with the aim of improving compliance with international human rights law and humanitarian law in particular with regard to protection of civilians. Specifically:

1. Amnesty International calls on multilateral organizations such as the Organization of Islamic Conference and the European Union, which have both expressed interest in supporting the peace process, to give assistance in establishing international monitors of human rights abuses and violations of international humanitarian law committed in the context of the armed conflict.

2. Amnesty International calls on the international donor community to support the expansion of independent local human rights monitoring teams, in order to have more systematic and coordinated documentation and reporting of violations of international human rights and humanitarian law in the conflict-affected areas.

ENDNOTES

1 National Disaster Coordinating Council, "NDCC Update Sitrep 86 re: IDPs in Mindanao", 14 July 2009.

2 Central Mindanao or Region XII consists of the provinces of South Cotabato, Cotabato, Sultan Kudarat, Saranggani and the cities of Cotabato, General Santos, kidapawan, Koronadal and Tacurong.

3 ARMM consists of the provinces Maguindanao, Lanao del Sur, Basilan, Sulu, Tawi-tawi, and the two cities of Marawi and .Isabela.

4 The copy was shared to Amnesty International by a confidential source. File on record at Amnesty International.

5 Declared by the Internal Displacement Monitoring Centre (IDMC), an international organization that monitors conflict-induced displacement.

6 Norwegian Refugee Council, "Global Overview of Trends and Developments in 2008", May 2009. http://www.nrc.no/?did=9408780, last accessed 2 July 2009.

7 Manny Mogato, "Philippines asks aid agencies to limit food rations", Thomson Reuters, 3 June 2009, http://www.reuters.com/article/asiaCrisis/idUSMAN479139, last accessed 5 June 2009.

8 Philippine Information Agency, "Seguis assures bakwits they will soon talk with the MILF", 6 June 2009. http://www.pia.gov.ph/default.asp?m=12&r=r11&y=&mo=&fi=p090606.htm&no=05, last accessed on 6 June 2009.

9 In this report, the term "political killings" is used to refer to unlawful killings by government security forces or armed groups. Unlawful killings in the context of this report also includes targeted killings of civilians and other non-combatants by government security forces or armed groups, and killings resulting from disproportionate or indiscriminate attacks.

10 See Amnesty International, Shattered Peace in Mindanao: Human Cost of Conflict in the Philippines, (Index: ASA 35/008/2008) for additional details on events that led to the 2008 escalation of conflict in Mindanao and for a brief history of the conflict.

11 The Memorandum of Agreement on Ancestral Domain contains general principles concerning the rights and identity of the Indigenous Bangsamoro people, the establishment of a self-governance system deemed genuine and appropriate for them, and the protection and use of resources found within the ancestral domain. It is not yet a final peace accord. (Suliman Santos, Jr., "A Primer on the Memorandum of Agreement on Ancestral Domain", The Manila Times, 29 August 2008.)

12 Philippine Supreme Court decision on The Province of North Cotabato vs The Government of the Republic of the Philippines, et al. G.R. Nos. 183591, 183572, 183893 and 183591 [sic]. October 14, 2008. http://sc.judiciary.gov.ph/jurisprudence/2008/october2008/183591.htm, last accessed 17 July 2009.

13 Signed copy of the MOA-AD was provided by confidential sources of Amnesty International. Copy on file at Amnesty International.

14 Office of the President, Office of the Presidential Adviser on the Peace Process, "Importance of authentic dialogue", 16 October 2008. http://opapp.gov.ph/index.php?Itemid=115&id=197&option=com_content&task=view, last accessed July 2009.

15 The IMT is composed of officers from the military and police, and is mandated to monitor the ceasefire, the implementation of the abovementioned agreements; and to ensure that the peace process successfully reaches the stage of rehabilitation, reconstruction and development of the conflict affected areas. See also Amnesty International, Shattered Peace in Mindanao: Human Cost of Conflict in the Philippines, (Index: ASA 35/008/2008).

