

VIOLENCE AND NULLUM IUS IN THE PHILIPPINES



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Without a doubt, the massacre of Maguindanao is the most prominent case of political killings in the Philippines. It demonstrates that political violence not only affects individuals and representatives of groups who advocate for social change, but also rival family-clans.

On November 23, 2009, more than 100 gunmen stopped a convoy that was en route to file the candidacy for a rival candidate of the sitting governor for the upcoming gubernatorial elections in Maguindanao which is part of the Autonomous Region of Muslim Mindanao in the southern part of the Philippines. The gunmen executed at least 57 people, including family members, supporters and bystanders, as well as 32 journalists and media workers, making it the single biggest attack on the journalists on duty in history, according to a global press watchdog (CPJ 2009). Allegedly, the gunmen were not just members of Governor (and warlord) Andal Ampatuan Senior's private army, but also local police auxiliary forces and policemen. Some of the victims were seriously abused, others downright executed, all of them were buried in mass graves.

Especially in the southern parts of the Philippines, the political power is closely attached to family-clans such as the Ampatuan's family. The family controls the Maguindanao Province by holding (or controlling) all important political offices. The clan's patriarch Andal Ampatuan Sr. has held the position as governor of the province since 1998. The family has reinforced their grip on power by building a strong alliance with the former President Gloria Macapagal Arroyo and maintains one of the country's biggest private armies. The Ampatuan-clan ensured Arroyo's re-election in 2005 by controlling the populous province. In return, the president allowed the Ampatuan family to maintain a private army, officially been dubbed to serve as an anti-terror unit.

According to Kreuzer (2007, 2009), the empowerment of the Ampatuan-clan within the province became possible after all elite-families were unified under Ampatuan's leadership. Political offices were prorated between the families, and for general election 2007 no one opposed the newly established order, chaired and dominated by Ampatuan. As described

by Kreuzer, the established order is based on violence, political killings are seen as a first option of enforcing political strategies.

Knowing well that his actions would challenge the dominant family, Datu¹ Ismail Mangudadatu wanted to file the papers to be recognized as a candidate for Governor in Maguindanao, which eventually led to the loss of his wife and sister who were part of the convoy on November 23. The Magudadatu-clan is also a very powerful family in the whole of Mindanao and in constant rivalry with Ampatuan-clan at the regional level. In contrast, the two families have been political allies in the province of Maguindanao for years. Only four days after the terrible massacre, a second caravan of more than 50 vehicles including high-ranking military and police as well as hundreds of supporters took the same road to file candidacy for Ismail Mangudadatu. On Election Day, he was elected Governor and assumed office on June 30, 2010.

Suwaib Upham alias "Jessie" who was supposed to be key witness for the prosecution, belonged to the private army of the Ampatuan-clan and was an alleged participant of the massacre. He was shot dead by unidentified gunman on June 14, 2010. The witness was supposed to give evidence that members of the Ampatuan-clan had ordered the massacre. „He saw, and participated in the killings and could have directly named in court those involved [...]. In fact, another witness has come out to give testimony that Ampatuan Senior took part in the killing," Harry Roque, the prosecutor, told the press on June 23, 2010 (Al Jazeera 2010).

Upham accused the Ampatuan-clan to be behind the massacre. Allegedly, the prime suspect Andal Ampatuan Junior, son of former Governor and warlord Andal Senior, and adversary of Datu Ismail Mangudadatu placed a US\$ 45,000 bounty on Mangudadatu while being in prison (ABS-CBN 2010).

In March 2010, Upham applied for admission to the Department of Justice's Witness Protection

Program but officials at the agency stayed inactive. The failure of the state-led Witness Protection Program has been criticized by innumerable human rights organisations.

According to prosecutor Harry Roque, the prosecution now relies on a new testimony by another key witness, Lakmudin Saliao. He was a former house servant of the Ampatuan-clan and quoted key suspect Andal Ampatuan Jr. saying, „just kill them all“. This piece of evidence received worldwide media attention with headlines like: “Clan Planned Philippine Massacre Over Dinner, Witness Says” (The New York Times 2010).

Witness protection not only needs to protect witnesses, but also their families. Meanwhile, Saliao’s family fled from their village because they’ve feared acts of revenge. Until now, most members of the private army of the Ampatuan-clan, estimated to consist of as many as 3,000 men, are still at large and are believed to be behind at least one successful and one attempted murder of family members of witnesses (including the crown witness Suwaib Upham). The trial will deliver judgement on 196 accused, and consists of around 200 witnesses for the

prosecution and 300 witnesses for the defence. It commenced on September 8, 2010. Experts assume a long lasting process.

The implementation of an efficient process based on the rule of law and an effective witness-protection program along with the de-militarization of the country and the abolishment of private armies, will be a challenging practical test for the new Administration of President Aquino. ■

1) Datu is a kind of tribal chief and includes spiritual as well as secular power.



© IPON | Every kid knows, the word of the Ampatuans is the law.

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DEVASTATING CUTBACK IN PROPOSED BUDGET FOR CHR AND JUDICIAL SYSTEM IN 2011

The projected cuts in the Philippine budget for 2011 will affect the Commission on Human Rights (CHR) with a cutback of 6% compared to 2010¹. The CHR, chaired by Loretta Ann P. Rosales, encourages the implementation of human rights in the Philippines. The CHR agenda comprises legal aid, specialized training and monitoring, as well as investigations of human rights violations such as ‘extrajudicial killings’ and ‘enforced disappearances’. The recently published ‘Report on the Philippine Extrajudicial Killings’ by Parreno casts a bad light on the investigation and prosecution of extrajudicial killings: Of 305 known cases, 161 were filed for criminal prosecution resulting in a total of 4 convictions only. Other cases are either pending, have been abandoned or are said to be ‘cold cases’ – unsolved cases which are unlikely to be re-opened in the future².

Even more serious is a proposed budget slash that would affect the judicial system: The budget allotted is expected to be lowered by 47% in comparison to the preceding year. The Philippine Star, a major newspaper, has voiced the concern that judges and judicial officers will be more likely to accept bribes as their monthly income will decrease³. The cutback will also have a deteriorating effect on facilities and the work of the judicial system in general.

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1) Philippine Daily Inquirer (2010): CHR budget slashed; DSWD defends increase – Sept 14, 2010.

2) Parreño, Al A. (2010): Report on the Philippine Extrajudicial Killings (2001-August 2010). USAID and Asia Foundation Report, Manila.

3) Philippine Star (2010): Shoestring Budget – Sept 15, 2010.