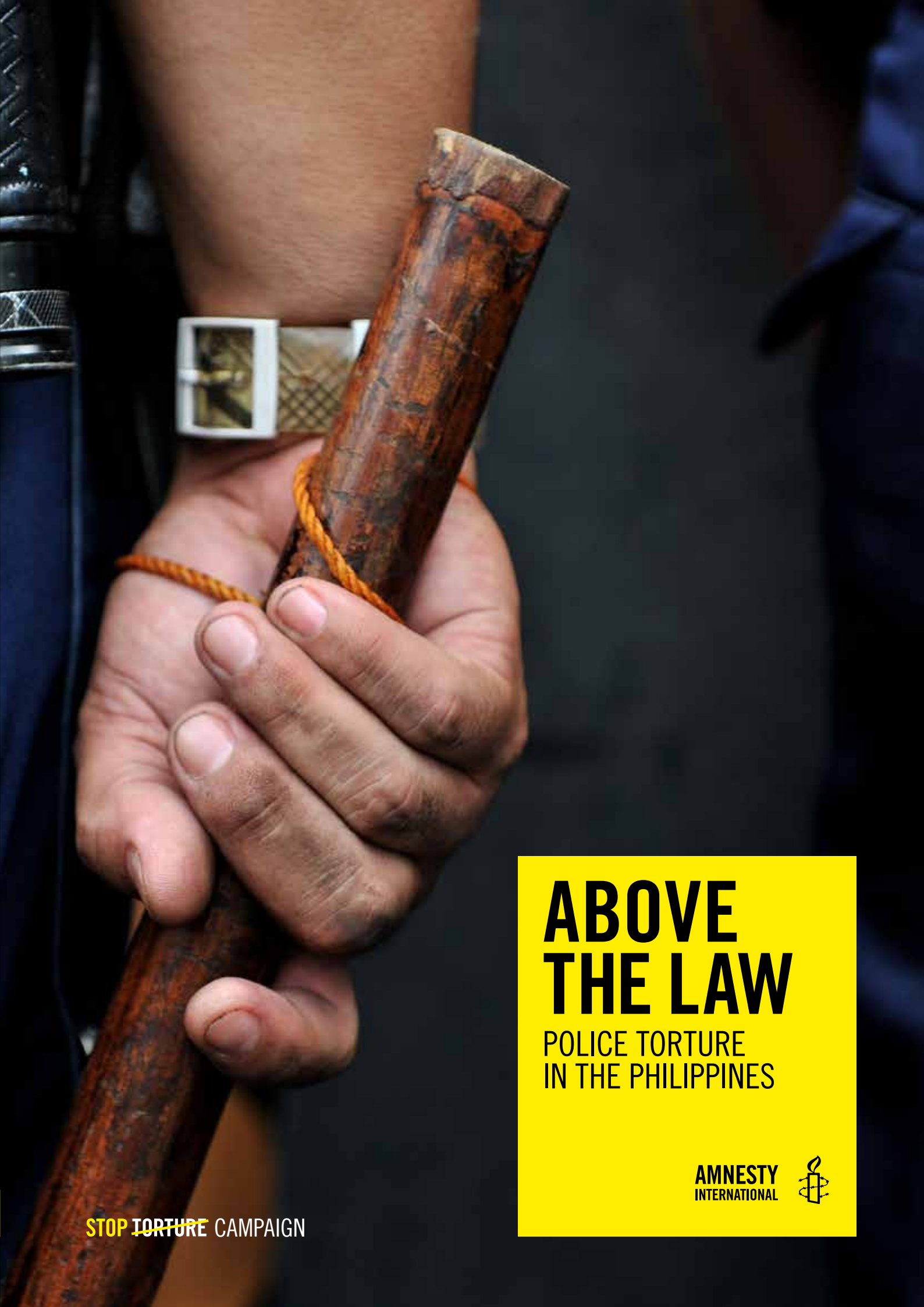

ABOVE THE LAW

POLICE TORTURE IN THE PHILIPPINES

AMNESTY INTERNATIONAL

STOP ~~TORTURE~~ CAMPAIGN

Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

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Cover photo: Truncheons or batons are often displayed by police in an intimidatory fashion and symbolize authority over the people. Manila, Philippines. 20 March 2012.

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GLOSSARY

AFP	Armed Forces of the Philippines
Assets	Informal police auxiliaries handpicked by police officers to assist them in a wide range of tasks, including providing information, support in covert operations and in some cases, performance of extralegal activities in exchange for a fee
ATA	Anti-Torture Act of 2009
Barangay	Village/community headed by a 'barangay captain'
Barangay kagawad	Elected village/community officials, aside from the 'barangay captain'
Barangay tanod	Community peace and security officer
CAT	Committee Against Torture, the UN body that monitors implementation of UNCAT
CEDAW	Convention for the Elimination of All Forms of Discrimination against Women
CHR	The Commission on Human Rights of the Philippines
CRC	Convention on the Rights of the Child
CSC	Civil Service Commission
DEU	Drug Enforcement Unit
DILG	Department of Interior and Local Government
DOJ	Department of Justice
HRAO	Human Rights Affairs Office
HRC	Human Rights Committee
IAS	Internal Affairs Service

ICCPR	The International Covenant on Civil and Political Rights
IMIS	NAPOLCOM Investigation, Monitoring and Investigation Service
Informants	Informal police auxiliaries who provide information to the police
IRR	Implementing Rules and Regulations
MOLEO	Deputy Ombudsman for Military and Other Law Enforcement Offices
NAPOLCOM	National Police Commission
NBI	National Bureau of Investigation
NMM	National Monitoring Mechanism
NPM	National Preventive Mechanism
NPS	National Prosecution Service
NPS	National Prosecution Service
OPCAT	Optional Protocol to UNCAT
PAO	Public Attorney's Office
Palit-ulo	A system of detention where detainees without money are released if they point to other criminal suspects from whom the police could extort money (literally it means 'exchange heads')
PLEB	People's Law Enforcement Board
PNP	Philippine National Police
PNPA	Philippine National Police Academy
Pot session	Marijuana smoking session; also used locally to include consumption of drugs such as crystal meth
Shabu	Local slang for methamphetamine hydrochloride or crystal meth

UNCAT	UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UPR	Universal Periodic Review

1. INTRODUCTION AND SUMMARY

"He said he will shoot the bottle on my head. He was one and a half yards away from me. I was so afraid that I would get shot. I just closed my eyes in fear."

Alfreda Disbarro, arrested for drug possession and trafficking in October 2013[1]

The torture and other cruel, inhuman or degrading treatment or punishment (ill-treatment) of common criminal suspects in the Philippines by the police – one of the world's smallest forces per population – is under-reported and almost undocumented. Seldom talked about, it is the country's dark, open secret.

In this report, launched as part of its global campaign Stop Torture, Amnesty International investigates the phenomenon of torture and other ill-treatment in the Philippines and the process of obtaining justice and accountability for survivors, both from a legal and practical perspective.

Detainees in police custody have been subjected to a variety of methods of torture including: electric shocks; systematic beatings, punching and kicking; striking with wooden batons or metal bars; burning with cigarettes; waterboarding; near-asphyxiation with plastic bags; forcing detainees to assume stressful bodily positions; being stripped naked and their genitalia tied to a string which was pulled by police officers; and threatening with death if they refuse to cooperate. Other forms of ill-treatment are also rife.

To date, no one is known to have been convicted of torture in a Philippine court. Perpetrators of torture continue to act with impunity, as if they are above the law.

The report first examines the legal framework prohibiting torture and other ill-treatment in the Philippines, which is obliged under international treaties which it has joined to take a wide array of measures against torture and other ill-treatment, including prohibition in law, prevention, training, ensuring that complaints are investigated, bringing perpetrators to justice and providing reparations to victims. The Philippines is a state party to various international treaties, including the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). Prior to 2009, acts constituting torture could be prosecuted under crimes included in the Revised Penal Code. The Anti-Torture Act (ATA), passed in the Philippines in 2009, recognized torture as a

separate crime and provided a number of important guarantees to aid torture survivors seeking redress.

Despite domestic legislation criminalizing torture, Amnesty International researchers found that torture is still rife, and that the overwhelming majority of reports of torture involve police officers. Those most at risk of being tortured or otherwise ill-treated after arrest include children (suspected juvenile offenders), repeat offenders and criminal suspects whose alleged crimes have personally affected police officers. Also at risk are informal police auxiliaries (so-called police "assets") who have fallen out of favour with local police officers. (Police "assets" are informal police auxiliaries handpicked by police officers to assist them in a wide range of tasks, including providing information, support in covert operations and in some cases, performance of extra-legal activities in exchange for a fee. Police auxiliaries who merely provide information to the police are called "informants" in this report.) The risk of torture and other ill-treatment is similarly high for arrested political activists, and suspected members or sympathizers of armed groups. Most victims of torture and other ill-treatment are from disadvantaged backgrounds.

Amnesty International researchers identified several factors which exacerbate the prevalence of torture and other ill-treatment. Torture usually takes place following irregular arrests by police which deviate from standard operational procedures, and the risk is heightened when suspects are held incommunicado and kept in unofficial and secret detention facilities. Police officers facing a lack of resources and the necessary forensic and investigative capacity often resort to torture and other ill-treatment to extract "confessions" or information from criminal suspects. These may be a "shortcut" to solve a case or sometimes just to appear to have solved a case regardless of the veracity of the "confession" obtained. In many cases, torture or other ill-treatment is inflicted to punish suspects or to extort money from them.

While it is possible for survivors of torture to obtain justice and accountability in theory, Amnesty International's research reveals a lack of adequate information provided to torture victims and their families regarding their rights under the law and the options available to them to lodge a complaint. Most of the accountability mechanisms are either unknown to victims and their families or are not easily accessible.

Fear of reprisals from police officers is also a major consideration. Most torture survivors interviewed by Amnesty International were still in prison, and many feared that the police officers who tortured them will know who and where they are. As well as fears for their own safety, torture survivors often fear reprisals against their families if they speak out about what happened to them. Others have reported being threatened or intimidated by police officers, while some believe that reporting the torture they experienced will only cause delays and complicate the progress of the criminal cases they are facing. Many do not have confidence that, as suspected or convicted criminals, they would have recourse to justice within the Philippine criminal justice system.

Those who do file criminal complaints find that subsequent steps are fraught with serious obstacles, including wholly ineffective criminal complaints mechanisms. Further compounding these problems are the lengthy court proceedings and the lack of immediate access on the part of

torture victims to medical examinations. These factors seriously impede the proper documentation of crucial evidence needed in the successful prosecution of torture complaints in court.

Torture victims who choose to file administrative complaints (disciplinary proceedings) against police officers are faced with a complex web of options. These include different government agencies and internal disciplinary units within the Philippine National Police, most of which have overlapping jurisdictions and unclear processes. This report includes an assessment of the effectiveness, integrity and impartiality of these various administrative accountability mechanisms, in terms of affording torture survivors and their families redress and justice in practice.

Amnesty International recommends that the Philippine government publicly acknowledges and condemns the persistence of torture and other ill-treatment, and ensures prompt, impartial, thorough and effective investigations into all reports of torture and other ill-treatment committed by the police and other state agents. Criminal cases should immediately be filed against suspected perpetrators of torture and ill-treatment. Aside from robust prosecution, the Philippine government should also consider establishing an independent complaints body with sufficient powers to effectively investigate and file disciplinary complaints against suspected perpetrators, with primary jurisdiction over all accountability bodies for administrative complaints against the police. The existing system of accountability for human rights violations must also be reviewed and streamlined to avoid overlapping mandates and contradicting rulings. The government should also revisit its commitment under the Optional Protocol to UNCAT, which the Philippines ratified in 2012, to establish National Preventive Mechanisms. A complete list of recommendations appears at the end of this report.

1.1 METHODOLOGY AND ACKNOWLEDGEMENTS

This report and the research behind it focus on acts of torture and other ill-treatment committed by police officers in the Philippines since November 2009 – when the Anti-Torture Act was passed into law – and the accountability mechanisms available for torture and other ill-treatment. According to statistics obtained from the Commission on Human Rights of the Philippines (CHR), the incidents of torture recorded between 2001 and 2013 involve police officers more than any other security sector personnel.

Throughout 2012 and 2013, Amnesty International researchers conducted several consultation meetings with staff from human rights non-governmental organizations (NGOs) working in the Philippines and campaigning against torture. They found that although torture and other ill-treatment persisted in many areas, there was very little case documentation, and it mainly covered alleged politically-motivated torture cases in which the military was implicated. While it was an open secret that torture and other ill-treatment continued in police stations and detention facilities, these cases were under-reported and almost entirely undocumented.

In November and December 2013, Amnesty International researchers conducted more than 50

interviews with survivors and/or their family members, documenting complaints of torture and other ill-treatment involving police officers and their auxiliaries. Most of those subjected to torture and other ill-treatment were men; four were women. Twenty-one were children when they were subjected to torture or other ill-treatment. Interviews with more survivors and family members were also conducted in the period between August and September 2014. In total, this research examines the cases of 55 victims of torture and other ill-treatment.

The first interviews in November and December 2013 were conducted in the geographical regions covering Metro Manila (National Capital Region), Central Luzon, and Southern Tagalog. Further interviews were conducted in Central Luzon and Metro Manila.

For security reasons, information that could identify interviewees has not been included in this report, unless the survivors gave consent for their names to be used. Each interview included specific questions on consent and was conducted according to Amnesty International's ethical research policies. Where possible, Amnesty International researchers sought to obtain relevant legal and medical records of the interviewees. However, most of the interviewees were still in jail and had no access to their medical records.

In their interviews, the researchers explicitly included questions on the use of criminal justice and administrative accountability mechanisms. Survivors and their families were asked about their level of awareness of these mechanisms, and their reasons for using or not using them. A similar set of questions was included in the earlier consultation meetings with human rights NGOs working on torture.

Also in November and December 2013, Amnesty International researchers conducted interviews with government officials, NGOs, lawyers and human rights experts, with a view to understanding the extent of torture and other ill-treatment by police officers and the effectiveness of accountability mechanisms in ensuring redress for victims and their families. Amnesty International acknowledges the invaluable assistance provided by the Commission on Human Rights (CHR), Philippine National Police (PNP) through its Human Rights Affairs Office (HRAO) and Internal Affairs Service (IAS), National Police Commission (NAPOLCOM), Civil Service Commission (CSC), Office of the Ombudsman, People's Law Enforcement Board (PLEB), Department of Justice (DOJ), National Prosecution Service (NPS), National Bureau of Investigation (NBI) and the various former and current government officials, NGOs, lawyers and human rights experts who have given freely of their time to contribute information for this report.

In addition to the testimonies and information gathered from the interviews, Amnesty International reviewed court documents and resolutions issued by the CHR and other accountability bodies provided by government agencies, NGOs and relatives of torture survivors.

Amnesty International has also reviewed relevant national laws and the Philippine legal framework relevant to the protection of freedom from torture and other ill-treatment.

A HISTORY OF TORTURE IN THE PHILIPPINES

Torture has a long history in the Philippines. The Martial Law regime in the 1970s under then-President Ferdinand Marcos saw the widespread and systematic use of torture by state security forces to muzzle dissent and silence opposition to the dictatorship. It is alleged that about 35,000 people suffered torture[2] during this period, although Amnesty International cannot verify this figure.

With the ouster of the Marcos regime in 1986, the Philippines took some steps to address torture and other human rights violations in the country. A civilian police force, independent from the military, was created to take charge of peace and order. The Philippines ratified the ICCPR and UNCAT, among other international human rights instruments. The 1987 Philippine Constitution expressly prohibits torture and the use of secret detention facilities. Laws were passed protecting the rights of persons under detention,[3] ensuring speedy trials[4] and providing protection to witnesses.[5]

Several accountability bodies were also created, including those specifically focusing on the police, such as the Internal Affairs Service, the National Police Commission, and the People's Law Enforcement Board, in addition to independent bodies with broader mandates such as the Commission on Human Rights, the Office of the Ombudsman and the Civil Service Commission (see Chapter 4). The Philippine National Police and the Armed Forces of the Philippines have likewise introduced human rights training programmes for their personnel.

Despite these positive steps, torture and other ill-treatment persisted. Throughout the 1990s and the 2000s, Amnesty International and other NGOs continued to document cases of torture at the hands of state security forces.

This report builds on previous torture-related Amnesty International reports on the Philippines, including:

- *Fear, shame and impunity* (ASA 35/001/2001), which primarily focused on women in custody in the Philippines who are vulnerable to torture, including rape and other sexual abuse, while most perpetrators escape prosecution;

- *A different childhood* (ASA 35/007/2003), which highlighted concerns about worrying omissions in domestic law and their inadequate implementation that leave children in detention in the Philippines vulnerable to torture and other ill-treatment and inappropriate sentencing; and

- *Torture persists* (ASA 35/001/2003), which examined the use of torture in the Philippines, focusing on vulnerable groups and recommended a domestic law on torture reflecting the provisions of UNCAT.

In November 2009 the Philippines Congress passed into law Republic Act No. 9745 or the Anti-Torture Act of 2009. For the first time torture was recognized as a specific crime in the Philippines. Much more needs to be done to make sure that torture is not just outlawed on paper but is ended in practice.

"They started running towards me, and then I was shocked when they pointed their guns at me. They forced me to lie face down on the floor, and someone hit my head with his gun. They kicked and punched me on the sides, neck, stomach and knees. I asked them, 'Who are you? Are you the police? If you are police officers, tell me what my crime is. Do you have a warrant?' But they only said I did not have the right to ask questions."
Jerryme Corre

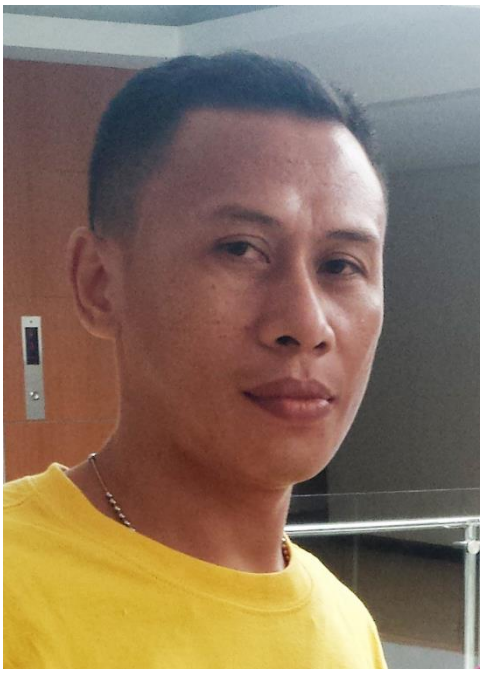

Fig. 1 – Jerryme Corre, who was arrested and subjected to torture in Pampanga province, north of Manila on 10 January 2012.
© Amnesty International

Jerryme Corre told Amnesty International that he was visiting a relative in Pampanga province, north of Manila, on the afternoon of 10 January 2012 when at least 10 unknown and armed men in plain clothes arrived on motorcycles. Jerryme was surprised to realize that he was the person they were looking for. He told Amnesty International: "They started running towards me, and then I was shocked when they pointed their guns at me. They forced me to lie face down on the floor, and someone hit my head with his gun. They kicked and punched me on the sides, neck, stomach and knees. I asked them, 'Who are you? Are you the police? If you are police officers, tell me what my crime is. Do you have a warrant?' But they only said I did not have the right to ask questions. I desperately shouted to onlookers – 'please call the *barangay* officials (elected village-community leaders).' The men threatened the crowd that if they got involved, they too would be arrested. They handcuffed me and dragged me to the local police station 500 meters away." A relative followed them and took a video on her mobile phone, but Jerryme said that one of the armed men grabbed her phone and took her too.

Jerryme told Amnesty International that he realized the armed men were police officers when they took him to a police station and then to a police camp. There, an officer punched him repeatedly as he was being taken to a conference room. More men in plain clothes, whom Jerryme also believed to be police officers, took turns beating him overnight. One of them taunted him, saying, "You thought you were tough when we arrested you earlier. Now

show me how tough you are." They blindfolded him and started hitting the soles of his feet with a wooden baton, and continued kicking and punching him. At one point, one of the officers became concerned that he would be able to identify them, so they took off his denim shorts and put them over his head, tightening the waistband around his neck with a cord, and doing the same thing above his head. They then cuffed his ankles together. Jerryme recalled being terrified that they would kill him and that he would never see his family again.

The police accused Jerryme of robbing and killing a foreigner and a police officer, which he strongly denied. They continued asking questions and beating him over several hours.

Jerryme told Amnesty International that at around 9pm that evening, four men held him down and one of them loosened the cord of his shorts on his neck and exposed his mouth. "They put a piece of cloth over my mouth and then they poured water down my throat for what seemed like a very long time until I felt I was drowning and could no longer breathe. Then, they would ask the same questions and poured water again and again and again… so many times. I could not gulp down all of that water and tried my best to close my mouth." This treatment constitutes waterboarding torture.

"They tried to force me to confess," Jerryme said. When he denied that he was the person the police wanted, "They took live electric wires. I could hear the crackling sounds when the electric wires zapped each other. Then they zapped me with the live wires, at the back, on my side, and on my thighs. You would feel your body going limp after they've zapped you. That part of your body loses strength. They gave me electric shocks three times before they started asking questions again. When I denied any knowledge of their accusations, they threatened to kill me. They repeated zapping my body with electricity and threatening me many times – I think around 20 times. A few hours later—it must have been 11pm then and at this point I was lying down, no longer having the strength to stand up—they drenched my body with water and gave me electric shocks again and again. I could not see them, but I could hear their voices. I will never forget those voices."