16 Edwin Espejo, "MILF wants international guarantee before resuming peace talks", Sun Star Davao, 31 October 2008, http://www.sunstar.com.ph/static/dav/2008/10/31/news/milf.wants.int.l.guarantee.before.resuming.peace.talks.html, last accessed 17 June 2009. An insider has also commented to Amnesty International that this is not a new position for MILF as, "MILF has been consistently and officially stating that its fight for self-determination is for a negotiated life within the Republic of the Philippines."

17 European Parliament resolution on the situation in the Philippines B6-0126/2009, 12 March 2009.

http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=B6-2009-0126&language=BG, last accessed June 2009.

18 International Crisis Group, The Philippines: Running in Place in Mindanao: policy briefing, 16 February 2009.

19 Mindanao has 25 provinces and the GRP-MILF defined conflict affected areas has only 13 provinces. So, the Moro conflict is not Mindanao conflict. Other armed groups are present in Mindanao and engaged in armed conflict with the Philippine government. However, for the purposes of this report, the Mindanao armed conflict refers to the Philippine government-MILF armed conflict.

20 Malcolm Cook and Kit Collier, Mindanao: A Gamble Worth Taking, Lowy Institute for International Policy, Australia, 2006, p. 11-12.

21 Santos, Jr., Delays in the Peace Negotiations between the Philippine government and the Moro Islamic Liberation Front: Causes and Prescriptions, as cited in Mindanao: A Gamble Worth Taking, Lowy, Malcolm Cook and Kit Collier, Institute for International Policy, Australia, 2006.

22 Malcolm Cook and Kit Collier, Mindanao: A Gamble Worth Taking, Lowy Institute for International Policy, Australia, 2006, p. 6.

23 President Gloria Macapagal-Arroyo's speech, delivered during the Vin D'Honneur, 20 January 2009. http://www.macapagal.com/plm/index.php?option=com_content&task=view&id=23&Itemid=29, last accessed July 2009.

24 Malcolm Cook and Kit Collier, Mindanao: A Gamble Worth Taking, Lowy Institute for International Policy, Australia, 2006, p. viii.

25 Cielito Habito, "Land of unfulfilled promise", Philippine Daily Inquirer, 25 May 2009, http://business.inquirer.net/money/columns/view/20090525-206915/Land-of-unfulfilled-promise, last accessed 1 June 2009.

26 United Nations Development Programme, 2008/2009 Philippine Human Development Report, p.102.

27 The six provinces are: Basilan, Tawi-tawi, Zamboanga del Norte, Davao Oriental, Saranggani and Sulu. United Nations Development Programme, 2008/2009 Philippine Human Development Report, p. 103.

28 United Nations Development Programme, 2008/2009 Philippine Human Development Report, p. 109.

29 United Nations Development Programme, 2008/2009 Philippine Human Development Report, p. 111.

30 United Nations Development Programme, 2008/2009 Philippine Human Development Report, p. 113.

31 United Nations Development Programme, 2008/2009 Philippine Human Development Report, pp. 116-117.

32 Manny Mogato, "Philippines needs tougher gun laws, police say", Thomson Reuters, 18 May 2009. http://www.reuters.com/article/asiaCrisis/idUSMAN480485, last accessed 19 May 2009.

33 Article 13(2), Additional Protocol II of the Geneva Conventions.

34 Jean-Marie Henckaerts and Louise Doswald-Beck, Customary International Humanitarian Law, Volume 1: Rules, Cambridge: Cambridge University Press & International Committee of the Red Cross 2005, Rule 5, p. 17.

35 Article 43, Additional Protocol I of the Geneva Conventions.

36 See Jean-Marie Henckaerts and Louise Doswald-Beck, Customary International Humanitarian Law, Volume 1: Rules, Cambridge: Cambridge University Press & International Committee of the Red Cross 2005, Rule pp. 5-8.

37 In a March 2009 interview of Amnesty International with a high-ranking MILF official, the official said that although all commanders follow directives from the central command, commanders can "act on their own if deemed necessary".

38 Jean-Marie Henckaerts and Louise Doswald-Beck, Customary International Humanitarian Law, Volume 1: Rules, Cambridge: Cambridge University Press & International Committee of the Red Cross 2005, Chapter 1.

39 Article 51(4), Additional Protocol 1 of the Geneva Conventions.

40 Article 51(5)(b), Additional Protocol 1 of the Geneva Conventions

41 Jean-Marie Henckaerts and Louise Doswald-Beck, Customary International Humanitarian Law, Volume 1: Rules, Cambridge: Cambridge University Press & International Committee of the Red Cross 2005, pp.48-49.

42 Armed Forces of the Philippines Human Rights Office, AFP Initiatives, Commitments and Adherence in Implementing HR/IHL, a powerpoint presentation presented in Iloilo City, 21-22 January 2009.

43 According to witnesses, the military convoy was led by a Tamaraw FX (Philippine SUV), followed by military vehicles and two battle tanks. Witnesses reported at least 9 vehicles in the convoy.

44 Bantay Ceasefire is an organization that monitored the implementation of the 2003 cease-fire agreement between the State and the MILF, complementing the monitoring function of the International Monitoring Team led by Malaysia.

45 Sittie Sundang, "'Bakwits' swell in number with renewed military offensives in Maguindanao", Mindanews, 14 May 2009. http://www.mindanews.com/index.php?option=com_content&task=view&id=6376, last accessed 20 July 2009.

46 Yul Olaya, "Mindanao folk turned gov't aid dependents", Philippine Daily Inquirer, 17 May 2009. http://www.inquirer.net/specialfeatures/thesoutherncampaign/view.php?db=1&article=20090517-205469 last accessed 20 July 2009.

47 Yul Olaya, "Mindanao folk turned gov't aid dependents" Philippine Daily Inquirer 17 May 2009, http://www.inquirer.net/specialfeatures/thesoutherncampaign/view.php?db=1&article=20090517-205469, last accessed 20 July 2009.

48 Recommended by General Assembly resolution 55/89 of 4 December 2000.

49 Bangsamoro Center for Just Peace is a local organization monitoring cases of human rights violations in the context of the GRP-MILF conflict in Maguindanao and Cotabato City.

50 Concluding observations of the Committee against Torture: the Philippines, UN Doc. CAT/C/PHL/CO/2 14 May 2009, para. 7.

51 Concluding observations of the Committee against Torture: the Philippines, UN Doc. CAT/C/PHL/CO/2 14 May 2009, para. 9.

52 Concluding observations of the Committee against Torture: the Philippines, UN Doc. CAT/C/PHL/CO/2 14 May 2009, para. 8.

53 Concluding observations of the Human Rights Committee: Philippines, UN Doc. CCPR/CO/79/PHL, 1 December 2003, para. 12.

54 Malcolm Cook and Kit Collier, Mindanao: A Gamble Worth Taking, Lowy Institute for International Policy, Australia, 2006, p. 38.

55 Peter Kreuzer, Political clans and violence in the southern Philippines, (PRIF Report No. 71), Peace Research Institute, Frankfurt, 2005.

56 Armed Forces of the Philippines Human Rights Office, AFP Initiatives, Commitments and Adherence in Implementing HR/IHL, a powerpoint presentation presented in Iloilo City, 21-22 January 2009.

57 Report of Special Rapporteur on administration of justice through military tribunals, Sub-Commission on the Protection and Promotion of Human Rights, (UN Doc. E/CN.4/2006/58), 13 January 2006.

58 See also Amnesty International, Philippines: Political Killings, Human Rights and the Peace Process, (Index: ASA 35/006/2006)

59 Philippine's written reply to the Committee Against Torture's List of Issues, to be considered during the examination of the second periodic report of the Philippines, UN Doc. CAT/C/PHL/Q/2/Add.1 (no date, provided ahead of the Committee's Forty-second session Geneva, 27 April-15 May 2009), p. 86. http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.PHL.Q.2.Add.1.pdf, last accessed 13 July 2009.

60 For example, Mindanao: A Gamble Worth Taking gives an estimate of more than 120,000. (Malcolm Cook and Kit Collier, 2006). Also, Nationmaster estimated the armed forces personnel to be at 106,000, calculated on the basis of data on armed forces (International Institute for Strategic Studies, The Military Balance 2001-2002, Oxford University Press, Oxford, 2001). http://www.nationmaster.com/red/country/rp-philippines/mil-military&b_cite=1, last accessed July 2009.