At around midnight, the police asked a *barangay* official (elected village-community leader) to identify Jerryme. The official confirmed Jerryme's identity but told the police that they arrested the wrong person. The police still refused to believe him.

Later Jerryme learned that the police had forced the relative who was arrested with him to implicate him in a robbery case in exchange for her release. They threatened to charge his relative with obstruction of justice unless she paid 10,000 pesos (approx. US$ 220) and signed an agreement that she would not interfere in Jerryme's case.

Fig. 2 – Tomas Pepito Police Camp, where Jerryme Corre was tortured.
© Amnesty International

At dawn the following day, Jerryme was moved to the Drug Enforcement Unit (DEU) inside the police camp. Later that day he was forced to sign a document which he was not permitted to read and was taken to the house of a prosecutor. On the way, the police produced a 1,000 peso note and a small plastic sachet. Suspecting he was going to be framed, Jerryme said to one of the police officers, "If this is what you will do to me, you have wasted all the years of training to be a police officer. You were sworn to protect the people, people like me." The prosecutor did not accept the complaint at first and asked for laboratory findings, which the police "produced" within a few hours. The next day Jerryme was informed that the police were filing drug charges against him.

Jerryme told Amnesty International that he was taken to a hospital for examination on 18 January 2012, eight days after his arrest and torture. He said that the doctor did not perform a physical examination, and that in any case most of his bruises had healed by then. He was transferred to the Angeles District Jail.

Jerryme's wife complained to the regional office of the Commission on Human Rights (CHR), who conducted a medical examination on 1 February 2012. The report documented scars on his right thigh, knee and leg. The CHR concluded that the newly healed injuries were compatible with the alleged date of infliction and that the scars were compatible with the application of electrical wires and blows with a gun butt. The report further stated that, at the time of the examination, Jerryme complained of recurring severe headaches and numbness in his hands.[6]

Fig. 3 – A medical examination in February 2012 confirmed injuries caused by torture on Jerryme Corre.
© Private

On 19 July 2012, the CHR released a resolution finding that there was a violation of the Anti-Torture Law in the case of Jerryme Corre, and subsequently filed a case before the Department of Justice (DOJ). On 26 December 2012, the DOJ found "probable cause" (reasonable belief that a crime has been committed and an accused is probably guilty of the crime and should be held for trial) and recommended the filing of charges against two police officers.

The case has now been filed before a court in Pampanga. Meanwhile, the drugs case against Jerryme Corre is ongoing.

The treatment suffered by Jerryme Corre at the hands of the police as described by him amounts to torture as defined both in Article 1(1) of UNCAT and in ATA. Under the Anti-Torture Act, electric shocks, systematic beating, punching, kicking and waterboarding are considered physical acts of torture, while blindfolding and threats of physical harm or execution are forms of mental/psychological torture.

Jerryme Corre's case will be followed throughout the report to illustrate gaps in the justice system.

2. LEGAL FRAMEWORK

"The Committee is deeply 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."[7]

UN Committee Against Torture

The Philippine authorities are bound by a number of international and domestic obligations which prohibit torture and other ill-treatment in all circumstances. Despite these commitments, the torture and other ill-treatment of suspects in police detention is common. This chapter examines in detail the legal framework that governs security forces' treatment of detainees, and summarizes concerns of the two key international human rights treaty bodies relevant to such treatment.

2.1 INTERNATIONAL OBLIGATIONS

Customary international law absolutely prohibits torture and other ill-treatment. The Philippines is a state party to the International Covenant on Civil and Political Rights (ICCPR) and in 1986 acceded to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). Both treaties prohibit torture and other ill-treatment.

Under international law, the Philippine authorities are obligated to:

- Investigate whenever there are reasonable grounds to suspect acts of torture and other ill-treatment have occurred,[8] even when no official complaints have been made;
- Bring those responsible to justice;[9] and
- Provide reparation to victims.[10]

Torture and other cruel, inhuman or degrading treatment or punishment are prohibited absolutely, in all circumstances and without exception. Under the ICCPR, freedom from torture and other ill-treatment (provided in Article 7) must be protected even "in time of emergency which threatens the life of the nation." (Article 4.1).

Article 2.2. of UNCAT provides similarly that:

"No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."

Obligations under the ICCPR and UNCAT – as well as other human rights treaties – include taking a wide range of measures relevant to the prohibition of torture and other ill-treatment.

UNCAT provides a detailed definition of torture (Article 1), and requires states parties to criminalize such acts (Article 4) and make them "punishable by appropriate penalties which take into account their grave nature" (Article 4(2)). The Convention also specifically obliges states parties to prevent other acts of cruel, inhuman or degrading treatment or punishment (Article 16).

The ICCPR requires state parties to treat all persons deprived of their liberty with humanity and respect for the inherent dignity of the human person.[11] In an authoritative General Comment, the Human Rights Committee – the expert body that oversees implementation of the ICCPR – spoke of "the close connection between Articles 7 [prohibiting torture and other ill-treatment] and 10."[12] State parties to UNCAT are required to undertake systematic reviews of their interrogation rules, instructions, methods and practices, and arrangements for the custody and treatment of persons subjected to arrest, detention or imprisonment.[13] In its General Comment on Article 7 of the ICCPR the UN Human Rights Committee stated that state parties should make provisions, among other measures:

- For detainees to be held only in officially recognized places of detention, with their names and places of detention recorded in registers readily available to concerned persons;
- For detainees to have prompt and regular access to doctors, lawyers and family members;
- For details of interrogation to be recorded;
- Prohibiting incommunicado detention.[14]

In its General Comment on Article 2, the Committee against Torture – the expert body that oversees implementation of UNCAT – identified additional measures including:

- Establishing impartial mechanisms for inspecting and visiting places of detention and confinement;
- Videotaping all interrogations;

- Utilizing investigative procedures such as the Istanbul Protocol.[15]

State parties are further required to ensure that any person whose human rights under the ICCPR are violated has an effective remedy.[16] The outcome of complaints and investigations must be determined by a competent judicial, administrative or legislative authority or any other competent authority.[17] Similarly, UNCAT requires that each state party "ensure that competent authorities conduct prompt and impartial investigations into allegations of torture"[18] and that torture victims and their witnesses are to be protected against ill-treatment or intimidation.[19] In addition, each state party "shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible."[20]

The Philippines is also a party to the Convention on the Rights of the Child (CRC) and the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW). Under the CRC, state parties are required to ensure the protection and care necessary for the well-being of a child[21] (defined as being below the age of 18[22]), including the provision of separate detention facilities for children,[23] in addition to the prohibition of torture and other ill-treatment of children (Article 37(1)) and the obligation to promote physical and psychological recovery and social reintegration of a child victims (Article 39). Under CEDAW, state parties are mandated to provide effective protection to women against discrimination and to refrain from themselves engaging in any act or form of discrimination against women.[24] It is well-established that gender-based violence against women, which could constitute torture or other ill-treatment,[25] is a form of discrimination which violates CEDAW.[26]

2.1.1 COMPLIANCE WITH INTERNATIONAL OBLIGATIONS – THE VIEWS OF TREATY-MONITORING BODIES

In its Concluding Observations on the Philippines in 2009, the UN Committee Against Torture expressed deep concern about the "numerous, ongoing, credible and consistent allegations… 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."[27]

The Committee observed that despite the Philippines' Law on the Rights of Persons Arrested, Detained or under Custodial Investigation (RA 7438), legal safeguards for detainees were lacking in practice. The Committee cited the failure of the police to bring detainees promptly before a judge; the lack of a systematic registration of all detainees, including minors; the failure to keep records of pre-trial detention; the lack of unrestricted access to lawyers and independent doctors; and the failure to notify detainees of their rights at the time of their detention.[28]

The Committee concluded that there was a "climate of impunity for perpetrators of acts of torture, including military, police and other State officials, particularly those holding senior positions that are alleged to have planned, commanded or perpetrated acts of torture."[29]

The Philippines Government has yet to submit its third periodic report to the Committee Against Torture which was due in May 2013.

In November 2012, the Human Rights Committee, in its concluding observations on its review of the Philippines' record under the ICCPR, stated its concern at the "continued allegations of torture and the lack of data on the incidence of torture, particularly on the number of investigations, prosecutions, convictions and sanctions imposed on perpetrators of torture..."[30]

The Committee recommended that the Philippines "take appropriate measures to improve the conduct of investigations of alleged torture and ill-treatment by law enforcement personnel."[31] It also recommended that all allegations of torture and ill-treatment are "effectively investigated in accordance with the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly Resolution 55/89); and that alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions; and that the victims are adequately compensated."[32] Finally, the Committee recommended that the Philippines "establish a system to collect data on the number of investigations, prosecutions, convictions, sanctions and compensation granted to victims of torture or members of their families...."[33]

The Philippines' human rights record was reviewed under the Universal Periodic Review (UPR) at the UN Human Rights Council in May 2012. During the review, states including Austria, Denmark, Egypt, France, the Holy See, Indonesia, Ireland, the Republic of Korea, Mexico, Spain, Trinidad and Tobago, Turkey and the USA[34] specifically expressed their concern about the continuing practice of torture in the Philippines or provided recommendations related to ending the practice of torture in the country.

To some extent, the Philippine government has acknowledged the problem of impunity for perpetrators of torture and other ill-treatment in the country. In its state report submitted to the UN Human Rights Council for the 2012 UPR, it cited its effort to set up a National Monitoring Mechanism (NMM) "that will bring together Government [sic] agencies, civil society organizations and the Commission on Human Rights in a credible and inclusive forum for monitoring the nation's progress in resolving extrajudicial killings, enforced disappearance and torture, thereby ending impunity."[35] The proposed NMM was to be composed of a broad base of stakeholders, including the Presidential Human Rights Committee, the Philippine National Police, Armed Forces of the Philippines, Department of Justice, Department of Labor and Employment, Department of National Defense, National Bureau of Investigation, Office of the Presidential Adviser on the Peace Process, the Judiciary, Commission on Human Rights and civil society organizations.

In its report, the Philippine government described the two aims of the NMM as "to develop an effective monitoring mechanism to ensure that justice is served to the victims of extrajudicial killings, enforced disappearance and torture" and "to strengthen institutional mandates, capabilities and engagements in effectively resolving cases of extrajudicial killings, enforced disappearance and torture."[36] This body would not have any prosecutorial powers.

It is perhaps an indication of the current status of investigations and prosecution of cases of torture and other ill-treatment in the Philippines that the NMM has yet to be convened two and a

half years after it was announced. Moreover, monitoring is only one component of enhancing accountability and does not fully address the problem of impunity.

2.2 NATIONAL FRAMEWORK

There are strong provisions in the Philippine Constitution against torture and other ill-treatment and to protect victims. There is also an array of legislation addressing the issue.

Article III, Section 12 of the 1987 Philippine Constitution, which deals with the rights of detainees, provides among other things that:

> *"No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.*
>
> *Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.*
>
> *The law shall provide for penal and civil sanctions for violations of this section as well as compensation to the rehabilitation of victims of torture or similar practices, and their families."*[37]

Section 19 prohibits the employment of physical, psychological, or degrading punishment against any prisoner or detainee.[38]

In 2009, the Philippines enacted the Anti-Torture Act (ATA) through the Republic Act No. 9745. The ATA reproduced the definition of torture under UNCAT with minor changes that do not weaken the definition.

> *"'Torture' refers to 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/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 with the consent or acquiescence of a person in authority or agent of a person in authority. It does not include pain or suffering arising only from, inherent or incidental to lawful sanctions."*[39]

In addition, "other cruel, inhuman and degrading treatment or punishment" is defined in the ATA as a deliberate and aggravated treatment not listed as acts of torture under the law but which is 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.[40]

Unlike torture, "cruel, inhuman or degrading treatment or punishment" is not defined in international human rights treaties. However, international human rights bodies have called for

the criminalization of at least some acts of ill-treatment.[41]

The ATA provides a non-exhaustive list of both physical[42] and mental or psychological[43] acts which would constitute torture under the Act. Penalties range from one month to 40 years' imprisonment depending on the severity of the acts.[44]

Under the ATA, torture is a criminal act – unjustifiable under any circumstances.[45] Torture is a distinct crime - separate and independent from all other crimes punishable under the Revised Penal Code and special laws.[46] The filing of a complaint of torture is not subject to a time limitation[47] and those convicted of torture are not allowed to benefit from a special amnesty law or similar measures exempting them from criminal proceedings and sanctions.[48]

The recognition of torture as a criminal act in domestic Philippine law – unjustifiable under any circumstances – is a positive step towards preventing torture and addressing impunity. Removing any time limitation for the filing of a complaint of torture, and prohibiting the granting of special amnesty to those convicted of torture sends a strong signal that at least in terms of legislation, the Philippines is serious in its commitment to eradicate the practice.

ANTI-TORTURE ACT – OTHER CLAUSES

- The prohibition on secret detention facilities and the requirement on the police, the military and other law enforcement agencies to submit an updated list of all detention centres and facilities with pertinent data on detainees or prisoners to the Commission on Human Rights (CHR), a list which is available to the public;[49]

- The exclusion of any confession, admission or statement obtained through torture as evidence in any proceedings, except if used against the perpetrators of torture;[50]

- Institutional protection to torture victims (through prompt and impartial investigation by government agencies and protection from harassment, threat or intimidation);[51]

- The availability of preliminary remedies such as petitions for the issuance of the writ of habeas corpus (to compel government agents to bring a person under detention in court and determine the legality of his/her detention),[52] the writ of amparo (to provide protection to a person whose life, liberty and security is violated or threatened and to compel government agents to specify actions to be taken to investigate, preserve evidence and apprehend those responsible for the death or disappearance of a person)[53] and the writ of habeas data (to compel government agents to produce, delete or rectify whatever data they have gathered about a person)[54] to torture victims and their families;[55]

- Assistance from the Commission on Human Rights (CHR) and the Public Attorney's Office (PAO) in filing a complaint;[56]

- The right to physical, medical and psychological examination before and after interrogation;[57]

- The inclusion of superiors and immediate commanding officers in the investigation and prosecution of the

crime of torture as principals equally liable with the perpetrators either through participation or wilful/negligent failure to prevent or investigate allegations of torture;[58]

- The grant of financial assistance to victims;[59]
- The formulation of a comprehensive rehabilitation programme for torture victims.[60]

As well as the Anti-Torture Act and provisions in the Revised Penal Code, the Philippines has enacted other relevant human rights laws. These include the 1992 Act Defining Certain Rights of Persons Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations thereof; and the 2013 Human Rights Victims Reparation and Recognition Act.

However, as the following chapters will show, while torture and other ill-treatment are now prohibited and penalized as distinct crimes, and a range of measures exist in law to tackle these human rights violations and crimes, the reality in practice is that torture and ill-treatment remain rife and persistent in many police stations all over the country.

NUMBER OF ALLEGED TORTURE CASES RECEIVED BY THE COMMISSION ON HUMAN RIGHTS PER REGION															
REGION	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014 (Jan-July)	TOTAL
National Capital Region (Metro Manila)	1	6	12	6	6	12	10	12	1	11	4	5	3		**89**
Cordillera Administrative Region						1		1	1	1	2	4			**10**
Region I – Ilocos Region						1	1	1		3	4	1	2	**2**	**15**
Region II – Cagayan Valley								1	2		1	1	3	**1**	**9**
Region III – Central Luzon	1		2	1	2	10	3	1	2	5	7	5	2	**3**	**44**
Region IV – CALABARZON and MIMAROPA					2	1	2	1	2	1	3	5	22	**4**	**43**
Region V – Bicol Region	1							1	5	6	9	3	3	**1**	**29**
Region VI – Western Visayas	3	1	4		1	5	1		1		2	1	4	**1**	**24**
Region VII – Central Visayas		1							1		1	4	3	**1**	**11**
Region VIII – Eastern Visayas					1	1			1	1	5	7	4	**1**	**21**
Region IX – Zamboanga Peninsula		2	2	1		3	2	1		11	12	4	11	**5**	**54**
Region X – Northern Mindanao			1	1			1			1	1	5	6	**3**	**19**
Region XI – Davao Region	1		5		1	1		6	3	2	2	5	4	**1**	**31**
Region XII – South Central Mindanao					3	2			3	8	5	8	4	**3**	**36**
Region XIII – CARAGA				1	4					4	2	5	4	**2**	**22**
TOTAL	**7**	**10**	**26**	**10**	**20**	**37**	**20**	**25**	**22**	**54**	**60**	**63**	**75**	**28**	**457**

Source: the Philippines' Commission on Human Rights

Note: The data for Autonomous Region in Muslim Mindanao, now Bangsamoro, is unavailable at the CHR national office.

3. TORTURE AND OTHER ILL-TREATMENT BY THE POLICE

In January 2014, the Philippines' Commission on Human Rights (CHR) exposed a secret detention facility in Laguna, a province south of the capital, Manila, in which police officers appeared to be torturing detainees for entertainment. The CHR found a large roulette wheel on which were written descriptions of various torture positions. If the wheel was spun and landed on "30 second bat position", for example, this meant that the detainee would be hung upside down (like a bat) for 30 seconds. "20 second *Manny Pacquiao*" meant that a detainee would be punched non-stop for 20 seconds. The existence of such a device, apparently for police officers' entertainment, clearly demonstrates the casual attitude towards torture within the police force.

Fig. 4 – A "wheel of torture" at an undisclosed police safe house in Laguna province, south of Manila, Philippines.
© Philippine Commission on Human Rights

Forty-three detainees were found inside the secret detention facility, and marks indicating torture were found on many of these detainees. According to the CHR, most were believed to have been tortured or otherwise ill-treated but only 23 filed complaints before the prosecutor's office. Of the 23 complainants, five have withdrawn their affidavits, but this does not automatically result in dismissal of the case. All 23 complaints were still awaiting resolution at the office of the prosecutor as of October 2014.

This discovery highlighted the common, yet usually under-reported, problem of torture and other ill-treatment in some police stations and detention facilities by members of the Philippine National Police (PNP).

Despite little coverage of reports of torture and other ill-treatment in the media, it is common knowledge within the Philippines that criminal suspects are often at risk of torture or other ill-treatment. In some police stations and detention facilities, such violations appear to be routine.

Although many incidents of torture and other ill-treatment are never reported, available data from the CHR shows that the National Capital Region (including Metro Manila) has had the highest number of reported cases of torture since 2001, followed by Region IX (Zamboanga Peninsula Region, Mindanao, southern Philippines) and Region III (Central Luzon Region)[61] and Region IV (Southern Tagalog Region)[62] to the north and south of Metro Manila,[63] respectively.[64]

For the year 2013 alone, the CHR recorded 75 cases of alleged torture, the highest number of incidents reported in any year thus far. In 60 of these cases, police officers were implicated as the perpetrators.

In 2014, of the 28 cases recorded from January to July, 22 involved police officers. The increase in number of reported torture cases since 2009 could in part be due to the promulgation of the Anti-Torture Act in 2009, which recognised torture as a crime separate from other crimes, which meant that complainants could lodge complaints for torture instead of complaints for physical injuries and other related crimes. While reports of torture have increased since the enactment of the Anti-Torture Act, Amnesty International's research finds that torture and other ill-treatment is still widely underreported.

Amnesty International's research revealed that those most at risk of torture and other ill-treatment are people from disadvantaged and marginalized backgrounds, including in particular: children (suspected juvenile offenders), suspected repeat offenders and criminal suspects whose alleged crimes have personally affected police officers. Police "assets" who have fallen out of favour with local police officers are similarly at risk, and so are suspected members or sympathizers of armed groups and political activists.

Through interviews with survivors, Amnesty International has documented various methods of torture and other ill-treatment employed by police officers. Common among these are systematic beatings, punches and kicks to different parts of the body – 33 of the 55 survivors reported being subjected to these. Twenty people told Amnesty International that they were hit with truncheons, rifle butts or similar objects. Some people reported being blindfolded and handcuffed behind their backs, and forced to sit or lie in uncomfortable positions for long periods without food or water. At least eight said they were threatened at gunpoint or subjected to a kind of "Russian roulette" (where the alleged police officer took out some bullets from the gun, leaving at least one inside, and then aiming the gun at the victim and pulling the trigger) and warned that they would be killed if they refused to cooperate. Two of them were shot in attempted extrajudicial executions; both survived.

Among the survivors interviewed by Amnesty International, at least 16 were allegedly subjected to electric shocks. Some said that they were made to swallow huge volumes of water, subjected to waterboarding, and had a plastic bag put over their face to the point of near-asphyxiation. Almost half of those interviewed were children aged below 18 when they were subjected to torture or other ill-treatment, and were usually made to do repeated physical activities such as push-ups, "pumpings" (used colloquially to refer to squat exercises), and hanging from bars in their cells for long periods of time. Others had bullets squeezed hard between their fingers and some were made to witness or listen as their fellow-suspects were tortured or ill-treated.

Humiliating or degrading methods, including of a sexual nature, were also evident in a number of cases. One child was apparently ordered to kiss a fellow-suspect in the mouth. At least five victims reported being stripped naked and two had their genitalia tied to a string which was pulled by police officers.

3.1 THE CONTEXT

With around a quarter of a million police officers and soldiers combined,[65] including a reported estimate of 147,190 members of the PNP[66] serving 100 million Filipinos,[67] the Philippines has one of the smallest police to population ratios in the world.