61 The report did not indicate the dates inclusive, but only gave February 2009 to indicate the range of dates.

62 Information received from Bangsamoro Center for Just Peace.

63 UN Doc. E/CN.4/1998/53/Add.2 (1998).

64 National Disaster Coordinating Council, "NDCC Update: Explosion Incidents in Maguindanao", 17 June 2009. http://210.185.184.53/ndccWeb/images/ndccWeb/ndcc_update/Explosion_incidents_in_Maguindanao/ndcc%20update%20on%20explosion%20incidents%20in%20maguindanao.pdf, last accessed July 2009.

65 "MILF men accused of raiding village in SK", GMA News, 16 May 2009. http://www.gmanews.tv/story/161504/MILF-men-accused-of-raiding-village-in-SK, last accessed 19 May 2009.

66 See Jean-Marie Henckaerts and Louise Doswald-Beck, Customary International Humanitarian Law, Volume 1: Rules, Cambridge: Cambridge University Press & International Committee of the Red Cross 2005, pp. 175-182 on the prohibition of the destruction of civilian property.

67 See for instance news reports such as "Jemaah Islamiyah role suspected in recent bombings", Philstar.com, 23 July 2009, http://www.philstar.com/Article.aspx?articleId=489478&publicationSubCategoryId=200, last accessed 23 July 2009.

68 See also Amnesty International, "Philippines: Multiple bombings in Mindanao are unlawful attacks on civilians", (Index: ASA 35/004/2009), 7 July 2009.

69 UNHCR Internally Displaced People Figures. http://www.unhcr.org/pages/49c3646c23.html, last accessed 13 July 2009.

70 From World Food Programme Acting Country Director for the Philippines Alghassim Wurie's description of the internally displaced persons in Mindanao, as quoted in "Mindanao bombings halt UN food distribution," Mark Meruenas, GMANews.tv, 8 July 2009, http://www.gmanews.tv/story/166943/(Update)-Mindanao-bombings-halt-UN-food-distribution , last accessed 20 July 2009.

71 National Disaster Coordinating Council, "NDCC Update Sitrep No. 86 re IDPs in Mindanao", 14 July 2009. http://210.185.184.53/ndccWeb/images/ndccWeb/ndcc_update/IDPs_2009/sitrep%2086%20re%20idps%20in%20mindanao%2014%20july%202009.pdf, last accessed 20 July 2009.

72 Integrated Regional Information Networks (IRIN), http://www.irinnews.org/Report.aspx?ReportId=85269, last accessed 20 July 2009.

73 Integrated Regional Information Networks (IRIN), http://www.irinnews.org/Report.aspx?ReportId=85269, last accessed 20 July 2009.

74 The term "evacuation centre" or "evac centre" used by government is actually a misnomer. Most displaced families fled from the villages—they were not evacuated by government in a systematic way. These are also not centres, but more of tent cities or smaller groups of temporary dwellings.

75 National Disaster Coordinating Council, "NDCC Update Sitrep No. 86 re IDPs in Mindanao", 14 July 2009. http://210.185.184.53/ndccWeb/images/ndccWeb/ndcc_update/IDPs_2009/sitrep%2086%20re%20idps%20in%20mindanao%2014%20july%202009.pdf, last accessed 20 July 2009.

76 Regional government of the Autonomous Region in Muslim Mindanao and the Philippine Department of Health, "Population Displacement in ARMM", powerpoint presentation presented in Cotabato City, 30 June 2009.

77 National Disaster Coordinating Council, "NDCC Sitrep No.57 re IDPs in Mindanao", 12 October 2009. http://210.185.184.53/ndccWeb/images/ndccWeb/ndcc_update/ARMED_CONFLICT/sitrep%2057%20ndcc%20update%20complex%20emergency.pdf, last accessed July 2009.

78 National Disaster Coordinating Council, "NDCC Update Sitrep No. 1 re IDPs in Mindanao", 10 August 2008.

79 All figures for "currently displaced" are assumed to be equal to the figures for "total affected population" from 10-27 August, as NDCC reports during this period do not differentiate between the two, and it would be safe to assume that those who have fled their villages have not returned as of 27 August.