In July 2014, the mayor of Makati City, the country's financial district, asked the PNP Chief for additional PNP officers to augment his city's police force, which he described as "grossly inadequate" to combat a series of robberies in Makati. Mayor Jejomar Erwin Binay was quoted as saying: "With only 560 police personnel at present, the ratio of police to night-time population is 1:945 (one policeman for 945 persons), while police to daytime population is 1:10,714 (one policeman for 10,714 persons)."[68] Under the DILG Act, the average police-to-population ratio is set at one police officer for every 500 persons and should not go lower than one police officer for every 1,000 persons. The minimum police-to-population ratio should be higher in urban areas such as Makati City.[69]

The PNP depends on an overstretched police force which, coupled with an underdeveloped forensic investigative capacity and dependency on testimonial evidence, means that personnel are often predisposed to taking "shortcuts" in their arrests and criminal investigations. This has facilitated the use of torture and other ill-treatment to extract "confessions" or information from criminal suspects, whether as a "shortcut" to solve a case or sometimes just to appear to have solved a case regardless of the veracity of the "confession" obtained. This is particularly true in cases which attract wide media coverage, where the police's public reputation is at stake.

An undermanned PNP has also led to the use of formal and informal police auxiliaries, who are sometimes armed. Formal auxiliaries include *tanod* (a community peace and security officer) and Civilian Volunteer Organizations while informal police auxiliaries include police "assets", who are handpicked by police officers to assist them through providing information, support in covert operations and, in some cases, performance of extra-legal activities in exchange for a fee. The use of auxiliaries may lead to unofficial activities that are not properly documented and supervised. This lack of adequate oversight not only increases the propensity for emboldened police officers and their "assets" to engage in illegal activities, it also presents a major gap in ensuring that human rights – both of victims and suspects of crime – are respected and protected by the police.

A POLICE OFFICER'S POINT OF VIEW

At a meeting with civil society groups in 2012,[70] a high-ranking Philippine National Police (PNP) official candidly shared a number of human rights-related "challenges" faced by the police force:

- Lack of awareness among on-the-ground personnel of the human rights law requirements in police procedure and operations;

- Perception within the police force that human rights is a hindrance to solving "real social problems" such as criminality;

- Perception within the police force that human rights impede effective policing as it focuses on the rights of "criminals" rather than those of victims of crime;

- The lower the rank of the police officers (i.e. those on the ground), the less human rights-related training they receive;

- Human rights training is perceived with negative overtones and scepticism;

- Culture within the PNP is marked by physical and psychological violence, and some believe that violence is necessary to inculcate discipline, obedience and camaraderie. This desensitization to violence is reflected in the police's treatment of criminal suspects;

- Attitudes of group cohesion, loyalty which sometimes means turning a blind eye, and the need to accomplish the "mission" at all costs;

- Political conditioning, where police officers are used by local politicians as their "political army" or senior police officers become political appointees in the "padrino system" (political patronage);

- Lack of specific operational procedures for handling vulnerable and marginalized sectors;

- Over-zealousness: the desire to show the public and their superiors that results are produced and that perpetrators are apprehended with minimum delay;

- Collusion with criminals;

- Blind obedience to orders of a superior which may or may not be unlawful;

- Lack of appreciation for each step in the criminal procedure, including little understanding of human rights and the rule of law as social values;

- The notion of acceptable "collateral damage" in the struggle to curb crime;

- Silence of the PNP in the face of accusations aired in the media about police violating human rights;

- Poverty and under-compensation among personnel which opens them to corruption, patron-client relationships with politicians, and collusion with criminals; and

- Lack of institutional capability to provide adequate facilities to curb crime through legitimate means of investigation such as evidence gathering, analysis and interrogation.

While the PNP official's acknowledgment of these challenges is laudable for its candour, a large number of these elements could be addressed through appropriate measures by the command leadership of the PNP.

For example: beyond perfunctory human rights training, the PNP command should give operations procedures which incorporate rules clearly underlining their duty to protect and respect the rights of both victims and criminal suspects. A whistleblowing policy within the police force could also encourage police officers to report illegal activity and abuse, including witnessing torture or ill-treatment. A stated and implemented policy of accountability within the PNP will also send a strong message that those who enforce the law do not see themselves as being above the law.

3.2 INEFFECTIVE IMPLEMENTATION OF SAFEGUARDS

Amnesty International's research has found poor enforcement of laws and regulations intended to safeguard against torture and other ill-treatment.

From the 49 alleged cases of torture and other ill-treatment that Amnesty International documented in the course of this research, a pattern emerges of violations by the PNP of international law and standards, national legislation and its own operational procedures in the arrest and interrogation of criminal suspects.

In particular, almost all incidents of torture and other ill-treatment researched by Amnesty International took place at the time of arrest and interrogation, when criminal suspects are sometimes held incommunicado (without access to legal counsel, families and the outside world as a whole) and taken to unofficial detention facilities.

3.2.1 IRREGULARITIES SURROUNDING ARRESTS

Article 9(1) of the ICCPR provides that "No one shall be subjected to arbitrary arrest or detention." International human rights law and standards require that arrests should only be made by authorized officials, on proper legal grounds.[71] A person, at the moment of arrest and commencement of detention or imprisonment, should be given information on and an explanation of his rights and how to avail himself/herself of such rights,[72] including the right to notify family members and the right of access to a lawyer and a doctor, in a language he/she understands.[73] In addition, law enforcement officers are required to keep a record of the reasons for the arrest, the time of arrest and appearance before a judicial authority, the identity of the law enforcement officials, and precise information on the place of custody.[74]

The Philippine Constitution and Philippine laws both provide for similar protection. The PNP itself has its own operational manual which requires police officers to wear the prescribed uniform, including their name tags, while on duty[75] and during police operations (such as arrests and raids),[76] and use only marked police vehicles.[77] The PNP manual also provides that in arresting an offender, police are only allowed to resort to "necessary and reasonable force"[78] and use weapons only if the suspect poses "imminent danger" of causing death or injury to the police

or other persons.[79]

Any arrest should be made on the basis of a valid warrant of arrest[80] except in exceptional circumstances.[81] A police officer must inform the suspect of his or her identity and authority, the reason for the arrest, and the suspect's rights under the law.[82] These rights include his or her right to legal counsel of his/her choice[83] and to demand physical examination by an independent and competent doctor of his/her own choice,[84] before and after any interrogation. The police officer should then bring the arrested person without delay to the nearest police station or jail to record the fact of arrest.[85] Criminal charges should then be filed with the proper judicial authorities within 12 to 36 hours after arrest.[86]

In reality, these safeguards are not implemented. Alleged torture victims told Amnesty International that most of the persons who arrested them wore civilian clothes and did not identify themselves as police officers. Neither did the arresting officers inform the suspects of any charges against them nor of their rights under the law.

Some of the victims recalled being beaten, threatened at gunpoint, and handcuffed before they were put in unmarked vehicles. Some were blindfolded and not told where they were being taken. Others were dragged in full view of neighbours and paraded as criminal suspects.

Violations of these safeguards upon arrest often lay the ground for and facilitate later torture or other ill-treatment. In some cases documented by Amnesty International, irregularities during arrest have made it possible for enforced disappearance and extrajudicial execution to take place.

Joel (not his real name), aged 22, was arrested in Makati City in 2011, accused of stealing valuables from a woman who turned out to be the wife of a police officer.[87] He was interviewed by Amnesty International researchers inside the national penitentiary where is currently serving a jail sentence, and he described how he was arrested by police officers and a *tanod* (community peace and security officer):

> *"[On the day of my arrest] someone told me that three people were searching for me – two police officers and a tanod. They were not wearing their uniforms and they were in a red sports utility vehicle. They came back on the same day, this time in a jeep. They pointed their .38 and .45 calibre pistols at me, handcuffed me and forced me into the jeep. I screamed and tried to resist. Then one of them put something against my neck that gave me electric shocks, causing my body to violently shake, as though I was having seizures."*

Joel said that while inside the jeep, the police blindfolded him and covered his mouth with tape so he could not speak. They tied his feet together and sat him between the *tanod* and a police officer. Although he was blindfolded, Joel said that he could still partially see. He noticed that the jeep passed through a toll gate, down a winding road and into a gated space which he thought was somewhere in Cavite, a nearby province south of Metro Manila. He was then taken out of the jeep and into a room where they stayed for four hours. According to Joel, the police officers and the *tanod* were drinking alcohol and, at one point, tried to put food into his mouth.

"I was afraid that they put poison [in the food] so I spat it out. This angered one of the policemen. He took out the bullets from his .38 calibre gun and just left one inside. He came up to me and pointed his gun at me. He pulled the trigger twice. I was lucky that no bullets came out. He then said to me, 'Of all the possible victims, you chose to steal from my wife?'"

Joel said he pleaded with the police officer to let him go, promising to replace the stolen cell phone unit. But the police officer refused, "And then what? So you could steal from others?" Joel asked instead that he be placed behind bars but the police officer did not reply and resumed drinking.

"I was frightened – I feared for my life," Joel said about his experience. "I prayed that God would give me another chance so I could have more years to be with my wife and daughter."

About half an hour later, Joel said the police blindfolded him again and covered his mouth with tape. He was taken back into the jeep and driven around for almost an hour.

Fig. 5 – Police covered Joel's mouth with tape (reconstruction based on testimony).
© Amnesty International

"I was afraid that they were just trying to look for somewhere to dispose of me… Then, [the jeep] stopped. They found a spot. They forcefully pulled me out of the vehicle. They pushed me to the ground, forcing me to kneel. Then, they removed the tape from my mouth. I begged them for mercy, 'Sir, please do not kill me.' But [one of the police officers] shot me on the neck. The impact caused me to fall flat on the ground. Then he shot me again, this time hitting my lower back. I felt one of them come to me and take my handcuffs off. Then they all left, and I lost consciousness." The police officers had attempted to subject him to an extrajudicial execution, and left him for dead.

When he regained consciousness, Joel said he found himself still on the vacant lot where the police attempted to kill him. He stood up and tried to walk towards a paved road, holding his

back and neck, but fell to the ground again after a few minutes. A tricycle (motorcycle with a side car) driver saw him and brought him to a *barangay* (village-community) hall where he was interviewed. He was later taken to a private hospital in Cavite where he was treated.

"When I woke up, I broke down in tears. I thanked God who listened to my prayers."

It was three days before Joel saw his family and he spent the next six weeks in hospital. A year later, Joel was again arrested for robbery. On his lawyer's advice, he pleaded guilty to the charge and was sentenced to between four and eight years' imprisonment. He is currently serving the sentence at the national penitentiary.

Richard (not his real name), aged 39, a shopkeeper from Quezon City, suffered a similar experience. Amnesty International researchers met him at a secret location in Metro Manila arranged by the CHR.[88] Richard said he was stopped by three police officers in Quezon City at around midnight in November 2012. The officers wore civilian clothing but were in a police car.

It was unclear to Richard why he was apprehended. He said the police merely asked what was in his pocket and told him: "You just got out of jail and you no longer know how to show respect to the police. You're useless."

According to Richard, the police officers argued about what to do with him – either to bring him to the police station and make him clean it or take him to a secluded area. They eventually took him to a quiet street where they dragged him out of the car and into a van. "They cuffed my hands behind my back using some wire. Then they broke my left arm. Until now, I can't raise it," Richard explained, showing his left arm to the researchers. "They placed packing tape around my entire head. They then stepped on my head [as I lay on the floor of the van]. I had difficulty breathing. At that point, I thought I was going to die soon. Lord, I don't want to die yet."

When the van stopped, Richard said he was dragged out. A police officer, under instructions from another police officer, shot him four times in the body. A fifth shot hit his head. He said he lost consciousness and fell on the ground.

Richard told Amnesty International that he did not expect to live. But he woke up and managed to remove the packing tape on his head, noticing that the wires on his hands had been removed. He got up and tried to seek help, even knocking on the door of a nearby house. Finally, as he was about to pass out again, a passer-by found him and took him to a government hospital.

Richard stayed in the hospital for five days. He said that every afternoon a police investigator would come, offering to settle the medical bills. On the fifth day, the police investigator paid for the hospital bills, enabling him to be discharged from hospital, on condition that he report to a specified police station at 10pm that night. Instead of meeting up with the police investigator as earlier agreed, Richard's family brought him to the CHR, where he was admitted into its witness and victim protection programme. Richard has since been moved to the witness protection programme of the Department of Justice.

Fig. 6 – Richard was shot four times in the body and once in the head by a police officer.
© Amnesty International

"Until now, the trauma has not gone away. I would still get nervous and terrified that the police will kill me. Because of the bullets, my entire shoulder would stiffen and I couldn't close my hands. Four bullets remain in my body," he said during the interview, one year after his ordeal.

Both Joel and Richard were left for dead, but have survived against the odds.

They would have ended up as two of the hundreds of victims of "salvage" (unexplained killings) in the country since 2001, if not for timely medical attention. Joel and Richard's cases, both attempted extrajudicial executions, demonstrate the link between arrests not conducted in accordance with international law and standards and subsequent torture, enforced disappearances and/or extrajudicial executions.

The circumstances of Joel's and Richard's arrests were clearly in violation of the PNP's own operations manual. But similar violations have taken place in many other cases documented by Amnesty International for this report. As the cases of Joel and Richard show, if irregular arrests or those carried out in clear deviation from the prescribed procedure continue unabated, it increases the likelihood that torture and ill-treatment will take place. Moreover, the lack of documentation of the names of the police officers involved in these arrests make it difficult to identify perpetrators for purposes of pursuing criminal prosecution for torture.

3.2.2 INCOMMUNICADO DETENTION

Incommunicado detention – detention without access to the outside world -- is prohibited under the Philippine Constitution[89] and the Anti-Torture Act.[90]

The UN General Assembly has repeatedly stated that "prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment."[91] While there is no set definition or time limit for what would constitute "prolonged" incommunicado detention, the Committee against Torture has expressed concern over a period of incommunicado detention lasting five days, and has called for the practice to be abolished.[92] The Human Rights Committee has stated that provisions should be made against the use of incommunicado detention,[93] and the Committee against Torture has consistently called for its elimination.[94] The UN Special Rapporteur on torture, recognizing that "torture is most frequently practised during incommunicado detention", has also called for such detention to be made illegal.[95]

The UN Body of Principles for the Protection of All Persons under Any Form of Detention provides that access to and communication with family members and legal counsel should not be denied except under exceptional circumstances and no longer than a matter of days.[96] Similarly, under the Standard Minimum Rules on the Treatment of Prisoners, detainees are entitled to communicate with and be visited by their families.[97] They are also allowed access to a doctor or dentist of their own choice,[98] to apply for free legal aid where available, and confer in confidence with their legal adviser.[99]

In some of the cases documented by Amnesty International, relatives report going from one detention facility to another in the hope of searching for their missing family member.

Amnesty International researchers met **Frank** (not his real name), aged 32, inside the Pampanga Provincial Jail. Frank told Amnesty International he was arrested in October 2013 while working out in a gym in Pampanga province, north of Manila.[100] Ten armed men in plain clothes, without an arrest warrant, forced him into an unmarked sports utility vehicle and brought him to the Pampanga Police Provincial Office. While inside the car, Frank said one of the armed men slapped and handcuffed him.

Frank told Amnesty International that at the police station, a police officer punched him in the chest, kicked him in the back and tried to choke him. Other officers put a plastic bag over his head and kept it there for two minutes. About 10 policemen punched and hit him with a stick or rod: "They were calling me *tarantado* [stupid] and accused me of killing a cop. They didn't ask me anything but they kept saying that I did it. They continued beating me for more than one hour, then brought me back to the detention cell. I slept there with the handcuffs on until about 8am. They didn't give me any food or water," Frank said. The police also did not allow Frank's family, who were at the police office that night, to see him. He did not have the chance to speak to a lawyer.

Fig. 7 – Officers put a plastic bag over Frank's head and kept it there for two minutes (reconstruction based on testimony).
© Amnesty International

Frank's sister told Amnesty International about her experience: "I immediately went to the provincial police office and discovered that they carried out the arrest. But the guard told me that my brother was not there. He told me that maybe he had been sent to the municipal jail. We went to the municipal jail but were told he wasn't there. We returned to the provincial police office but got no information there. We went to my cousin's house. There we learned from her husband's friend, who was one of the arresting officers, that my brother was with them. We asked permission to visit him but were told it would not be possible at the time… The rest of the night I was unable to sleep. I was really worried."[101]

When Frank's sister visited him the next day, she saw that he had bruises on his face. He was complaining of chest pains and couldn't stand up. His sister decided to file a complaint with the CHR, which is still being investigated.

According to Frank, the police accused him of killing a police officer, a charge which he strongly denied. Instead of filing murder or homicide charges against Frank, the police charged him with illegal possession and trafficking of prohibited drugs, and three cases of illegal possession of firearms under two different laws. He pleaded not guilty to all five cases; the trial is ongoing.

Access to a family member or to a third person who can inform family members and relatives of the whereabouts of a person taken under police custody is a crucial tool to prevent torture and ill-treatment. Keeping suspects incommunicado and their location unknown make it difficult for families and others to seek help and prevent ill-treatment and torture. It also deprives suspects of vital access to lawyers and doctors.

The systematic beatings and asphyxiation suffered by Frank – both expressly recognized as physical acts of torture under the Anti-Torture Act – would have been less likely had access to a family member been immediately granted.

To some extent, Frank is lucky that his family members personally knew one of the arresting officers, who was able to confirm his whereabouts, and that he was able to see his family members the day after his arrest. In other cases documented by Amnesty International, family members would have no idea where and what has happened to their relative who was taken into police custody. In at least three cases, it took three days before detainees were able to see their family members. On several occasions, police officers blatantly denied having custody or refused to allow family members to visit criminal suspects under custody.

Abdul (not his real name), aged 42, was a government employee based in Cotabato City on the southern island of Mindanao when he was arrested in October 2010 accused of involvement in a bombing incident.[102] He told Amnesty International that armed men wearing balaclavas and carrying long firearms arrived in three unmarked vehicles and stormed his house. They said they were looking for men named "Junior" and "Tiyong Gulapa" (names have been changed). Abdul told them there was no one by those names in his house but was ignored.

The men did not inform Abdul of any crime of which he was suspected. Instead, they handcuffed his hands behind his back, and kicked and hit him on the head and back. When they found nothing after searching the house, the men blindfolded Abdul and his brother-in-law Ilman (not his real name) with packing tape and forced them into one of the vehicles. They told Abdul's wife that they were taking them to the Police Constabulary Hill for questioning.

According to Abdul, the vehicle travelled for several hours, making stops at different places until they reached the police headquarters in another province. It was only at this point that Abdul was certain that the armed men were police officers.

At the police headquarters, Abdul said the police beat him and punched him in the stomach, forcing him to admit that he was "Tiyong Gulapa". Abdul insisted they had mistaken him for someone else. "I told them I was not [Tiyong Gulapa] and told them my own name. I had no idea who Tiyong Gulapa was. I was trying to ask them what I had supposedly done and where the arrest warrant was. They said they didn't need one."

Abdul said that every hour or so, men would come into the room where he was detained and beat him. He also said that he heard his brother-in-law being beaten in the neighbouring room, and that he also heard two children screaming. Abdul and his brother-in-law were beaten intermittently for three days, blindfolded and handcuffed the whole time, and were not allowed to contact their families. They only managed to see their families after three days.

Abdul described to Amnesty International the various ways in which he was tortured. Police officers placed a plastic bag over his head and nearly suffocated him. They tilted his head back and forced him to drink a large volume of water before punching him in the stomach. They hit and kicked his ribs. They handcuffed him to his chair, poured water on his legs and gave him electric shocks.

On the third day, Abdul was ordered to strip naked and get into a drum full of water. The police

then inserted apparently live wires into the drum. "I fell sideways and toppled the drum over due to the pain of the shocks," he said. "After that, I felt very weak. We had barely eaten in three days and everything was hurting. After the drum incident, they took my clothes away and I was naked. At one time, one of them pulled my penis. The other man started slapping my penis repeatedly and saying that I should be more cooperative… Once, they poured very hot water on my back and buttocks."

Abdul told Amnesty International that he and his brother-in-law were taken to a doctor for a medical examination on the third day after their arrest. He said the doctor ignored their bruises and his blistered back. It was only when they were taken to the prosecutor's office that they learned that they were accused of involvement in a bombing. They were made to sign typewritten papers which they said they were not allowed to read.

Abdul and his brother-in-law were detained at the provincial jail for two years before they were moved to a high security detention facility in Metro Manila. The trial is still ongoing.

With the help of local NGOs, Abdul filed a complaint for grave misconduct with the regional Internal Affairs Service of the PNP.

3.2.3 UNOFFICIAL AND SECRET PLACES OF DETENTION

Despite the prohibition under the Philippine Constitution on the use of secret detention facilities,[103] Amnesty International has found that police officers in the Philippines continue to use unofficial and secret places of detention where cases of torture and other ill-treatment are likely to take place.

One child arrested for robbery described to Amnesty International an unofficial place of detention called the "underground", where police apparently regularly detain and torture persons arrested for minor offences, in some cases leading to deaths.

In an interview with Amnesty International researchers at the office of a child-care institution, **Rainier** (not his real name), aged 17, described a place called the "underground" which is underneath a police station outpost in Manila near Chinatown. Rainier had been there once. He had been punched and beaten by police officers and kept overnight with five other children: "The incident in the "underground" scared me a lot. It is very dark and only had one light… The area is small, around 15x20 feet and full of things. There were lots of cobwebs which we had to clear. On the side of the room, there is a river. There is also a gate. This place is a little hidden. You have to go behind the outpost/station through the garden. There were things in the "underground": some chairs, ropes, some long pieces of metal, and I saw human hair on the ground. There was another room there which we did not open."

Rainier told Amnesty International that the police who arrested him showed him a video of his friend being beaten inside the "underground". He described the contents of the video: "The boy was asking for help. The police in the video were in civilian clothes, not in any uniform. Their faces are visible but I didn't recognize them. The boy was tied to the chair with tape covering his

mouth. Some police officers were hitting him while another was taking drugs on the side. The boy was wearing pyjama pants and something on top." The policemen warned Rainier and the others, "Do you also want to end up like this?" Rainier would later learn that the boy in the video had apparently been killed.

In one case documented by Amnesty International, the police allegedly brought the suspect to a cemetery where they questioned and threatened to shoot him. Two other former detainees interviewed by Amnesty International said the police went as far as moving the suspects from one province to another. In the case below, police detained suspects in a house in the middle of a residential subdivision.

Rowelito Almeda, aged 45, a police "asset", was among those detained at a secret, unofficial detention facility in Laguna. Rowelito told Amnesty International researchers, who talked to him at an undisclosed location in Metro Manila through the help of the CHR, how he first came to know of the detention facility and how he eventually ended up being detained there.[104]

Rowelito had been working as an "asset" for different police units in Laguna for several years. His job involved following suspects, tipping off information to the police, and setting up entrapment operations, in exchange for a fee. In 2011, the father of the woman he was living with was arrested on drug charges by a group of police officers. The father was detained in a house in the residential subdivision in Laguna, which it later emerged was being run by this group of police officers as a secret holding area for those accused of drug-related offences. Those who could pay a bribe of PhP200,000 (about US$4,500) were released while those who did not were detained or forced to point out other drug suspects in a system known as *palit-ulo* (literally, exchange heads).

Rowelito negotiated with the officers to secure the release of his partner's father; in return, he was to act as their agent, posing as a buyer of illegal drugs and providing them with information on drug suspects. Rowelito worked for this group of police officers until December 2013. He said that at this time, the police wanted him to set up a "pot session" (marijuana smoking session; in the Philippines, the term is used to include consumption of other drugs such as methamphetamine) with a certain woman. He said the police wanted to implicate the woman and extort money from her but he refused.

At around 10pm on 9 January 2014, a police officer ordered him to report to the detention facility, which doubled as the police office and meeting place. He saw police officers drinking. There, he was asked why he did not set up the "pot session".

"I told them I didn't want to be involved anymore in anything drug-related because I have a grandson," he explained. Rowelito would later tell Amnesty International: "A police officer from another police unit advised me to stay away from drugs because you can't avoid using them yourself. Sometimes, it's the police themselves who supply illegal drugs in the market. Whatever illegal drugs they recover from police operations, they re-sell them in the market."

As Rowelito was leaving the detention facility that night, a police officer stopped him in the parking lot outside the house and ordered him to get off his motorbike. Then his ordeal started: "When I removed my helmet, the police officer grabbed it and smashed it onto my face. The helmet hit my mouth. My lips burst and bled, and four of my front teeth broke," he said, as he showed Amnesty International researchers four missing upper front teeth eight months after the incident. "I was ordered off my motorbike and they dragged me inside the gate of the house."

Inside, a police officer hit his left arm (which was in a bandage at the time of the interview) with a steel bat while another police officer hit his back with a plastic chair. They brought him to a hut where a senior police officer was playing cards. Rowelito said the senior police officer asked him why he wasn't doing his job and insinuated that he was instead giving information to other police units. He replied that he wanted to concentrate on his work as an auxiliary police officer for another police unit. One of the police officers who had previously beaten him told the senior officer that they should not let Rowelito go because he might file a case against them. With the senior officer's agreement, the police officer dragged Rowelito outside the gate towards the parking lot.

Rowelito described what happened to him in the parking lot: "They cuffed my hands behind my back and hit my thighs with a wooden stick. They forced a rag into my mouth and wrapped masking tape around it. Then they made me lie face down on the ground. They removed the handcuffs, stretched my arms forward and cuffed my hands again. One police officer held my arms and another held my feet. They hit my body with a bat and kicked me in the side repeatedly for about 15 minutes. It was so painful I wanted to die and disappear."

Fig. 8 – Police officers repeatedly hit torture victims, including Rowelito, with a bat, truncheons or batons (reconstruction based on testimony).

Rowelito said he heard one police officer suggest to the others that they finish him off, but they did not agree. They brought him instead to the police sleeping quarters where three police officers gave him electric shocks. "I could feel the electricity flowing through my body. I was very weak then and I really thought they would kill me," he recalled.

Afterwards, the police brought Rowelito to a detention cell inside the house where there were

about 40 detainees, some of whom were the suspects he had helped apprehend. The police told them that it was Rowelito who tipped them off to the police. These detainees later took turns beating him up. The police told the detainees not to give him food, water or clothing, and did not allow him to call his family. He said he did not eat for four days.

Rowelito stayed in the detention cell for five days. On the fifth day after his arrest, members of the CHR arrived to talk to the detainees. It appears that the CHR learned about the detention facility through the Public Attorney's Office, one of whose clients had been detained there. Despite being warned by the police not to say anything to the CHR, Rowelito told CHR investigators what happened to him. Others followed suit. The CHR, on the same day, obtained the statements of those who had been tortured, conducted forensic investigations and facilitated the transfer of the detainees to regular detention facilities and jails.

According to Rowelito, the police attempted to strike a compromise agreement with him. Instead of filing a non-bailable offence, they filed a lesser offence and the police themselves facilitated his release by posting a bail bond. They made Rowelito sign an affidavit withdrawing the torture case filed by the CHR on his behalf.

CHR officials told Amnesty International about the difficulties in persuading torture victims to continue with their complaints. In Rowelito's case, the regional director of the CHR had to fetch him personally from his house and bring him to the CHR central office in Metro Manila so that the CHR chairperson could speak to him. Rowelito only agreed when he learned that the police officers who detained him had commissioned someone to kill him. That someone turned out to be his cousin, who told him about the plan.

Rowelito is now living under the CHR's witness and victim protection programme. The torture case he filed is being investigated by the DOJ. At least 10 of the police officers involved in running the detention facility have been dismissed from service.

Rowelito agreed to allow Amnesty International to use his real name in this report to shed more light and give more publicity to his experience. But he is not optimistic that cases of torture and other ill-treatment can be totally eradicated. "It's a 'menace'. It cannot be controlled. You can stop it for now, but only for a while." he said. "If no one is convicted, nothing will happen."

The PNP, along with other law enforcement agencies, is required under the Anti-Torture Act (ATA) to submit to the CHR a periodically updated list of detention facilities along with other details about the detainees,[105] so that detention conditions and the treatment of detainees can be monitored. The CHR also conducts regular visits to detention facilities and jails. But as Rowelito's case illustrates, the CHR's efforts and the requirements under the law can be circumvented if the existence of the detention facility is not declared in the first place.

3.3 THE USE OF TORTURE TO OBTAIN "CONFESSIONS" OR INFORMATION

The Philippine Constitution excludes information obtained through torture or other ill-treatment from being admissible in evidence in any court of law.[106] This is reiterated in the ATA.[107] In

addition, rules on evidence in the Philippines consider an extrajudicial confession (made outside a courtroom without the presence of a lawyer) by an accused, on its own, insufficient for conviction.[108]

However, as noted earlier in the report, in practice, extracting a "confession" or information from criminal suspects appears to be a primary motivation of police officers for committing torture or other ill-treatment. With an estimated 147,190 members[109] for the whole country, the PNP suffers from a severe shortage of officers and a corresponding shortage of forensic capability to conduct thorough investigations into criminal offences. Combined with the pressure to crack a string of unresolved cases, particularly those that receive attention from the media, police officers at times respond by resorting to unlawful "shortcuts" or extracting "confessions" – regardless of evidence or the truth of the matter – in order to appear to have solved the crime.

A case is often considered solved only once the police announce to the media that suspects have confessed to the crimes with which they have been charged. While "extrajudicial confessions" (confessions made outside the courtroom, if made without the presence of a lawyer) are not admissible as evidence in court,[110] information obtained from forced confessions allow police officers to move forward with the investigation. While evidence obtained through an illegal arrest, unreasonable search or coercive interrogation is recognized as inadmissible by Philippine courts,[111] this prohibition can be easily circumvented by attributing the source of the information on the evidence to a third party.

Moreover, Philippine jurisprudence has, on several occasions, recognized the validity of an extrajudicial confession made in the presence of a lawyer, whether of the confessant's own choice or provided by the government. In the 1992 case of *People v. Enanoria*[112] the Philippine Supreme Court ruled that: "The confessant bears the burden of proof that his confession is tainted with duress, compulsion or coercion by substantiating his claim with independent evidence other than his own self-serving claims that the admissions in his affidavit are untrue and unwillingly executed."

Therefore the burden of proving that the criminal suspect made an extrajudicial confession against his/her will shifts to the defendant once it is shown that the confession was made in the presence of a lawyer. This approach is at odds with the jurisprudence of UN treaty monitoring bodies. The Committee against Torture has confirmed that it is the responsibility of the state concerned to "ascertain whether or not statements admitted as evidence in any proceedings for which it has jurisdiction...have been made as a result of torture"[113] and clear instructions must be given to the courts to enable them to rule that the evidence is inadmissible.[114] The Human Rights Committee has stated that the burden is on states to prove that statements made by the accused have been given of their own free will.[115]

If a criminal suspect in the Philippines has no legal representation, the police could very well assign lawyers of their choosing who would ignore signs of torture or other ill-treatment and so facilitate an extrajudicial confession. Given the secrecy surrounding forced confessions, a criminal suspect will be hard-pressed to provide evidence other than his/her testimony to prove

that his/her confession was coerced.

Amnesty International talked to a child offender who is under the custody of a child care institution (an NGO providing services to children accused of having committed crimes) in Zambales.

Ambrosio (not his real name), was 17 when he was arrested with his cousin in May 2012 in Cabanatuan City, north of Manila, accused of robbery.[116] Ambrosio told Amnesty International that during detention at the police station, the police hurled him and his cousin into a corner, kicked them and hit them with a rattan stick. The police searched them, looking for money which they supposedly stole. When the police could not find any, Ambrosio said they continued hitting him and his cousin, tearing Ambrosio's shirt.

Fig. 9 – Police officers placed a towel on Ambrosio's mouth and nose and continuously poured water over it, in what appears to be waterboarding (reconstruction based on testimony).
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Ambrosio told Amnesty International the police forced them to admit to a series of robberies that had taken place in Cabanatuan City. One policeman brought his son, who had been a robbery victim, to identify Ambrosio and his cousin. The son said Ambrosio and his cousin were not involved. Despite this, the police officer made them wear a helmet and beat their heads. As well as being beaten, Ambrosio said police officers ordered him and his cousin to kiss each other. When they refused, the officers hit them again. The police officers drew a circle on the floor and demanded that they fill the circle with their sweat. The officers made them lie on a bench, with their hands handcuffed behind their backs and under the bench. Ambrosio said police officers placed a towel on his mouth and nose and continuously poured water over it, in what appears to be waterboarding. After this, he said, the officers gave them electric shocks on the soles of their feet.

The torture only stopped the next day when Ambrosio and his cousin were presented to the media at the police station. "I covered my face. They were asking if we were the ones who committed the robbery but I refused to answer. While I was being interviewed by the media, a policeman took my cousin inside. He was barely able to speak after all the shocks and torture." Ambrosio

and his cousin were detained at the police station for about a month and a half, before he was turned over to an NGO providing services to children accused of having committed crimes.

Ambrosio said he wanted to complain to the investigating prosecutor and the judge, but the police officers responsible for abusing him, who were also his neighbours, were present every time he appeared before the judicial authorities. Ambrosio said: "When I went home the last time on a release trip [from the child care centre where he was staying], one of the policemen saw me and asked why I was out. He threatened that if I did it again, he would kill me." He added: "In our neighbourhood, it is common for the police to humiliate children whom they have caught. If I get the chance to make a complaint about what they did to me, I would like to do so."

Ambrosio's torture, as he described it, was clearly inflicted to obtain a "confession," which was linked to the common practice by police in the Philippines of parading criminal suspects in public, sometimes at the insistence of local mayors, to show to the public that the police are doing something about the peace and security situation in the locality.[117] Such forced public displays are themselves humiliating and undermine prospects of a fair trial. In particular, they violate the right to be presumed innocent until proven guilty according to law, which the Philippines is obliged to respect and protect under Article 14(2) of the ICCPR as well as under Article 14(2) of the Philippines Constitution.

In other cases, police would also resort to torture or other ill-treatment to force suspects to implicate their friends who are suspected of being in crimes in the hope of arresting them.

Roy (not his real name), 27, was arrested in 2010 in Pampanga province by five plain clothes police officers in an unmarked vehicle.[118] The men, whom he recognized as police officers, searched him but did not find anything. Roy told Amnesty International that they were asking him to reveal the location of his uncle who was suspected of being involved in selling drugs. The police officers took him to a cemetery, where one of them pointed a .45 calibre pistol at him. The policeman said, "There is your graveyard. I had it dug for you." Roy started crying, pleading for his life: "Sir, please don't do this to me. I didn't do anything and you did not get anything from me," he said. Roy said the police officer then left the cemetery to raid a house, but when they failed to arrest anyone they returned to the cemetery where they stayed with Roy until dawn. The same policeman pointed a gun at Roy's neck and threatened him: "If you won't point us to your uncle, if you won't give us his head, we will kill you." The policeman smoked cigarettes and put out the butts on Roy's body, telling him at the same time, "Son of a bitch, you'll die here, we'll bury you here." In the morning, the police took him to a police station where he was detained for a week.

Roy filed a complaint with the CHR, who facilitated the filing of a criminal complaint before the provincial prosecutor. At the time of the interview in December 2013, Roy was unaware of the status of his torture complaint. In August 2014, Amnesty International independently checked with the provincial prosecutor's office and found out that Roy's complaint had already been dismissed by the prosecutor as early as March 2013. Records form the prosecutor's office showed that no appeal to the prosecutor's decision had been filed. According to the CHR, Roy's family

"lost interest" in pursuing the case.

Roy was tortured, according to his statement to Amnesty International, in order to compel him to reveal information about the whereabouts of another criminal suspect.

Instead of lawful investigative work to identify suspects and their whereabouts, police sometimes resort to unlawful "shortcuts".

These can include forcing a suspect to provide them with information they need, or worse, forcing a suspect to confess, regardless of the truth of the statement, in order to appear to the public that they have solved the case.

These acts, intentionally inflicted by officials for the purposes of obtaining information or a "confession" and causing severe pain or suffering clearly amount to torture as defined by both Article 1(1) of UNCAT and ATA. Specifically, systematic beatings, electric shocks and cigarette burns are all listed as physical acts of torture[119] under the Anti-Torture Act while threats of execution and public display of detainees are listed as mental/psychological acts of torture.[120]

"He said, 'Can you take my kicks?' I said, 'No, sir." He then kicked me so hard that I fell against the wall. He punched me continuously and hit me with the wooden baton. He punched me on the stomach. He hit me in the face four times. He poked my eyes with two of his fingers. He slapped me six times and slammed my head against the wall twice. He was forcing me to confess that I was just using the name of the police to make money, and that I was a drug dealer. He said something about a 'protector' which I did not really understand. I could not confess anything because I knew nothing about what he was accusing me of. He took a mop and forced the dirty and damp rag at the bottom of the mop into my mouth. Then, he took it out and smeared my face with it."
Alfreda Disbarro

Alfreda Disbarro told Amnesty International that she worked as a police informant but had been avoiding her police contact as she no longer wanted to do this work. She said that at 8pm on 3 October 2013, two policemen and a police "asset" stopped her while she was at an internet cafe near her house in Parañaque City, in the southern part of Metro Manila. They accused her of being a drug dealer which she vehemently denied. Alfreda said that she voluntarily emptied her pockets, which contained only her mobile phone and a five-peso coin. The "asset" then pointed a gun at her and one of the police officers punched her on the chest. They handcuffed her and took her to an unmarked white van. She was not shown any warrant nor given any reason for her arrest.

Alfreda was taken to the Drug Enforcement Unit (DEU) at the Parañaque police headquarters. Along the way, one of the police officers repeatedly hit her torso and sides with his elbow. Inside the headquarters, a male "asset" searched Alfreda but no illegal substance was found. Her hands were then tied behind her back with a black plastic cord and she was taken to a room with five other detainees. While in this room, a police asset singled her out, placing a bottle of alcohol on top of her head and aiming his gun at it. "He said he will shoot the bottle on my head. He was one and a half yards away from me. I was so afraid that I would get shot. I just closed my eyes in fear," Alfreda recalled.

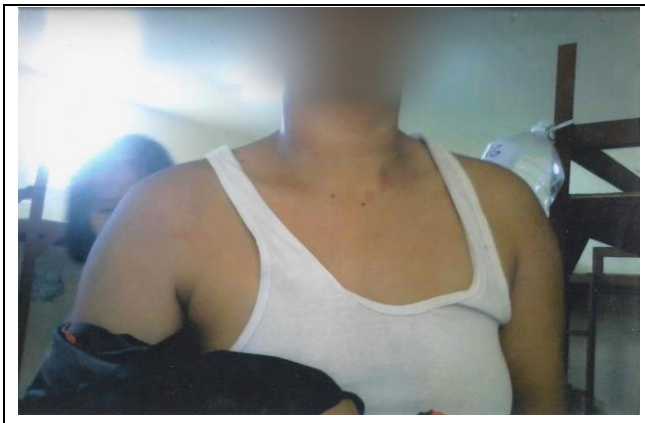


Fig. 10 – Alfreda Disbarro, who was arrested and subjected to torture in Parañaque City on 3 October 2013.
© Private

About two hours later, a senior police officer arrived and took Alfreda to the kitchen, where she said she was kicked and punched in the stomach. Alfreda told Amnesty International that a senior police officer forced the damp end of a dirty mop into her mouth and hit her with the handle. He also poked her eyes with two fingers, slapped her and banged her head against the wall. She said they tried to force her to admit that she used a police officer's name to illegally collect money and that she was a drug trafficker.

Fig. 11 – A dirty mop was forced into Alfreda's mouth (reconstruction based on testimony).
© Amnesty International

Alfreda said that the beating continued, this time with one of her arresting officers punching her on the face and body; he hit her repeatedly with a wooden baton on her head, hands, forearms, thighs, calves, back and sides. Alfreda tried to hide under a table, begging the police officer to stop. When she saw that an "asset" was about to hit her head with a wooden baton, she raised her arms to stop the blow. Once out from under the table, the police officer struck her again, slapping her face several times. Alfreda said he then dragged her to a room where he hit her with a metal bar. He only stopped beating her when he accidentally hit his fingers against a locker; he angrily pushed Alfreda's face against the metal bar and left.

Alfreda told Amnesty International that throughout the ordeal, she was not allowed to contact her relatives. She did

not know that her family were in the same building pleading with the police to be allowed to see her. By dawn the next day, she was hungry, feverish and could barely move because of her injuries. Her sisters visited her at 6.30pm that day but Alfreda said the police had warned her not to tell them anything, promising to help prevent the drugs case from being filed against her. She managed to discreetly show some of her injuries to one of her sisters when the police allowed them to see each other in a dark room and under the supervision of several officers.

Alfreda was shocked when, on the second night after her arrest, the police took her to the *barangay* (village-community) hall and displayed three 100 peso notes and a sachet of shabu (methamphetamine hydrochloride or crystal meth) as evidence against her in front of *barangay* officials. Her protestations of innocence were ignored. Police officers then took her to a hospital for a medical examination.

Because of the beatings, Alfreda had difficulty moving and breathing. She said she could not eat and found it agonizing to even drink a glass of water. Her back and chest hurt when she breathed. She felt nauseous and vomited several times. She told Amnesty International that ten days after her arrest and torture, her thighs shook each time she tried to urinate, and that she had pain in her lower abdomen. She also said that her left groin was still swollen more than a week later.

Alfreda believed that her former police contact was behind her arrest. She had been avoiding him because she no longer wanted to work as a police informant. Shortly after her arrest, a police officer told her that it was her former contact who "turned her in." Alfreda said that a few months later, while still detained at the Parañaque city jail, the police "asset" who had threatened to shoot her during her arrest came to see her and told her the same thing. Alfreda added that this person apologized for what happened, revealing that he himself had fallen out with his superior. Alfreda learned a few days later that this same "asset" had been killed near the Parañaque police headquarters.

Alfreda said she now fears for her life and her family: "I'm worried about the safety of my family. The livelihood of my parents was affected (my mother is a vendor while my father is a driver). The schooling of my children was affected, and so are the jobs of my siblings. I know the people behind this very well. I know what they are capable of. They told me they will kill me."

Alfreda has since filed a complaint with the CHR. In addition, the Internal Affairs Service (IAS) of the Philippine National Police has launched its own investigation, apparently in response to pressure from Amnesty International. As of October 2014, the IAS has submitted its recommendations to the regional head of the PNP, which would decide on the case.

Alfreda Disbarro's case will be followed throughout the report to illustrate gaps in the justice system.

3.4 DE FACTO PUNISHMENT

In some police stations in the Philippines, a culture of punishment by torture or other ill-treatment persists, where overzealous police officers often take matters into their own hands and punish suspects themselves.

Some of the alleged torture victims told Amnesty International that police officers usually treat

them badly upon learning that they have been involved in robbery or theft-related activities, and particularly if they have been previously arrested on similar offences. Some said they felt discriminated against while others saw it as a form of punishment.

One convicted prisoner held at the national penitentiary told Amnesty International about the abuse he suffered at the hands of the police upon his arrest and detention and why he thought he was being punished.