80 National Disaster Coordinating Council, "NDCC Update Sitrep No. 3 re IDPs in Mindanao", 11 August.

81 From number of affected, not the total inside and outside which is 93,928

82 National Disaster Coordinating Council, "NDCC Update Sitrep No. 86 re IDPs in Mindanao", 12 August 2008.

83 National Disaster Coordinating Council, "NDCC Update Sitrep No. 6 re IDPs in Mindanao", 13 August 2008.

84 National Disaster Coordinating Council, "NDCC Update Sitrep No. 7 re IDPs in Mindanao", 15 August 2008.

85 National Disaster Coordinating Council, "NDCC Update Sitrep No. 8 re IDPs in Mindanao", 16 August 2008.

86 National Disaster Coordinating Council, "NDCC Update Sitrep No. 9 re IDPs in Mindanao", 17 August 2008.

87 National Disaster Coordinating Council, "NDCC Update Sitrep No. 11 re IDPs in Mindanao", 18 August 2008.

88 National Disaster Coordinating Council, "NDCC Update Sitrep No. 12 re IDPs in Mindanao", 19 August 2008.

89 National Disaster Coordinating Council, "NDCC Update Sitrep No. 13 re IDPs in Mindanao", 20 August 2008.

90 National Disaster Coordinating Council, "NDCC Update Sitrep No. 14 re IDPs in Mindanao", 21 August 2008.

91 National Disaster Coordinating Council, "NDCC Update Sitrep No. 15 re IDPs in Mindanao", 22 August 2008.

92 National Disaster Coordinating Council, "NDCC Update Sitrep No. 16 re IDPs in Mindanao", 23 August 2008.

93 National Disaster Coordinating Council, "NDCC Update Sitrep No. 17 re IDPs in Mindanao", 24 August 2008.

94 National Disaster Coordinating Council, "NDCC Update Sitrep No. 18 re IDPs in Mindanao", 25 August 2008.

95 National Disaster Coordinating Council, "NDCC Update Sitrep No. 19 re IDPs in Mindanao", 26 August 2008.

96 National Disaster Coordinating Council, "NDCC Update Sitrep No. 20 re IDPs in Mindanao", 27 August 2008.

97 National Disaster Coordinating Council, "NDCC Update Sitrep No. 21 re IDPs in Mindanao", 28 August 2008.

98 NDCC began equating the term "current IDPs" to the "total IDPs served".

99 National Disaster Coordinating Council, "NDCC Update Sitrep No. 22 re IDPs in Mindanao", 30 August 2008.

100 National Disaster Coordinating Council, "NDCC Update Sitrep No. 23 re IDPs in Mindanao", 25 August 2008.

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Yet another round of fighting between the Philippine government forces and the Moro Islamic Liberation Front (MILF) ended in July 2009. The most recent fighting was characterized by unlawful killings, enforced disappearances, torture, arbitrary arrests, displacement of civilians, and burning and destruction of homes at the hands of the Philippine armed forces, MILF fighters and local militias. A year on, more than 255,000 people were still unable to return to their homes and villages in the Central Mindanao region of southern Philippines. With no means of making a living, they have become dependent on aid.

In August 2008, fighting escalated when the Philippine government refused to sign the "Memorandum of Agreement on Ancestral Domain" and the MILF retaliated by attacking civilians. The memorandum would have increased the autonomous territory of the Muslim Mindanao region and potentially signalled the beginning of the end for the 40-year conflict.

Following on from Amnesty International's *Shattered Peace in Mindanao: The human cost of conflict in the Philippines*, this report shows how long-term armed conflict, aggravated by clan wars, violence by militias and other armed groups, result in violations of human rights and humanitarian law. Armed conflicts, often borne out of perceived injustices, feed on unresolved grievances, including human rights abuses. With the hostilities suspended, the Philippine government and the MILF now have the opportunity to put human rights at the heart of their new round of negotiations and achieve justice for those affected by the conflict.

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