Rolando (not his real name), 26, said that he was working as a jeepney (a vehicle used as a city bus) "dispatcher" (a person who calls out to potential passengers to fill the jeepney) in Quezon City in January 2012 when two police officers arrested him without a warrant and accused him of having participated in a robbery a week earlier.[121] At the police station, Rolando said the police blindfolded him, beat him and hit him with a wooden baton before giving him electric shocks. He described his ordeal to Amnesty International: "They put a wire on me. I was holding live current of about 220 volts. I felt like urinating. It was painful. It was worse than being hit by the baton. It felt like ants were biting my entire body." Rolando said the police videoed him, then punched him again many times all over his body. He was ordered to lie on the floor and the police hit the soles of his feet with a baton for around 30 minutes.

Fearing that the police might hurt him again, Rolando admitted to committing the crime. "After the torture, my whole body was in so much pain. There was a stinging pain. I couldn't stand properly, I always sat because I was holding my sides. The pain lasted for a week… I was like a wilted vegetable then. I lost my appetite. I had flu-like symptoms for days while at the police station. I stayed there for two weeks." It was not the first time Rolando was arrested. He had been arrested three times before on charges varying from robbery and theft to concealing a deadly weapon. He said he was sentenced to up to four years, two months and one day in prison. "Why was I beaten? The police were angry at robbers. They wanted me to confess to the crime, but I didn't know anything. If you have tattoos on your body, they think you're a robber." Rolando told Amnesty International that while at the police station, he heard a policeman say, "Let's kill him sir so we get rid of robbers in this world."

The practice of on-the-spot punishment by police through torture or other ill-treatment may be partially attributed to a culture of violence that permeates the Philippine police educational system. The Philippine National Police Academy, the training ground for future police officers, has been hounded by allegations of "hazing" (an initiation or practice for admission into an organization which places the applicant in some embarrassing or humiliating positions, or subjects him/her to physical or psychological suffering or injury, prohibited under Philippine law)[122] in the past. Philippine media reported deaths of PNPA cadets allegedly due to hazing in the years 2000,[123] 2003,[124] and 2006.[125]

The Committee against Torture has on several occasions expressed concern over the hazing and brutal treatment of cadets and has called for there to be "zero-tolerance" of the practice. The Committee has also called for investigations to be carried out into allegations of hazing and ill-treatment of cadets, and where there is evidence of the practice, for those responsible to be held

accountable.[126] Similarly, the Human Rights Committee has urged that "stringent measures be adopted to ensure an immediate end to mistreatment and abuse of army recruits by their officers and fellow soldiers."[127]

The link between hazing within a police training institution to criminal behaviour of some police in uniform may not be apparent. But recently, a police officer who had been reportedly suspended as a PNPA cadet due to his involvement in the 2000 hazing case was implicated as the mastermind of a daring arrest-extortion incident (locally known as *hulidap*) which took place in broad daylight in September 2014 along Manila's main thoroughfare.[128] In response to this incident and to other cases involving criminal behaviour by some police officers, various groups have called for a "thorough review of the recruitment and training program" of the PNP[129] including the reorganization of the current setup of formal training for the police.[130]

The danger of allowing the current practice of police torture and other ill-treatment to continue within the PNP could not be overstated. By taking matters into their own hands, police officers not only torture or otherwise ill-treat criminal suspects but also deprive of their human right to due process and to a fair trial. All criminal suspects are deemed innocent until proven guilty.

3.5 CORRUPTION

Corruption is also another motive for the commission of torture and other ill-treatment. Police officers often extort money from criminal suspects in exchange for their release or for the dropping of charges against them.

There are various laws and regulations against corruption in the Philippines. The Philippine Constitution, the Revised Penal Code, and the Conduct and Ethical Standards for Public Officials and Employees (Republic Act No. 6713) prohibit and penalize graft and corruption. Aside from these, Philippine law criminalizes the unlawful acquisition of property by a public officer or employee[131] and authorizing its forfeiture in favour of the government.[132]

However, the low salaries of police officers and a lack of accountability for those accused of corruption contribute to corruption remaining pervasive among the country's police force. In a 2013 survey by Transparency International, an anti-corruption NGO, the PNP was found to be the most corrupt institution in the country, with 69% of Filipinos surveyed believing that police personnel were corrupt.[133] Even the current PNP Chief acknowledged corruption within the PNP[134] and was himself embroiled in a number of corruption charges.[135]

In an interview inside a district jail in Tarlac, **Anjo** (not his real name), aged 50, a chicken dealer, told Amnesty International researchers that he was arrested in his apartment in Pangasinan province in February 2012, accused of drug trafficking.[136] According to Anjo, four men in civilian clothes stormed his apartment, pointed .45 calibre pistols at him, and repeatedly demanded that he show them the drugs. Anjo recognized the men as police officers but they did not present any arrest or search warrant. Anjo told Amnesty International that the police took him and his common-law partner in an unmarked car to a police station but did not enter his details in the logbook. "I understood that they wanted to kill me that's why they didn't enter my case details,"

Anjo surmised. Police then took him to another province.

Anjo told Amnesty International: "While we were on the road from Lingayen to Tarlac, two police officers beat me – they were sitting on either side of me on the backseat. They punched me repeatedly in my sides and in my stomach. The policemen asked if I had 200,000 pesos [approximately US$4,500] to pay them. I said I did because I wanted the beating to stop. They told me they wanted money, so that there would be no case against me," he said. "We reached a police camp in Tarlac at around 11pm and a police officer asked me for 200,000 pesos. I said I don't actually have the money and he punched me in the chest. They then brought me into the office. My partner was taken elsewhere in the camp. That's when I got to know that these men were from S2, the intelligence group of the Tarlac Police – there was a sign in the office saying S2."

"After I said there was no money, I refused to sign the blank pages they wanted me to sign. I was surprised when they told me to get into another vehicle (a green Kia Pride). They took me out of the camp. I heard a police officer, who earlier asked me for money, say '*awan'*, which in a local language means 'none.' He then said, 'shoot out' and put his thumb down. I thought they were going to kill me." Anjo was brought to a dimly-lit area. Fearing that he would be killed, Anjo managed to attract attention from onlookers, and the police took him to the police station instead.

In his affidavit, a copy of which he gave to Amnesty International researchers, Anjo stated that after he was made to sign a document at the police station, he was taken to a police camp where one police officer hit him with a gun butt and more police officers punched and kicked him. Anjo also stated that the same police officers covered his mouth with masking tape, gave him electric shocks and wrapped electric wires around his neck to the point of asphyxiation. He was then taken to a detention cell and left to sleep with masking tape on his mouth and his hands cuffed behind his back.

According to Anjo, he was medically examined only 11 days after his arrest and he did not tell the examining doctor about his torture because he feared reprisals from the police.

Anjo was subjected to a wide range of abuse by the police in order to coerce him to pay a bribe: systematic beatings, threatened with execution, being transferred from one detention facility to another to create the impression of being executed, electric shocks, asphyxiation, and being forced to assume stressful bodily position for a long period of time – all of which would at least cumulatively amount to torture under the Article 1(1) and ATA definitions and are expressly prohibited and penalized under the ATA.

3.6 TORTURE OF CHILDREN

"I used to want to be a policeman when I grow up, but seeing how they operate, I have now given up on that dream…I can't forget what they did to me. I will never forget."

Jonathan, arrested aged 17 for robbery in Metro Manila

Many victims of torture and ill-treatment interviewed by Amnesty International in November 2013 were children who invariably came from underprivileged backgrounds.

The Philippines is a State party to the Convention on the Rights of the Child (CRC). Under the CRC, State parties are required to ensure protection and care necessary for the well-being of a child[137] (defined as being below the age of 18[138]), including the provision of separate detention facilities for children.[139] State parties are encouraged to establish a minimum age for criminal liability and, whenever appropriate and desirable, to create measures for dealing with children suspected of committing a crime without resorting to judicial proceedings.[140] The Convention also prohibits torture and other ill-treatment of children.[141]

THE JUVENILE JUSTICE WELFARE ACT OF 2006 (JJWA)

Section 21 of the JJWA provides for the following safeguards when detaining a child. It states that law enforcement officers must:

- Inform the child in simple and understandable language of the reasons for being placed under custody and of his/her rights under the law;
- Properly identify themselves;
- Avoid using vulgar or profane words, and from sexually harassing or abusing, or making sexual advances on a child;
- Avoid displaying or using any firearm, weapon, handcuffs or other instruments of force or restraint unless absolutely necessary;
- Avoid violence or unnecessary force;
- Immediately, but not later than eight hours after apprehension, turn over custody of the child to the Social Welfare and Development Office or other accredited NGOs and notify the child's parents/guardians and the Public Attorney's Office; and
- Take the child to a medical and health officer for thorough physical and medical examination.

It further provides that:

- Where detention is necessary, law enforcement officers must secure the child in quarters separate from adults

and the opposite sex; and

- All statements signed by a child during investigation must be witnessed by the child's parents or guardian, a social worker or legal counsel.

In the Philippines, the minimum age of criminal responsibility is 15 years and one day.[142] Under the Juvenile Justice Welfare Act of 2006 (Republic Act No. 9344), children aged 15 years and younger are exempt from criminal liability and, if arrested, must shortly thereafter be released to their parents/guardian, or to a duly registered non-governmental or religious organization, a barangay official (elected village-community leader) or to a social worker.[143] Children aged above 15 but below 18 are also exempt from criminal liability unless they can demonstrate "discernment" (the mental capacity to understand the difference between right and wrong and its consequences). In such cases, the child would be required to undertake a so-called "diversion programme" which, depending on the gravity of the criminal offence, may be developed and implemented by either the law enforcement officer, barangay official (elected village-community council), a local social worker or the court[144] at any stage of the investigation or judicial proceeding.[145] A "diversion programme" may include a written or oral reprimand or citation, fine, payment of the cost of proceedings, and/or institutional care and custody in the hands of NGOs providing services to children.[146]

In cases where diversion is not possible and the case goes to court, the JJWA provides for trained prosecutors to handle the case. Prosecutors are obliged to investigate allegations of torture or other ill-treatment of a child during arrest or detention.[147] Cases specifically involving children are heard before especially designated family courts.[148]

However, many of these safeguards are not respected in practice. Amnesty International documented cases where children were not informed of the suspected offences for which they were arrested, were not immediately transferred to the care of a social worker, and were detained with adult detainees in crowded detention cells. They also suffered torture or other ill-treatment at the hands of the police.

Amnesty International researchers met several children under the custody of NGOs providing child care services.

In April 2013, **Melvin** (not his real name), aged 16, was arrested for stealing from a house in Metro Manila.[149] A neighbour allegedly saw him and reported him to the police. Melvin initially went into hiding but eventually turned himself in.

Melvin told Amnesty International that while he was detained at the police station, a police officer took him out of his cell, beat him and punched him in the stomach, and kicked him as he was lying on the floor. He was told he was being punished for an earlier incident in which he was mistakenly implicated in an argument with another child detainee. Melvin said the police officer also hit him with a plastic baton while walking him towards the detention cell for adults. Once inside the cell, the officer ordered him to hang from the bars of the cell so that his feet could not

touch the floor.

"My hands were not tied, but I was told to hold on to the bars and hang from them, just stay like that. He told me that if I fell off, I would have to do 1,000 push-ups… I held on to the bars like that for about 90 minutes. My arms were hurting."

Melvin speaking to Amnesty International, November 2013

He was then returned to the children's cell.

Melvin said the same police officer made him and his fellow child detainees do 1,000 push-ups several times as a punishment for minor misdemeanours such as his cell not being considered clean.

Although Melvin said that his parents complained to the police and the Department of Social Welfare and Development about the abuse he suffered, there was no follow-up.

Johnson (not his real name) was arrested for theft in 2012. He was 17 years old, but already on his fifth arrest on theft-related charges.[150] He told Amnesty International that he and a companion sneaked into a house in Metro Manila at dawn and stole some valuables. The owner of the house chased and caught them.

Johnson said three police officers arrived and allowed bystanders to beat both of them, as well as beating the two themselves. "Many of them kicked me. I tried to hide my face. I sustained a swelling and suffered bruises. It took one week for the bruises to heal. The police also hit my jaw and I lost consciousness."

Johnson was then taken to a police station where he said he was ordered to clean a toilet. While doing so, a police officer came and punched him on the stomach several times. Johnson described to Amnesty International what happened next: "They brought me inside the cell and forced me to hang from the bars for about 30 minutes. My hands were holding on to the bars while my feet were also hanging. It was difficult and tiring. The police threatened that if I fell, they would beat me up. I was so scared, I made sure I didn't fall."

Fig. 12 – A police officer hit Johnson with a rifle (reconstruction based on testimony).
© Amnesty International

Johnson told Amnesty International that a police officer entered the cell and hit him with a rifle. Another officer, whom the police called "chief," placed a sword on his side, asking him if the blade would cut through his body. Then, using a pistol cartridge, the same officer hit Johnson's fingers so hard that two of his fingers turned black with blood clots and then placed bullets between Johnson's fingers and pressed them together. "It hurt a lot. It felt like my fingers would break. I thought I was going to die then. I had bruises on my chest, back, sides and thighs. The bruises lasted for a week and turned violet." However, the nurse who examined him did not look at the bruises beneath his clothes after the police told her members of the public had beaten him.

"I didn't think of complaining because no one would believe me," Johnson said. "But what the police did to me was wrong. I cannot forget what happened to me. Each time I recall what happened, I get furious... I can still remember their faces."

Julius (not his real name) was 16 when he was arrested in 2012 accused of stealing the earrings of a barangay captain (head of the elected village-community council).[151] He told Amnesty International that when the police saw him, they said, "You're here again, we should have killed you the first time." But Julius insisted it was the first time he was ever arrested. Four police officers then placed three bullets in between his fingers and squeezed the fingers together fiercely. "It was very painful. There were marks on my fingers even after they took the bullets out," he said. "They beat me with a truncheon on my soles. It was many times, I lost count."

Fig. 13 – Police officers placed three bullets in between Julius' fingers and squeezed the fingers together fiercely (reconstruction based on testimony).
© Amnesty International

When asked if he filed a complaint, Julius said: "I wanted to file a complaint because I know what they were doing is wrong but I fear that they will kill me." He added, "It's better to be jailed at once than be interviewed by the police, because the police will kill you."

Being forced to assume stressful bodily positions such as hanging from the bars in the cell for long periods is expressly recognized as a physical form of torture under the ATA, along with systematic beatings and being hit with a hard object. The ATA imposes the highest penalty of up to 40 years' imprisonment on those convicted of torturing children.

Amnesty International also met a child suspect in the custody of a child-care institution in Zambales province. **Jonathan** (not his real name), a construction worker, was 17 when he was arrested in September 2012 in Metro Manila.[152] Onlookers caught him and another friend robbing two women in a crowded street at night. Jonathan said his friend enticed him to commit the crime to raise money to buy drugs.

Jonathan told Amnesty International that several people beat them up, punched them and hit them with a scooter. One person stabbed his right thigh with a sharp object. The beatings only stopped when one *tanod* (community peace and security officer) took him and his friend to the police station.

Fig. 14 – A police officer poked Jonathan in the chest with a sharpened pencil (reconstruction based on testimony).
© Amnesty International

Inside the police station, Jonathan said that a police officer poked him with a sharpened pencil in the chest. He said that four policemen punched him in the stomach, on the sides and in the ribs, despite having been informed by the *tanod* that Jonathan was only 17 and therefore a child. They continued hitting him as they brought Jonathan and his friend to a jail in Metro Manila. Jonathan told Amnesty International that police officers punched them in different parts of their bodies and dared them to grab their guns so the police could shoot them. Jonathan said he heard one of the policemen say, "Let's kill them". He thinks that the police did not kill them only because it would

have been witnessed by a *tanod*.

At the jail later that night, a man in white t-shirt and jeans wearing a gun, who seemed to be a person of official authority, grabbed Jonathan and his companion by the backs of their necks and banged their heads together. Then Jonathan and his friend were questioned separately. Jonathan was forced to "confess" that he had stabbed one of the women they robbed.

The police then took Jonathan and his friend to a hospital where the woman was being treated. A man, whom Jonathan assumed to be the father of the victim, punched him in front of the police officer. The police then took them to another hospital for medical examination. On the way, the police officers continued hitting them. At the hospital, Jonathan said they could not say anything to the doctor because the three policemen who beat them up were in the same room.

After the medical examination, the police took them to another police station where three policemen placed bullets in between their fingers and forcibly squeezed their hands. Then, apparently satisfied with the immediate punishment, the police officers made them promise never to repeat the robbery, and took them to separate rooms to be interviewed.

Jonathan said that after that night, both he and his friend cried in pain. He saw that his companion had bruises covering his body and his eyes were red. "I really can't forget the beatings we suffered at the hands of the policemen… I feel like crying whenever I remember that. I used to want to be a policeman when I grow up, but seeing how they operate, I have now given up on that dream. I can't forget what they did to me. I will never forget."

Jonathan and his companions were taken to the prosecutor for questioning on the third day following their arrest. "The prosecutor asked us to tell if the police did anything to us. But I could not say anything as I was really scared of them. The policemen were standing beside me. Every time the prosecutor asked, I would look at the policemen on the side, who would stare at us, and then I would keep quiet."

Jonathan added that he was also taken to the Public Attorney's Office and the Department of Social Welfare and Development but was advised to confess to the crime so he could go home sooner.

"I really wanted to complain, but I could not recall the faces of those who beat us. I looked for them at the hearings, but have not seen them there," he said.

3.7 TORTURE AND OTHER ILL-TREATMENT OF WOMEN

Four of the survivors whom Amnesty International interviewed for this report were women. While this figure is significantly lower than the number of male survivors the researchers interviewed, Amnesty International researchers found that many female survivors were reluctant to speak about their experiences.

In October 2014, **Leila** (not her real name),[153] a 29-year-old who worked at a nightclub, accused

a senior police officer of raping her while in police custody. According to media reports, the police raided a nightclub and during this raid asked more than 60 workers, including Leila, to a police station, ostensibly for work permit verification. While at the police station, the head of the raiding team, who introduced himself as the "chief of the office" reportedly asked Leila and a female co-worker to rest inside the police officer's sleeping quarters. There, Leila stated that the senior police officer asked her to be his "girlfriend". In exchange, she was told she would be released and would not be charged with any offence. When Leila refused, the police officer started to become more 'assertive and physical', in Leila's words. "He held my hands and forced himself on me after he ordered my friend on the other side of the bed to turn around. I tried to fight back but he was strong and, with his gun on the table near the bed, I was scared. My friend and I were crying the whole time he was assaulting me," Leila said, describing her ordeal to the Philippine Daily Inquirer.[154]

Leila initially filed a complaint with the Criminal Investigation and Detection Group (CIDG) at the PNP Headquarters in Camp Crame but when she returned two days later to make a formal complaint at the Women's Desk, Leila said the desk officers, upon learning who the subject of the complaint was, did not immediately take her statement as is normal protocol.[155] Instead, she was told to come back the next day and to make sure that she correctly identified the police officer who she claimed was involved, there being two police officials with the same family name. Instead of going back to the police, Leila, through the help of a lawyer, filed a criminal complaint with the National Bureau of Investigation, where investigation in ongoing.[156]

Meanwhile, while the PNP Internal Affairs Service conducts its own investigation, the senior police officer alleged to be involved in the rape of Leila and 12 other police officers involved in the raid have been temporarily relieved of their posts.[157] Under the law, if the Internal Affairs Service's investigation finds sufficient cause, the PNP could hold the perpetrator/s to account by ordering administrative penalties and referring the case for prosecution.

Rape by state officials, including police officers, has been unequivocally defined as torture by international criminal tribunals,[158] as well as by UN and regional human rights bodies.[159] These bodies have recognized that rape by a state agent is an exertion and abuse of power that gives rise to pain and suffering, physical or mental, justifying characterization as an act of torture. Rape and other forms of sexual assault on women and girls have also been defined as acts of gender-based violence which constitute discrimination as prohibited by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to which the Philippines is a state party.[160]

Rape and other sexual abuse are explicitly recognised as forms of physical torture under the Philippines' Anti-Torture Act.[161] The heaviest penalty under Philippine criminal law, *reclusion perpetua* (imprisonment ranging from a period of twenty years and one day to forty years), is imposed when torture is committed with rape.[162] Ironically, although rape is considered a form of physical torture, the Anti-Torture Act imposes the heaviest penalty if torture is committed with rape, implying that rape is separate from torture. There is currently no provision in the law of penalties for rape as torture.

Amnesty International spoke to **Althea** (not her real name), aged 40, inside a prison in Pampanga, a province north of Manila.[163] Althea, who previously worked as a waitress in a bar, told Amnesty International researchers that she was sleeping at a friend's house in August 2013 when four policemen in civilian clothes and a female police "asset" broke through the door at 4am. Althea said the "asset" punched her on the face, causing her mouth to bleed. The police searched the house but found nothing. They handcuffed Althea's hands behind her back and brought her to the Drug Enforcement Unit (DEU) at a police camp in Pampanga.

Althea recalled that, at the DEU, the female "asset" hit her on the back and pulled her hair. Althea said the woman had an electrical device in her hand and used it to give her electric shocks for about an hour and a half until it seemed to run out of battery. Althea described her experience to Amnesty International: "Every time she used it, I would fall and I couldn't breathe. She used it on my back – the pain was intolerable – like an electric shock."

Fig. 15 – A female "asset" gave Althea electric shocks for about an hour and a half (reconstruction based on testimony).
© Amnesty International

The police charged Althea of selling illegal drugs. She told Amnesty International that officers confiscated her mobile phone and, in an attempt to find incriminating information, sent messages to all of her contacts asking if they wanted to buy prohibited drugs. When no one replied, Althea said the police got angrier. They brought her to the prosecutor and then detained her for three weeks in a cell with 20 prisoners, most of whom were men.

Althea has since been transferred to a city jail, managed by the DOJ's Bureau of Jail Management and Penology, and remains there pending trial.

"I'm still traumatized," Althea says, as she started crying. "I get startled very easily. I'm very absent-minded. When I talk about it, it all comes back to me. My family does not really visit me. So I feel very alone."

Helped by her mother and a local government official, Althea initially filed a complaint with the CHR. However, because she was still in the custody of the DEU at that time, she decided to withdraw the complaint. "I don't know what will happen if I pursue the case at the CHR. People from the DEU told me that I shouldn't file a complaint about them, but focus only on the arresting officer. The policemen in the DEU told me that if I continued with my case, they couldn't help me and the arresting officer would make it worse."

In the case of **Alfreda Disbarro** (See Chapter 3.3), a male "asset" frisked her in search of illegal substance.

The cases of Althea and Alfreda highlight specific problems in the treatment of women detainees in the Philippines. The UN Standard Minimum Rules for the Treatment of Prisoners requires that women detainees and prisoners should be kept separate from men (8a) and should be attended and supervised only by women officers (53.3). The treatment of both of the women contravened the Standard Minimum Rules: Althea was detained in a cell with male detainees, putting her at risk of rape and other sexual crimes, and Alfreda was searched by a male "asset". As a signatory to the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), the Philippines is mandated to provide effective protection to women against discrimination.[164]

4. BARRIERS TO JUSTICE FOR VICTIMS OF TORTURE AND OTHER ILL-TREATMENT

"I told my parents that I was beaten up by the police. My mother just wept. I told her, we can't do anything about it, we don't have money."

Michael, arrested for robbery, aged 18

Michael (not his real name) was 18 when he was arrested along with two others for allegedly robbing passengers in a jeepney in Metro Manila in April 2010. Amnesty International interviewed him inside the national penitentiary, where he was serving his sentence. [165] He told Amnesty International that he and his two friends underwent torture at the hands of the police: "When the police caught me, they hurled me to the ground and punched me in the face. I threw up. They wanted to kill me. One of the police officers called his superior. I heard him say something like 'lessen the robbers'. But I guess the superior did not agree because in the end the policeman said, 'You're lucky, kid'."

The beatings stopped and the police brought Michael to the police station in Muntinlupa City. The two others also arrested were brought to the same police station separately, while another escaped arrest.

When they arrived at the police station, Michael said that police officers threw him into a corner of a room and kicked him in the face. "For a while, the world went black, and I cried, pleading for mercy. But they still beat me up, grabbed me, shoved me on a chair and punched me three times in the chest."

The beatings did not stop there. Michael told Amnesty International that after the police convinced the complainants to file charges against the three men, he and his two friends were brought to a room one by one inside the station's criminal and investigation division. Michael was the last and while waiting outside, he said he could hear his friends shouting, crying and pleading for mercy. When they got out of the room, Michael said they could not walk and could not stand.

"I was the last one to go inside the room. I was made to 'confess' – they forced me to reveal where my other companion was. I was seated and my hands were cuffed behind my back. A police officer said: "Keep still – if you so much as bow your head, I will shoot you."

"They told me to raise both my legs and they hit them with the wooden end of a broomstick until it broke. The beating lasted for about 10 minutes and they kicked me in the head when my head bowed down. I was hit once on my head with a white helmet."

After the beatings, the three men were taken to a government hospital for medical examination. Michael said the nurse examined them using a stethoscope and only asked which parts of their bodies hurt. He complained about his wrist, which was sprained due to the tight handcuffs, but the nurse did not do anything about it. They were then taken back to the police station where they were detained for two weeks.

Michael was convicted of robbery after pleading guilty. "I pleaded guilty because I thought my case didn't stand a chance because the complainant has a relative at the court. All I know is that if I pleaded guilty, I would get a lower sentence. That was what I heard from other detainees I met in jail and in court."

"I am so young and yet my life is already in shambles."

Michael speaking to Amnesty International, November 2013

Michael said he did not file any complaint because he did not know what to do. "I didn't complain to the police. I don't know anything. If someone gets caught, the police beat them up. It happened to my uncle. I also heard about it from my friends. I was lucky I wasn't killed."

He added, "My family has no one to turn to. They just buried my father. So I let it be, for fear that I attract police anger… In our justice system, if you have money, someone can help you. The law is not fair. It only favours the rich."

Michael is not alone. Justice for victims of torture is virtually non-existent in the Philippines. A significant problem is that only a few of those who have suffered torture or other ill-treatment come forward to complain or report it to any authorities or even NGOs.

Amnesty International found that most of the survivors interviewed for this report who were not approached via NGOs or the CHR had not reported their torture or filed any complaint whatsoever. This was due to various reasons including lack of knowledge of their own rights; lack of awareness of the various complaint mechanisms and of the options available to them to seek justice and accountability; fear of retaliation by police, at them or their families or harsher punishments; and a lack of confidence that the criminal justice system would hold to account police perpetrators of their torture. Given their experience at the hands of the criminal justice system as suspected or convicted criminals, they felt that their allegations would not be taken seriously.

With the enactment of the ATA in 2009, there appears to have been some improvement in

reporting of cases of torture. As the statistics collected by the CHR show (see Chapter 3), there was a notable increase in reported cases in 2010, the year after the ATA came into force – reports in 2010 were twice the number for 2009. Similarly, in 2013 the CHR recorded 75 cases of alleged torture, the highest number reported in any year thus far. In 60 of these cases, police officers were implicated as the perpetrators.

However, despite the growing number of reports of torture by the police, not one person is known to have been convicted for the crime of torture in the past five years.

While some cases have been filed in court by the victims, others are stuck at the preliminary investigation stage (where the existence or absence of probable cause to file a case in court is determined) or are dismissed even before they reach the courts.

Meanwhile, the very few torture victims who initiated disciplinary proceedings to seek the suspension or dismissal of perpetrators of torture found a complex system of administrative accountability mechanisms with overlapping jurisdictions. Victims were often unaware that filing a case in more than one mechanism could result in the outright dismissal of the administrative complaint. While some police officers have been suspended or dismissed from service, a vast majority of alleged torture perpetrators remain in active service, largely because complainants, in the first place, did not know where to lodge their complainants or were not familiar with the procedures in pursuing their complaints.

A third remedy – the filing of a civil case directly in court for reparations and damages – is not commonly undertaken. One possible reason is that under Philippine Rules of Court, the filing of a criminal case in court already includes an action to recover civil liability. However, a complaint for damages independent of the criminal complaint may also be filed under the Civil Code.[166]

4.1 FAILURE TO PROVIDE REMEDIES

As a party to the ICCPR, CAT and OPCAT, the Philippines has committed to several obligations, including preventing torture; investigating all allegations and prosecuting where there is sufficient admissible evidence; and providing reparations to victims of torture.

As this report shows, torture and other ill-treatment is rife in police detention in the Philippines. Article 2(1) CAT further requires state parties to "take effective legislative, administrative, judicial or other measures to prevent acts of torture."[167] The Philippines was due to report its third periodic report to the Committee Against Torture in May 2013, but was yet to submit as of October 2014.

As a party to OPCAT, the Philippines is obliged to set up National Preventive Mechanisms (NPM) with a mandate to inspect and monitor all detention centres.

On 13 August 2013, House Bill No. 2401 (An Act Establishing a National Preventive Mechanism Against Torture in the Philippines) creating the Philippine Torture Prevention Commission as the Philippines' national preventive mechanism was filed in Congress but was not passed into law. In

April 2014, a draft bill providing for the creation of an independent NPM attached to the CHR was prepared by the CHR in partnership with civil society groups and several government institutions. However, this bill remains under evaluation by the CHR and, at the time of writing, has yet to be filed in Congress.

While Amnesty International welcomes the draft bill, it is concerned that the continued delay of the Philippines' authorities in setting up such an NPM almost two years after it was due[168] raises questions about their commitment to prevent torture and other ill-treatment.

The Philippine authorities are also bound by their obligations to investigate and prosecute acts of torture. As noted, acts of torture and certain acts of other ill-treatment are crimes under international law. Articles 12 and 13 of the Convention against Torture require that all complaints of torture are "promptly and impartially examined by its competent authorities". The Human Rights Committee has stated, in its authoritative General Comment on Article 7, that this Article, combined with the provisions for remedies in Article 2(3) of the ICCPR, entails, among other things, an obligation for "complaints... [to be] investigated promptly and impartially by competent authorities so as to make the remedy effective.[169] The scope, methods and findings of such investigations should be made public. Officials suspected of committing torture or other ill-treatment should be suspended from active duty during the investigation.

Although the use of torture and other ill-treatment is rife and persistent in the Philippines, the vast majority of allegations are never investigated, and fewer still lead to prosecution. (See Chapter 4.4).

The Philippines is also obliged, under both the UNCAT (Article 14) and the ICCPR (Articles 7, 2(3)), to provide effective remedy to victims of torture and other ill-treatment. Article 14(1) of the UNCAT provides:

"Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation."

In its authoritative General Comment on this Article, the Committee against Torture explained, among other things, that "The Committee considers that the term "redress" in article 14 encompasses the concepts of "effective remedy" and "reparation". The comprehensive reparative concept therefore entails restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition and refers to the full scope of measures required to redress violations under the Convention."[170]

In practice, none of the torture victims interviewed by Amnesty International have received any form of restitution, rehabilitation or compensation from the Philippine government, other than financial assistance given by the CHR in some cases. Due to limited resources, the CHR can only give a one-off PhP10,000 (approx. US$220) per victim, irrespective of the extent of their needs.

There is also little information available to the public about the rights and remedies available to victims of human rights violations.

The Philippine Government has recently established the Human Rights Victims' Claims Board to process compensation to human rights victims under Martial Law.[171] While the board will only cater to human rights victims during the Martial Law, it is hoped that the creation of the Claims Board will set a positive precedent towards providing future government-provided reparations to human rights violations.

4.2 INEFFECTIVE CRIMINAL COMPLAINT MECHANISMS

Article 13 of the CAT requires that complainants and witnesses are protected from further ill-treatment for making the complaint. The obligation to investigate allegations of torture and other ill-treatment exists irrespective of whether a victim makes a complaint or not.[172]

Rather than prescribing one single complaint mechanism. The ATA, together with the Implementing Rules that followed its enactment, refers to various agencies that are mandated to receive complaints of torture and investigate them. These include the CHR, Department of Justice (DOJ), specifically under its National Bureau of Investigation (NBI), the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP).[173] In addition, the CHR and Public Attorney's Office (PAO) have been given specific roles to assist the complainant with legal documentation.[174]

A period of 60 working days has been set for the fact-finding and a further 60 working days for the preliminary investigation by the two bodies that have the authority to prosecute: the DOJ (specifically its National Prosecution Service or NPS) and the Ombudsman.

Even if the police and the military are excluded from the above on grounds of possible lack of impartiality, there are nonetheless several different agencies – CHR, DOJ (NBI and NPS) and Ombudsman – that can receive complaints about torture and conduct investigations. However these bodies suffer from serious limitations that restrict or even prevent them from undertaking effective investigations.

4.2.1 DEPARTMENT OF JUSTICE (THE NBI AND NPS)

The DOJ is the principal law agency of the Philippine Government mandated to act both as the legal counsel of the government and its prosecution arm, tasked to investigate the commission of crimes and prosecute offenders.[175] Under the DOJ is the National Bureau of Investigation (NBI), the government's premier investigative agency and the National Prosecution Service (NPS). The NBI is authorized to undertake, either in response to complaints or on its own initiative, investigations of crimes and other offences where public interest is involved.[176] The NBI may also assist, when requested in accordance with the law, in investigating and detecting other crimes and offences, and in assisting in administrative and civil cases where requested by the government.[177] It can provide technical aid to prosecuting and law enforcement officers,[178] such as conducting medico-legal and other forensic examinations.

The NBI is a powerful investigative body – among its powers are to make arrests, searches and seizures; issue subpoenas to compel the attendance of any person or the presentation of any document; and have access to all public records, and, in some cases, records of private parties.[179] NBI agents can take sworn statements[180] and may possess suitable and adequate firearms for their protection.[181]

The NBI is also potentially accessible since it maintains offices in different regions, but with only about 500 agents all over the country, it usually deals only with high profile cases and does not tend to receive complaints about torture from criminal suspects.[182] According to an NBI division, they only investigated 2 to 3 torture cases for the past two years but these were only incidents in murder/homicide cases. (The NBI representative told Amnesty International researchers that the NBI does not have statistics on the nature of cases it is investigating.)[183] None of the victims interviewed by Amnesty International mentioned making a complaint to the NBI. It does not help that some NBI personnel have figured in several allegations of torture in the past.[184]

The NBI has no prosecutorial powers, and works closely with the NPS – the body authorized to conduct preliminary investigations[185] - in deciding whether there is probable cause to warrant filing of information (criminal complaint) in court.[186] The NPS is composed of city, provincial and regional prosecutors as well as the prosecution staff of the Secretary of Justice (otherwise called "special prosecutors").[187] City and provincial prosecutors take on dual functions. In the conduct of preliminary investigations, they act as impartial hearing officers who may receive statements under oath and issue subpoenas to compel the attendance of witnesses.[188] Once the case is in court, they take on the role of an advocate as counsel for the state. They take the lead in prosecuting the case and have control over private prosecutors.[189]

Regional prosecutors review appeals from cases decided by the city or provincial prosecutors, which are within the jurisdiction of the lower courts.[190] Decisions in cases within the jurisdiction of regional trial courts, on the other hand, go to the Secretary of Justice for review. The Secretary of Justice, in exercising his or her appellate jurisdiction, is assisted by a special team of prosecutors headed by the Prosecutor General.[191] This team also conducts the preliminary investigation and prosecution of criminal cases involving national security, for which task forces have been created, and criminal cases whose venues have been transferred to avoid miscarriage of justice.[192]

Complaints about torture can also directly be filed with the NPS, which is the most accessible agency with presence in almost every city and municipality.[193] NPS staff are also most likely to be in a position to identify possible victims of torture since they interact with criminal suspects during inquest and preliminary investigation but there is no express obligation under the law for prosecutors to investigate cases of torture if they notice marks/bruises on criminal suspects or come across any other evidence pointing to a possible torture case. Filing directly with the NPS is arguably the fastest mode to have a complaint considered and the complainant can also immediately seek admission to the DOJ's witness protection programme.

However, as the NPS is not an investigative body, prosecutors will not conduct fact-finding

investigations of their own but will rely solely on the affidavits and other evidence presented by the parties to determine whether there is "probable cause" to proceed with the prosecution. Where the victims' evidence is based solely or mostly on their own description of events without any other proof, it is unlikely to lead to a prosecution. For example, in one case documented by Amnesty International, a prosecutor dismissed a torture complaint due to lack of evidence as to the identity of the perpetrators.

Moreover, given that many of those tortured or otherwise ill-treated in custody are often suspected, charged or even convicted of criminal offences themselves, they are unlikely to see the regular prosecutor as a neutral body to whom they can complain about their treatment by the police. Indeed, in the cases of alleged torture documented by Amnesty International, not one victim reported their treatment at the hands of the police to the NPS. Prosecutors also rarely asked criminal suspects if they had been subjected to torture or other ill-treatment, or took any initiative to ensure that they provided a conducive environment for detainees to be able to make complaints. This is particularly important given that even though prosecutors function as an independent unit, they often work closely with the police, who are often present in the same room during inquest or preliminary investigation.

The very real impediments preventing victims from making complaints of torture have been revealed in the cases above. For example, despite the prosecutor asking Jonathan (Chapter 3.6) if he had been tortured or ill-treated, he was unable to recount his abuse because the police officers who had beaten him were also present. Other victims also reported the same reluctance to complain, for similar reasons.

In another case, a torture victim told Amnesty International that a police officer had poked a sharp object into his side while he was being investigated by a prosecutor but the prosecutor appeared not to have noticed anything.

See case of Brandon in Chapter 4.4.

In the case of **Jerryme Corre** (see Chapter 1), the CHR decided to file the torture complaint with the DOJ Prosecutor General in Manila instead of the local prosecutor. In a letter to the DOJ justifying the choice of venue, the CHR regional director informed the Prosecutor General that the complainant had expressed reluctance to file the case before the local prosecutor as the same prosecutor is handling the drugs case against him. He therefore feared that he would not be given a fair and impartial hearing, given the sphere of influence of his alleged perpetrators in the locality.

In August 2010, five men were arrested by police officers in Luzon and said they were tortured inside a police camp. A human rights NGO was able to conduct a medical examination five days after their arrest. The examining physician concluded that their injuries conclusively indicated that they had been tortured.[194] Subsequently, the CHR Forensic Center conducted its own medical examination and concluded that the physical injuries they suffered were "suggestive" of torture and ill-treatment during custody.[195]

The five men collectively lodged criminal and administrative complaints (discussed under

administrative complaints, see Chapter 4.5). However, the prosecutor dismissed the criminal complaint for torture at the preliminary investigation level on the ground that the complainants' identification of the suspected perpetrator/s was "doubtful and dubious".[196] The prosecutor concluded that most of the complainants were blindfolded and could not have identified the perpetrators. The prosecutor made the same decision regarding the identification of the one complainant who was not blindfolded, citing this complainant's testimony that he was repeatedly attacked each time he tried to lift his face. The prosecutor also decided that the complainants' identification of the voice of the police officer allegedly responsible for the torture was insufficient since it was not shown that the complainants gained sufficient familiarity with his voice. Since only one police officer was named as respondent in the case, the failure to identify the suspected perpetrator became sufficient to undermine the case.

Philippine law contains a number or requirements for identifying perpetrators of torture. Circumstantial evidence is acceptable in court.[197] The arresting officers, who should be identifiable based on records of arrest, may be made to identify in court those who then took custody of the suspects.[198] Police records are required to show who was on duty at the time the alleged torture incident took place.

However, because the prosecutors' role in a preliminary investigation is that of an impartial hearing officer, the burden of producing the evidence necessary to warrant the filing of information (criminal complaint) in court rests with the complainant.

In the case of the five men, it is not clear why the NPS prosecutor did not forward the torture complaint to the NBI for fact-finding investigations, choosing instead to dismiss the case outright. The NBI would have been able to secure additional evidence given that it has access to all public records and can issue subpoenas to compel the attendance of any person or the presentation of any document.

The Office of the Philippine President issued Administrative Order No. 35 (AO 35) on 22 November 2012 which, among other things, provides for the creation of a special team of prosecutors[199] in every city, province or region[200] tasked with helping law enforcement agencies conduct fact-finding investigations and gathering evidence for prosecution of cases of torture, enforced disappearances and extrajudicial executions.[201] Once a case reaches the court, AO 35 prosecutors must coordinate with the trial prosecutors and law enforcement investigators to ensure effective prosecution of the case.[202] It is not clear if AO 35 prosecutors have been designated all over the country and if they have to date investigated actual cases of torture. However, given the heavy burden that prosecutors currently face in conducting preliminary investigations and prosecuting criminal cases in court on a daily basis, Amnesty International is concerned that the additional functions imposed by AO 35 on these prosecutors will severely impair their effectiveness in conducting investigations into allegations of torture. Amnesty International is also concerned that the same law enforcement agencies to which torture perpetrators may be a part of (including the PNP) would also be involved in the investigations conducted under AO 35.

4.2.2 OFFICE OF THE OMBUDSMAN

The Office of the Ombudsman was created in 1987 as the "protector of the people". Its primary duty is to investigate, on its own initiative or upon complaint by any person, any act or omission of any public official, employee, office or any agency which appears to be illegal, unjust, improper or inefficient.[203]

To ensure independence, the Office of the Ombudsman has fiscal independence,[204] and the power to appoint its own officials and employees.[205] Its officers, the Ombudsman and his/her deputies, including the Special Prosecutor, are appointed by the President without need for any confirmation, and serve for one fixed term of seven years.[206] The Ombudsman may only be removed from office on impeachment for, and on conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust.[207]

The Ombudsman is assisted by deputies – an overall deputy and one stationed at each of the main island groups of Luzon, Visayas and Mindanao. One additional deputy is in charge of the military and other law enforcement officers while another one, called the Special Prosecutor, investigates complaints cognizable before the Sandiganbayan.[208] Both are stationed in Metro Manila. With no offices in every region or province, access to the Ombudsman is particularly difficult for those based outside Metro Manila.[209]

The Office of the Ombudsman has significant powers – it can direct a government officer to furnish copies of documents relating to contracts or transactions involving the disbursement or use of public funds or properties; and request any government agency for assistance and information necessary in the discharge of its functions including the examination of records and documents.[210] In addition, the Ombudsman may grant immunity from criminal prosecution to a witness whose testimony or whose possession and production of documents or other evidence may be necessary to determine the truth in any hearing, inquiry or proceeding before it.[211] In the same vein, the Ombudsman could hold in contempt or withdraw the grant of immunity from criminal prosecution to a witness who refuses to appear or testify.[212]

The Ombudsman's powers are not limited to directing the proper officer to remove, suspend, demote, impose fine or censure, or prosecute an erring public official of employee but also extends to directing a public official or employee or any government office or agency for that matter, to perform and expedite any act or duty required by law, or to stop, prevent and correct any abuse or impropriety in the performance of duties.[213]

Given its powers, the Ombudsman has the potential to be very effective in providing redress to victims of human rights violations, including torture and other ill-treatment. The Ombudsman has powers to conduct criminal investigations (as well as administrative/disciplinary proceedings). No court can issue an injunction delaying the Ombudsman's investigation, unless it is clearly shown that the Ombudsman has no jurisdiction over the subject matter of the investigation.[214]

In practice, however, the Ombudsman's accessibility and its focus on graft and corruption affect

its effectiveness as a mechanism to provide redress to victims of torture and other human rights violations. On 25 September 2012, the Ombudsman entered into a Memorandum of Agreement with the National Police Commission (NAPOLCOM) and the PNP. This sets out the various areas of responsibility: the Ombudsman exercises primary jurisdiction over cases involving the illegal acquisition of wealth, graft and corruption, bribery, plunder, etc.; NAPOLCOM takes primary jurisdiction over grave administrative cases against police officers and the PNP takes jurisdiction for lesser administrative offences.[215] While the MoU covers administrative complaints and does not exclude the jurisdiction of the Ombudsman over criminal complaints, it underlines the focus of the institution on corruption.

It is not clear how many criminal investigations into allegations of torture or other ill-treatment by the police have been conducted by the Ombudsman since the ATA came into force. However an official from the Deputy Ombudsman for Military and Other Law Enforcement Offices provided Amnesty International with the tables below, which show that 36 allegations of torture by the police were investigated by the Ombudsman between September 2012 and 10 December 2013.[216] Of these, only three cases were sent for prosecution, while 17 were dismissed and another 16 remained under investigation as of December 2013. Similarly from 2011 to August 2012, 26 complaints relating to the Police and ATA were investigated – 19 were dismissed by the Ombudsman's office, five were listed as under investigation and only two cases were referred to the Prosecutor.[217]

OFFICE OF THE DEPUTY OMBUDSMAN FOR THE MILITARY AND OTHER LAW ENFORCEMENT OFFICES (MOLEO) Status of torture cases involving the police as of August 2012 (from 2011)	
On-going Investigation	5
Referred to Prosecutor	2
Dismissed	19
TOTAL	26

OFFICE OF THE DEPUTY OMBUDSMAN FOR THE MILITARY AND OTHER LAW ENFORCEMENT OFFICES (MOLEO) Status of torture cases involving the police from September 2012 to 10 December 2013	
On-going Investigation	16
Referred to Prosecutor	3
Dismissed	17
TOTAL	36

No further information about the cases was made available to Amnesty International as the records are reportedly only open to parties in the proceedings. Amnesty International was therefore unable to follow up on any of these cases or speak to the complainants to know about their experience with filing complaints at the Ombudsman. In the absence of records, it is also not possible for Amnesty International to evaluate the functioning of the Ombudsman as a body

receiving complaints from torture victims. The tables do however make clear that a high proportion of the complaints have been dismissed, and very few were sent for prosecution.

4.2.3 COMMISSION ON HUMAN RIGHTS

The body that receives most complaints of torture and other ill-treatment is the CHR – an independent constitutional body created under the 1987 Philippine Constitution.[218] The primary function of the CHR is to investigate, on its own initiative or upon complaint of any party, all forms of violations of civil and political human rights.[219]

The CHR also has wide powers. In the exercise of its functions, the CHR is authorized to adopt its own operational guidelines and rules of procedure, and cite for contempt parties who violate these guidelines.[220] It can grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority.[221]

The CHR also has powers to visit jails, prisons, or detention facilities.[222] It can seek the assistance of other government bodies,[223] and recommend to Congress effective measures to promote human rights and provide compensation to victims of human rights violations.[224]

The 2012 CHR Manual on Investigation and Case Management Process (the Manual) that governs the conduct of investigations requires investigators to "consider all sources of information…and obtain evidence from the surviving victims, witnesses and other relevant sources."[225] CHR is authorized to coordinate with law enforcement agencies and non-governmental organizations; use modern techniques of investigation, including cell phone and email data, and seek the assistance of forensic and other experts.[226] In essence, CHR investigators are tasked to take a pro-active role in an investigation and not rely solely on the affidavits and evidence submitted by the parties and their witnesses. Unlike prosecutors and the Ombudsman, however, the CHR does not have the power to issue subpoenas to compel the attendance of witnesses and production of evidence. This limits considerably its ability to obtain evidence from alleged torturers.

Complaints can be sought by CHR on its own initiative, or received from its regional offices and from the Barangay (village) Human Rights Action Centers. The investigation report prepared by a CHR investigator is reviewed by a legal officer at the regional CHR office who prepares the final evaluation and resolution of the case. The resolution should indicate the proper findings (either liable for human rights violations, not liable or no pronouncement as to guilt), the proper legal action (civil, criminal, administrative or multiple actions), and the specific agency to whom the case should be referred.[227] The CHR Regional Director reviews and approves the resolution, and directs whether financial assistance should be granted to the complainants.[228] The manual also lays down a clear process for appeal and reconsideration. [229]

Some torture victims Amnesty International interviewed expressed appreciation for the assistance that the CHR extended to them in the investigation and prosecution of their torture cases. One victim who is under the CHR's witness protection programme credited the CHR for his life: "I didn't know anything before. I didn't know about the CHR. When I did, I didn't trust them at

first. But they stood by me. If not for their help, I would have been buried six feet under by now." [230]

However, the CHR also has its own limitations. As an investigatory and not an adjudicatory body, the CHR's resolutions/decisions are only recommendations, and whether or not a criminal complaint will be filed depends on the prosecutors (NPS) to whom the case is forwarded.

To some extent, this causes duplication in the process as complainants against police officers have to file affidavits and evidence again at the prosecutor or Ombudsman, also resulting in delays in the filing of the actual case in court. However, the benefit of going through the CHR is that it takes a pro-active role in fact-finding and gathering of additional evidence, as opposed to the prosecutor and Ombudsman who rely solely on the affidavits and evidence submitted by the parties. In this sense, it can be said that the investigation of the CHR helps strengthen the case by helping the complainant gather more evidence.

The CHR also has limited capacity for forensic examination, with only about five medical doctors conducting forensics work for all human rights violations in the entire country. As the Forensic and Medical Division is based at the central office in Metro Manila, it takes time to respond to calls from remote areas of the country to promptly document physical abuse and medical conditions of human rights victims. In addition, the CHR has to seek assistance from NGOs in conducting psychological examinations of torture victims, as none of their doctors are experts in this field.

In addition, some complain that the CHR's investigations could take months before resolutions can be issued, if at all. Under the ATA, the CHR, along with other agencies, is mandated to finish its fact-finding investigations on alleged torture cases within 60 days from filing of the complaint.

Based on figures provided by the CHR as of February 2014, of the 75 cases of torture they were investigating in 2013, only five have been filed with the prosecutor's office while one was filed with the Office of the Ombudsman. Eight cases were dismissed while 59 were either pending investigation or pending resolution at the CHR. In two other cases, the CHR is providing legal assistance to complainants with cases pending in court. While the figures do not show exactly how many cases have been filed against the police, the police were the alleged perpetrators in 60 cases. The case of Frank has remained pending investigation at the CHR since October 2013 (See Chapter 3.2.2). In contrast, the CHR managed to forward Brandon's case (see Chapter 4.4) to the DOJ Prosecutor General and the local prosecutor, respectively, within two months of the complaint being filed with the CHR.

Many of the delays may be attributed to shortage of resources, a constant problem faced by the CHR. CHR officials told Amnesty International that a CHR regional office, covering several provinces with millions of residents, has an operational budget of PhP13,000 to PhP15,000 (around US$295 to US$340) per month to cover visitation, investigation and human rights education activities. This means that CHR investigators barely have enough means for transportation to reach areas where alleged torture cases took place, particularly in regions

consisting of island provinces. In addition, the CHR is allowed to hire only three lawyers per region. CHR officials told Amnesty International that each regional office should have six to 10 lawyer-investigators. It is not uncommon for regional directors who are lawyers to be actively engaged in investigating cases of torture and other human rights violations.

The CHR began investigating the case of **Alfreda Disbarro** in October 2013 (see the case of Alfreda in Chapter 3.3). After nine months, the CHR, in July 2014, issued a resolution finding human rights violations were committed against Alfreda and recommended filing of criminal charges against respondent police officers before the Office of the Ombudsman.

While her family has told Amnesty International of their gratitude for the CHR's initial action on Alfreda's case which facilitated her transfer from a PNP-controlled facility to a jail under the Bureau of Jail Management and Penology (overseen by the DOJ), there are concerns about CHR investigators asking Alfreda's family to assist in the investigations, despite existing threats earlier received by family members which have prompted them to move to another address. In at least one instance, a family member who was asked by the investigator to retrieve some documents from their city hall (which was close to the local police headquarters) was seen, intimidated and followed by a person whom Alfreda's family member recognized as a police "asset" working under Alfreda's former police "contact". The "asset" followed this family member into a food establishment and, from outside, made it clear to the family member that he was watching. He disappeared after a while. Thinking that it was safe, the family member left the restaurant to go home, only to see that the same man was following on a motorcycle. The family member managed to lose him on the street.

The CHR has acted swiftly in investigating high profile cases, such as the Laguna wheel of torture case (see Chapter 3). Within two months, the CHR had filed 23 torture complaints against police officers before several DOJ prosecutors. It has also provided protection and legal assistance to two torture victims. As of August 2014, all 23 complaints are awaiting resolution.

The CHR's Central Luzon Regional Office was prompt in acting on the case of **Jerryme Corre**, endorsing the case to both the DOJ prosecutor within two months from the time Jerryme's family filed the complaint with the CHR.

4.3 BARRIERS TO FILING COMPLAINTS

4.3.1 LACK OF ADEQUATE INFORMATION

International human rights standards require that at the time of arrest and commencement of detention or imprisonment, detainees should be informed of their rights and how to access them.[231] The right to remedy also requires that victims have access to relevant information concerning violations and reparation mechanisms. Thus the General Comment of the Committee against Torture on the right to redress states, among other things:

> *The Committee highlights the importance of the State party affirmatively ensuring that victims and their families are adequately informed of their right to pursue redress. In this regard, the procedures for seeking reparation should be transparent. The State party should moreover provide assistance and support to minimize the hardship to complainants*

and their representatives. […] Special measures should be adopted to ensure access by persons belonging to groups who have been marginalized or made vulnerable.[232]

Similarly, the ATA requires police officers to inform persons in custody of their right to demand physical examination before and after interrogation,[233] but there are no requirements for detainees to be informed of their right to complain about their treatment. More broadly, the ATA and its implementing rules also provide that the local authorities must undertake a campaign on information and education about the Act, including the rights of victims and the processes of complaints.[234] In practice, however, few victims of torture interviewed by Amnesty International were aware of the ATA, the options of filing complaints before the various bodies listed in the Act, or of their rights in general.

Sandro (not his real name) is currently held in an institution for child offenders in Central Luzon while facing trial for robbery.[235] He told Amnesty International that he was only 15 years old when he was arrested for robbery in Metro Manila in June 2012. Sandro said that at the police station, two police officers punched him in the stomach, while asking him if he wanted to be charged with robbery or murder, forcing him to "confess". Amnesty International asked Sandro why he never made any complaint about his treatment in police custody:

"I did not know that the police cannot do that."

Sandro speaking to Amnesty International, November 2013

Many of those detained by the police come from underprivileged backgrounds with little or no access to lawyers who can advise them on where and how to complain. Sandro and his three siblings had little parental support as their mother had left them while their father worked as an occasional construction worker. He lived with his paternal grandmother and was attending school, but had previously had occasional trouble with the police.[236]

Even those who realize that a police officer is committing a human rights violation lack knowledge or understanding about where and how to complain. Such lack of awareness, coupled with lack of easy access to these mechanisms, partly explains why a high number of torture and other ill-treatment cases are unreported and why most victims do not file any complaints at all.

Police stations often fail to display information which would enable detainees to lodge complaints against police officers. While the PNP has its own hotline numbers and there are supposedly human rights desks in every police station, torture victims are reluctant to complain to police officers who are colleagues of the perpetrators of torture.

4.3.2 FEAR OF REPRISAL

One of the main reasons why victims do not file complaints, even where they are aware of their rights and of complaint procedures, is fear of reprisal. Such fear for their personal safety and the safety of their families and relatives often forces torture victims into silence, or, if they have filed complaints, to later withdraw the complaints and settle with police officers.

Around half of the victims of torture or other ill-treatment that took part in this research were initially found by Amnesty International researchers primarily because they reported their experience to an NGO or filed a complaint. An overwhelming majority of the victims whom Amnesty International researchers did not meet through the CHR or NGOs did not file a complaint. Thirty of the 55 victims interviewed by Amnesty International did not file any complaint. Of the 25 who initially filed a complaint, five withdrew them.

16-year-old **Ronan** (not his real name) was arrested in Metro Manila in early April 2013 for theft. In an interview with Amnesty International researchers in a child-care institution in Central Luzon, he said that at a police station in Valenzuela City, police officers repeatedly beat the soles of his feet with sticks. He was also ordered to do squats and other strenuous exercises five to six times a day, four days a week – often 1,000 repetitions at a time: "I could reach 700 to 800 sometimes. If my fellow detainees or I could not complete it, we would have to put our fingers or hands through the jail bars and the guards would hit them with a bamboo stick," he said.

Ronan told Amnesty International that the police threatened to kill him upon his release: "I was not able to file a complaint because I did not know what to do and I have developed a phobia of the police because of the threats against me." Even though Ronan had a lawyer, he did not feel comfortable telling him of the treatment he faced: "I was scared to tell him about my situation. I could not trust the lawyer. I think that my lawyer was not fully on my side. I noticed it from the way he acted and spoke to me."

Andrew (not his real name) told Amnesty International of his similar experience.[237] He was 24 when he was arrested in 2012 in Zambales province, accused of being a member of the armed group New People's Army which was believed to have been responsible for killing a police officer in a shoot-out a month before. Andrew said that when he was arrested, one policeman kicked him on the back before four men handcuffed him and put in a car. Inside the car, Andrew said, the men hit him in the ribs and stomach about eight or nine times, using their hands and gun butts.

Fig. 16 – Police hit Andrew using their fists and gun butts (reconstruction based on testimony).
© Amnesty International

He was taken to a police camp. Once there: "They started asking about my companions. When I refused to speak, they hit the soles of each of my feet, about five times each with some hard object. They continued to beat me. They kicked me in the stomach. They punched me on the sides of my stomach. Since my face was covered, I could not see how many were there." Andrew also showed his hands which were still scarred due, he said, to his hands being tightly handcuffed behind his back for many days.

Andrew said that he was scared to file a complaint: "I am hesitant to file a complaint since I am still inside the jail. The police can do a lot to me... I am afraid that even when I get out, they can hurt or kill me. I am very aware of what they have done to others. The police also have informants inside the jail so they will know if I file a complaint."

LACK OF EFFECTIVE PROTECTION OF WITNESSES

The Philippines has a witness protection programme enacted into law through the Witness Protection, Security and Benefit Act and implemented by the DOJ.[238] The programme provides witnesses and their families with: a secure housing facility; financial assistance or assistance in obtaining a means of livelihood; protection from demotion from work on account of his/her testimony in court; travel and subsistence allowance; free medical treatment, hospitalization and medicines; and, in some instances, relocation and a change of identity.[239] In return, witnesses are bound, among other requirements, to testify and provide information to all appropriate law enforcement officials, take measures to avoid detection, and comply with legal obligations and civil judgments against him/her.[240]

While the law provides for extensive protection, the process of enrolling someone into the witness protection programme does not meet the urgent requirement of many witnesses, including victims and their families, as the process involves several bureaucratic layers in the DOJ. For high profile cases, it is not uncommon for witnesses to seek sanctuary with religious groups and other NGOs, but this option is not feasible for a large number of complainants.

In cases where a victim or his/her family decides to file a complaint first with the CHR, they will have to wait for an endorsement from the CHR to the DOJ for provisional admission of the victims into the DOJ's witness protection programme. Interviews with torture victims and their families have shown that this process could take months, and sometimes more than a year, although CHR officials told Amnesty International they now have an agreement with the DOJ to expedite the process. While the CHR also has its own witness and victim protection programme, the lack of sufficient funds (with an annual budget of only PhP500,000 or US$11,000 for the entire country[241]) prevents it from effectively offering protection to complainants and witnesses.

Already fearing reprisal and having no immediate access to state-provided protection, many witnesses are reluctant to step forward and talk to investigators. From previous interviews with people enrolled in the DOJ witness protection programme, Amnesty International researchers have found that some of them have practically put their lives on hold, remaining within the witness protection for more than five years, as the case in which they are testifying moves slowly.

Late one night in January 2013, couple **Myrna and Anselmo** (not their real names), aged 30 and 20 respectively, were waiting for their relatives outside a friend's house when about 10 men in civilian clothing emerged from a van. They pointed a gun at Anselmo who immediately ran away. A few of the men ran after him while others took Myrna inside the house. When Myrna next saw Anselmo, he was handcuffed and had been beaten up. Both were then taken to the Drug Enforcement Unit (DEU) in a police compound. It was there, they told Amnesty International in an interview in a city jail in Pampanga, where around eight men started beating them. Myrna learned that some of them were police officers and some were police "assets".

"They used a small hand-held device to give electric shocks to Anselmo's eyelids and then the back of his neck. They did this many times, I cannot even count. I tried to stop them, as he was bloody and unable to defend himself as he was still handcuffed."

Myrna speaking to Amnesty International

Myrna said she was punched on the nose and slapped several times with someone's shoes. She was then taken to a room where she was stripped and searched before being brought to a cell where male and female detainees and several children were being held.

While Myrna and Anselmo were being beaten at the DEU, Myrna's sister and Anselmo's mother were just outside and could hear what was happening. They were not allowed inside. The next day, Myrna's mother and brother visited her and saw her swollen face. Myrna's mother took photos of both Myrna and Anselmo and filed a complaint before the CHR.

However, the couple decided to withdraw their complaint fearing reprisals: "It was my husband who decided that we should stop the complaint as it will only make the case against us worse. He is worried that if the arresting officer found out about the complaint, he will get angry and make more problems for us," Myrna explained.

4.3.3 INTIMIDATION AND THREATS

Victims' fear of the police is completely understandable in a context where they receive no protection from the state authorities.

In the case of **Alfreda** (See Chapter 3.3), her family reported receiving threatening calls and SMS messages from unidentified sources after filing a complaint with the Commission on Human Rights. They told Amnesty International that they also noticed unidentified men keeping an eye on them just outside their house. Fearing for their safety, Alfreda's family members were forced to move to another city, leave their jobs and find new means of livelihood. Alfreda's daughter had to move to another school. In one instance, a family member was followed by two men on motorcycles while on the way home. Another family member, who visited their old house, was physically assaulted by an unidentified man – he was pushed to the ground and his face and chest were hit with a large stone, which left his left cheek wounded and swollen. Such incidents highlight the need for better witness and victim protection for torture survivors and their families who decide to file a complaint.

Five of the victims interviewed for this report who had filed complaints of torture were forced to withdraw them after intimidation and threats from the police.

One victim who withdrew a complaint due to intimidation was **Althea** (not her real name), a 40-year-old woman who previously worked as a waitress in a bar in Pampanga province.[242] Althea was tortured during her detention in a police camp in August 2013 (see Chapter 3). With the help of her mother and a local government official, Althea initially filed a complaint with the CHR but decided to withdraw it. "I don't know what will happen if I pursue the case at the CHR... The policemen in the DEU told me that if I continued with my case, they couldn't help me and the arresting officer would make it worse." Although she is currently detained in a jail managed by the Bureau of Jail Management and Penology – which is not linked to the police – she is very scared.

Jose (not his real name), in his mid-40s, was arrested in a province in Central Luzon in May 2010 and accused of murder. Police allegedly forced him and his companion to "confess" to the crime. When they refused, they were beaten up.[243] Jose initially sought the help of the CHR, and with their assistance charges of arbitrary detention and torture were eventually filed against police officers allegedly involved. However, in a resolution dated 11 April 2011, the provincial prosecutor recommended the dismissal of the case citing the affidavit filed by Jose withdrawing the complaint.[244]

When Amnesty International met with Jose in his home town in a province in Central Luzon, to find out more about why he chose to withdraw his complaint, he declined to give further details, citing fears for his own safety and that of his family. He did say, however, that prior to the dismissal of the case, police officers regularly followed him and his family. Tired of their intimidation, he eventually agreed to "settle" the case with the police officers for PhP50,000 (approximately US$1,140).

Jose's fear of the police is not unfounded. A number of other interviewees also told Amnesty International that they or their family members were approached by police officers while they were in detention or even during court hearings to warn them not to follow up on complaints they had filed against the police.

In most localities police officers are highly influential, with some enjoying political patronage of incumbent government officials. The decentralization of local government in the Philippines in the early 1990s gave city and municipal mayors "operational supervision and control" over police units within their respective cities and municipalities,[245] including having a say on the day-to-day functions of the police as well as their employment and deployment.[246] In fact, mayors are able to choose the chief of police in their locality and may recommend the assignment of police officers and their transfer to another city or municipality.[247] In practice, this means that only those who enjoy the confidence of the mayors get to serve within the city or municipality. Police officers are perceived to have the backing of the local executives, making filing a complaint against them even more intimidating.

Police officers also appear to use the pending criminal cases filed against a number of victims as leverage in their favour. With testimonies of police officers providing crucial evidence in the prosecution of the torture victim facing a trial, as the following illustrative cases will reveal,

officers often offer to not testify against the victim in the criminal case against them (usually illegal drugs possession or theft) in exchange for the victim's withdrawal of complaints of torture and grave misconduct filed against the officers.

Amalia (not her real name), aged 43, was arrested in February 2011, accused of being a drug dealer. She told Amnesty International that four men in civilian clothes, who identified themselves as police officers, grabbed her and thrust her inside a red unmarked car where she was blindfolded and her bag was taken away. A policeman hit her forehead so hard that it bled.

At the police station, Amalia's sister, husband and friend saw what had happened to her. Her friend took a photo of her face and Amalia's sister immediately filed a complaint with the CHR. Amalia told Amnesty International that when the police learned that CHR investigators were coming over the next day to see her, they moved her to another police station. By the time the CHR investigators traced her - five to six days after her arrest – her wounds had already healed.

Amalia said that the CHR investigators came back to see her several times and promised to help her, but the police officer who had beaten her also returned often. Amalia told Amnesty International that the same police officer threatened her saying: "We've talked about this. What is it that you want – a friend or a foe...? Do you think I will let…. someone like you [cause] the end of my service?" Amalia stated that the police officer promised to change the case filed against her and to testify that she was innocent in exchange for withdrawing her complaint before the CHR.

When Amnesty International researchers met Amalia in a city jail in Pampanga province, she had already withdrawn her complaint: "I don't know if there has been any advantage in withdrawing my complaint but I am hoping that it will help me in the future. I think that even though it is unfair… the case against me has a good chance [of being dismissed]…I have heard of other inmates who filed complaints and found it harder to have their cases dismissed. I am not so afraid right now but I am worried about the consequences of filing any more complaints. I just want to get out," Amalia said of her decision. More than 18 months after withdrawing her case, Amalia remains in detention and the drugs case against her is still pending.

4.4 OTHER OBSTACLES TO PROSECUTION

Even when the victim is willing and able to file a complaint, he or she faces a number of other challenges to a successful prosecution.

4.4.1 LACK OF IMMEDIATE ACCESS TO MEDICAL EXAMINATION

The UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that detainees and prisoners must be offered immediate medical examination and, where necessary, care and treatment.[248] They may also ask for a second medical examination or opinion. [249] Proper medical examinations are necessary, not only to evaluate the health of the prisoner (and to provide treatment as needed) but also to document any signs of ill-treatment.

In the Philippines, the ATA also grants criminal suspects under police custody the right, before and after interrogation, to be informed of their right to demand physical examination by an independent and competent doctor either of their choice or provided by the State, if victims cannot afford it, and of their right to proper and adequate medical treatment.[250]

However, most of the torture victims Amnesty International met claimed that it took days before they were taken to any doctor for medical examination. Some suggested that this was a deliberate act on the part of the police to avoid detection of torture marks. One victim said she was threatened and ordered to hide her bruises when her family visited her the day after she was tortured.

In most such cases, torture victims told Amnesty International that by the time the medical examinations were conducted, some of the bruises and injuries had already healed and were no longer visible. In other cases, medical examinations were carried out prior to the physical beatings, but none were conducted afterwards, ensuring that there would be no record of the injuries suffered by the victims.

Such delays in providing medical examinations limit the effectiveness of investigations and prosecution of torture. In the absence of any forensic evidence of injuries sustained by a torture victim, the trial becomes a question of whose testimony or oral evidence is more credible – those of the arresting police officers or of the victims alleging torture, who are usually criminal suspects. While police officers benefit from the presumption that they performed their official duties properly,[251] the credibility of criminal suspects is often questioned particularly because they are naturally interested in securing their own liberty. Without any other evidence to back their claim that they were tortured, the claims of torture made by victims are often treated with suspicion or disbelief.

Even in cases where torture victims are promptly brought to medical personnel in accordance with the ATA, there is a persistent problem with inadequate medical examination and reporting. Many of those alleging torture told Amnesty International that medical personnel examined them perfunctorily, merely asking them how they were and not bothering to check them thoroughly, even where physical signs of abuse were visible to a casual inspection. Some torture victims felt that, as criminal suspects, their claims of torture were not treated seriously. Many of them did not see the report of their medical examination, and those who did said the medical certificates merely noted that they were in good physical condition.

Staff from local human rights groups interviewed by Amnesty International researchers said that this could also be due to several factors, such as: lack of training of doctors, particularly in remote areas, their lack of awareness of international standards and procedures for documenting torture; doctors' fear of the police; and familiarity of doctors with local police officers whom they deal with on a regular basis.

UNCAT requires state parties to ensure that those (including medical professionals) involved in the custody, interrogation or treatment of any individual subjected to arrest, detention or

imprisonment receive sufficient education and information regarding the prohibition against torture during their training.[252] The ATA similarly provides for mandatory education and training on the prohibition of torture for government personnel and officials, law enforcement and security personnel and officials, and medical personnel.[253]

The Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (and the related Istanbul Protocol)[254] require that a medical expert prepare an accurate written report with details on the history of the alleged torture incident, results of the physical and psychological examination, and an opinion on the probable relationship of the physical and psychological findings to possible torture or other ill-treatment.

The Implementing Rules and Regulations (IRR) of the ATA prescribe additional safeguards to ensure prompt detection and documentation of torture. Medical examiners are duty-bound legally and ethically to conduct a diligent and complete medical examination.[255] All medical reports should be duly signed by the examining physician[256] and should contain, among other details: information about the case; background information on the person examined; allegations of torture and ill-treatment; physical symptoms and disabilities; findings upon physical and psychological examination; photographs; interpretation of findings; and conclusions and recommendations.[257] In addition, the examining physicians are required to certify that they were "allowed to work freely and independently and permitted to speak with and examine (the subject) in private, without any restriction or reservation, and without any form of coercion being used by the detaining authorities" or, in case there were restrictions imposed, to specify what these restrictions are.[258] Medical reports are treated as public documents,[259] raising the possibility of criminal prosecution to prevent falsification of medical reports.

The IRR was issued in December 2010, one year after the enactment of the ATA. Amnesty International welcomes the safeguards provided by the IRR to ensure that torture and other ill-treatment are documented. In practice however, such steps have rarely been taken since the IRR was issued.

Amnesty International researchers interviewed 24-year-old **Dennis** (not his real name) in Batangas, a province south of Metro Manila, where he was arrested for theft in July 2012. Dennis said that his former employer accused him of stealing two roosters – particularly valuable for cock-fighting – a charge he strongly denied. Dennis said that inside the police station the police hit him with a wooden paddle and pounded his fingers with a large stapler. He said that four policemen beat him up and banged his head on the metal gate of one cell.

According to an official document, Dennis suffers from intellectual disabilities and has an IQ of 65.[260] Despite this, he was not allowed to meet with his family nor provided with any special care while in detention. According to records, Dennis was taken to a government hospital for medical examination the day following his arrest but the findings merely indicated that he was in "essentially normal physical condition."[261] He was also examined at the City Health Office of Tanauan, Batangas six days after his arrest, resulting in similar findings.[262]

However, when Dennis was released – a day after his second medical examination – his sister saw the extent of his injuries. She showed Amnesty International photos that she took of his bruises: "I noticed that Dennis was also walking strangely. When I asked him about it, we went into the other room with better light. I saw the bruises on his thighs. That's when I took the photos on my cell phone… Dennis told me that while in detention, he had to sleep in a sitting position because it was very crowded. With so many people there, someone would inadvertently hurt his already bruised thighs."

When the family filed a complaint with the CHR, a third medical examination was conducted by the Binangonan Municipal Hospital a day after Dennis' release. This examination documented haematomas (bruising) and soft tissue swelling in the legs, back and chest which would require three to five days to heal.[263]

The CHR eventually recommended the filing of a criminal case for torture against the policemen involved as well as action against the medical authorities who provided incorrect examination results. The case is now pending before the prosecutor's office.

The vigilance of the CHR investigators in this case and the presence of a third medical certificate reflecting the true medical condition of Dennis helped save his complaint of torture from being dismissed for lack of evidence. However, in a number of other cases, the safeguard of proper medical examinations has been similarly circumvented by a perfunctory examination or by other means. In the case below, the prosecutor used the incomplete results of the initial medical examination to discredit a victim's claim that he was tortured.

Pedicab driver **Brandon** (not his real name) aged 24, was arrested in 2011 in Pampanga, north of Manila, on charges that he raped a four-year-old girl. He told Amnesty International, in an interview conducted inside a jail in Pampanga where he is currently detained, about the experience he said he had suffered at the hands of the police officer and others. They included the girl's parents who are both police officers. [264]

Brandon told Amnesty International that on the day of his arrest, five uniformed police officers took him to the police station for questioning over his alleged involvement in the girl's rape. He was immediately taken to a detention cell where a police officer told him to admit to the charge. Brandon refused and the police officer punched him several times in the stomach. In his affidavit, Brandon said the police officer also threatened to kill him.[265] Brandon's mother, who accompanied him to the police station, saw what the police officer did to Brandon and later made a sworn statement to testify what she saw.[266]

Fig. 17 – The police officer tried to force Brandon to confess (reconstruction based on testimony).
© Amnesty International

Brandon said that the next day, the same police officer continued to try to force him to confess. While they were on the way to the prosecutor's office, the police officer punched him all over his torso. The punching continued in a corridor outside the prosecutor's office, which was in public view. At one point, the police officer tried to provoke Brandon into taking his gun (which could lead to the officer getting an excuse to shoot him), but Brandon refused. The rape victim's mother, who is a police officer, also arrived and slapped him several times on the right cheek, banged his head four times against a concrete wall and hit his head with a bag. The father of the girl, also a police officer, held his head and banged his forehead against a concrete wall. Brandon said he suffered concussion and his forehead bled as a result. "I felt dizzy at that time and the world seemed to dim."

Brandon said that two police officers continued to punch him on the side, on the stomach, and on his left leg as they went back to the police station. There, the father of the girl ordered him to do repeated strenuous physical exercises. One police officer threatened him that if he complained to his, the police officer would kill his parents and rape his sister before killing her, too.

Despite the threats, Brandon told his parents about his ordeal. They sought the assistance of the CHR, which helped them file a criminal complaint before the local prosecutor and an administrative complaint before the NAPOLCOM regional office.

Brandon was medically examined twice. The first examination, conducted at a government hospital more than 15 days after the incident, documented a "contusion haematoma" on Brandon's chest, which required a healing period of seven days.[267] The second medical examination, performed by the CHR about a month after the incident, found old scars on the left side of his forehead and on the left parietal (temple) area, as well as a discoloration of his right big toenail.[268] The CHR physician concluded that these physical injuries were compatible with allegations of "maltreatment" and that the probability of torture was evident.

Despite these findings, the local prosecutor refused to believe Brandon's version of events and dismissed the torture complaint. She noted that, based on Brandon's statement, he should have sustained injuries on the head, back, side and stomach, but the first medical certificate recorded only slight physical injuries which required a healing period of only seven days. The prosecutor refused to consider the second medical certificate issued by the CHR on the grounds that there was no indication of how old the scars were. The prosecutor also noted that the scars and the injury on the toe were not found in the first medical certificate made 15 days earlier. Brandon, with the help of the CHR, has sought reconsideration of the prosecutor's resolution. Amnesty International is not in a position to determine the factual accuracy of Brandon's torture claims but is concerned that the prosecutor, in deciding not to order a thorough investigation into the complaint, may not have acted in full accordance with the Philippines' obligations under ICCPR and UNCAT.

The Human Rights Committee, in its authoritative General Comment on Article 2 of the ICCPR, has referred to a "general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies" and added that "failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant."[269] It added that, where such investigations "reveal violations of certain Covenant rights, States Parties must ensure that those responsible are brought to justice. As with failure to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant."[270]

Another factor influencing the conduct of the medical examination is the presence of police officers (including those that may have been involved in the torture) during these examinations, which prevents torture survivors from speaking out about the torture or other ill-treatment to which they were subjected. The presence of the police in the examination room could also impede the doctor from examining and talking to the victim freely.

Some survivors told Amnesty International that once the police officer tells the doctor that they are criminal suspects, the doctors simply treat the visible cuts and stop asking questions. In at least one case, the police officer who was present during the medical examination told the doctor that the criminal suspect burnt himself with cigarettes.

See Roy's case in Chapter 3.3

4.4.2 LENGTHY PROCESS

A fair trial should start promptly and take a reasonable but not excessive length of time. [271] In the case of torture prosecutions, timely prosecutions serve both the rights of the victim to justice and the right of those accused of torture to a fair trial.

Prosecution of criminal cases in the Philippines is often characterized by lengthy trials, plagued by postponements and other delays.

As noted, in torture cases, the ATA provides 60 days within which the fact-finding investigation by one of the agencies (CHR/NBI, etc.) must be completed. If the investigation recommends

prosecution, the case is referred to the NPS/Ombudsman where the prosecutors have 60 days to conclude a "preliminary investigation" and decide whether to proceed with a prosecution.[272]

At the preliminary investigation stage, both parties are required to submit their affidavits/counter-affidavits, the affidavits of their witnesses and other supporting documents. The 2008 DOJ Manual for Prosecutors provides for a maximum of two 15-day extensions to complete the investigation in special cases. The head of the prosecution office investigating the case has a further 30 days, extendable for another 30 days, within which to approve, disapprove or reverse the recommendation of the investigating prosecutor. A motion for reconsideration or an appeal may be filed within 15 days.

In reality, therefore, it can take seven months even before a prosecution can begin. Once the charge sheet is filed in court, the Speedy Trial Act of 1998 (Republic Act 8493) requires that the arraignment, where the accused enters a plea, should be held within 30 days.[273] Trial should commence within 30 days thereafter, giving the accused at least 15 days to prepare for trial.[274] In no case should the entire trial last beyond 180 days.[275]

Under Philippine law, cases alleging torture should be concluded from 12 to 18 months. In practice however, prosecution usually takes several years - far longer than the time limits provided by law.

Some cases documented by Amnesty International have not been fully investigated for almost a year after a complaint was lodged at the CHR. In an attempt to expedite the filing of criminal complaints, the CHR has, as in the case of **Jerryme Corre** (see Chapter 1), decided to forward the case to the DOJ or the prosecutor before it could come up with its own resolution. In such cases, CHR investigators opted to monitor the status of the cases (see discussion on delays in the CHR under Chapter 4.2).

At the preliminary investigation stage, motions could be filed by either party seeking additional time to submit affidavits and counter-affidavits, while the preparation of the resolution could take more than three months. In the case of Jerryme Corre it took the DOJ prosecutors nine months to issue a resolution recommending the filing of torture charges against the police perpetrators.

The DOJ prosecutors similarly took one year in the case of Anjo (see Chapter 3.5), to issue a resolution recommending the filing of torture charges against the responsible police officers. In the cases of the five men tortured (see Chapter 4.2) and Brandon (see Chapter 4.4), local prosecutors took one year and three years and two months, respectively, to issue resolutions dismissing both cases on the ground of insufficiency of evidence.

Proceedings in court also face severe delays. Hearings are postponed due to various reasons – from the absence of the judge, the prosecutor, the Public Attorney's Office (PAO) lawyer, the witness or one of the parties to lack of material time due to the sheer volume of cases a court hears on a daily basis. Hearings are often rescheduled two to three months later. The discussion of motions which either party can file, some of which may be appealed all the way to the Supreme Court, also often takes years.

In the case of **Jerryme Corre** (see Chapter 1), for example, at least two hearings were rescheduled because the accused police officer either did not have his own counsel or his counsel was indisposed. Two more hearings were postponed because the judge and the public prosecutor were sick, while another was reset because the witness was not available. Jerryme's case, which has been pending in court since December 2012 or almost two years at the time of writing, is only halfway through proceedings since the prosecution has just finished presenting its evidence.

It is not surprising, therefore, that most of the torture cases that Amnesty International documented in the course of its research are still unresolved years after the torture complaint was filed in court or lodged with the office of the prosecutor. As of October 2014, among the cases documented by Amnesty International for this report, those of the following victims are still before the court: Darius Evangelista, Jerryme Corre and Anjo (not his real name).

The Philippine Supreme Court initiated a continuous trial system in September 2014 which aims to cut down the average trial period from five years to 90 days.[276] However, this system will be initially implemented only in 26 courts.

On 5 March 2010, police officers arrested **Darius Evangelista**, a porter living in Manila, on suspicion of robbery. Court documents obtained by Amnesty International quoted witnesses describing police officers in plain clothes taking Darius into the Binondo Police Station in Tondo, Manila. The officers reportedly took him to a small room from which his fellow detainees heard Darius moaning in pain as though he was being beaten up. Fellow detainees said they later saw him being carried out of the small room with packing tape around his eyes. He was then taken into the private office of a more senior police officer. When Darius was later brought out of this office, the detainees heard a senior police officer say, "finish him off". Darius was never seen alive again.[277]

Five months later, in August 2010, a harrowing video – apparently shot on a mobile phone – was broadcast on national and international television. It shows Darius lying naked on the floor, screaming and writhing in pain while a seated man in a white shirt holds a string attached to Darius' penis and forcefully pulls it several times.[278] Others, including uniformed police officers, are visible watching this taking place.

Fig. 18 – Darius Evangelista, who was arrested and subjected to torture in Manila, 2010.
© Mylah Roque

Amnesty International has followed this case closely over the past few years, and interviewed many members of Darius' family, including his widow Margie, who said, "I felt so sorry for my husband. I was furious at the policeman. If only I could grab my husband from the television screen."

In response to the media frenzy that followed the release of the video, the Internal Affairs Service of the PNP conducted its own investigation which resulted in a report that absolved all but three of the police officers involved. A senior officer was dismissed from service on account of command responsibility, the offence having been committed during office hours and/or within the premises of government offices while two others, who were desk officers at that time the incident took place, were suspended for 60 days. No criminal charges were initiated by the Internal Affairs Service, even though it is part of their mandate to facilitate the prosecution of erring police officers.

Darius's family, through the help of the CHR, filed a case before the DOJ. In a resolution dated 22 August 2011, the DOJ prosecutor found a prima facie case for torture committed by means of conspiracy, against seven police officers and others implicated. Based on court records obtained by Amnesty International, three of the police officers accused in the court case surrendered to the police in 2012 and 2014, and police arrested the primary suspect in 2013. All of them have pleaded not guilty. The other suspects remain at large. More than four years after the incident – and almost three years after the prosecution began – the court case is ongoing.

STATUS OF CASES WHERE TORTURE COMPLAINTS WERE FILED			
	CHR	Prosecutor	Court
Darius Evangelista	CHR facilitated the filing of the criminal case before the prosecutor's office	DOJ Prosecutor recommended filing of criminal complaint after 11 months of	Criminal case on-going in court since September 2011.

	within 6 months after the incident, with the assistance of private counsel provided by CHR.	preliminary investigation.	
Jerryme Corre	In less than 60 days, CHR forwarded its investigation report to the DOJ Prosecutor. CHR issued resolution 6 months after complaint filed with their office.	DOJ prosecutor recommended filing of criminal complaint after 9 months of preliminary investigation.	Criminal case on-going in court since December 2012.
Anjo		DOJ prosecutor recommended filing of criminal complaint after one year of preliminary investigation.	Criminal case on-going in court since December 2012.
Five men	In a matter of days, CHR assisted in the filing of complaint before local prosecutor; No data on whether CHR issued resolution.	Local prosecutor dismissed case due to insufficiency of evidence after 9 months of investigation; motion for Reconsideration denied after 4 months; On appeal to the DOJ since December 2011.	
Brandon	CHR facilitated filing of torture complaint with prosecutor's office about 2 months after complaint filed; no information on whether CHR issued resolution.	Local prosecutor dismissed case due to insufficiency of evidence after 3 years and 2 months of preliminary investigation; motion for reconsideration filed with prosecutor.	
Roy		Local prosecutor dismissed case in March 2013; no appeal lodged.	
Dennis		Preliminary investigation before	

		local prosecutor on-going since February 2014.	
Rowelito Almeda + 22 other Laguna wheel of torture cases	CHR facilitated filing of torture complaints before DOJ prosecutor within two months.	Awaiting resolution of DOJ prosecutor.	
Alfreda Disbarro	CHR resolution issued after 9 months.		
Frank	Investigation on-going.		

4.5 FLAWED DISCIPLINARY PROCESSES

In addition to the mechanisms for criminal complaint discussed above (See Chapter 4.2), there are a number of administrative processes whereby complaints against police officials can be made – usually for "grave misconduct" - and under which individual officers may be subject to disciplinary action. Such processes are in addition to, and not a substitute for, criminal investigations, as torture is a criminal offence both under Philippine and international law. Both criminal and administrative proceedings can proceed simultaneously and independently of each other. Among the bodies discussed below, only the Office of the Ombudsman has the unique capacity to simultaneously investigate both the administrative and criminal aspect of a case. Other bodies have the capacity to only handle disciplinary proceedings, although the Internal Affairs Service, in theory, may also file criminal complaints and assist in prosecution.

After the collapse of the Martial Law regime in the Philippines in 1987, the Philippine government prioritized establishing a civilian police force separate and independent from the military. The then Integrated National Police was subject to the command, supervision and control of the President through the Department of National Defense.[279] Administrative cases against police officers were handled by the National Police Commission[280] although complainants could also choose to file before the Office of the Ombudsman and the Civil Service Commission.

The promulgation of the Department of Interior and Local Government (DILG) Act in 1990 created the current structure of the PNP under the DILG. A new National Police Commission was formed but instead of investigating administrative complaints against police officers, the mandate of the National Police Commission (NAPOLCOM) was limited to reviewing administrative decisions of the PNP Chief involving police personnel.[281] A new entity, the People's Law Enforcement Board (PLEB), took on the function of investigating police officers involving serious cases where the duration of the penalty is more than 30 days. This meant that, in practice, all cases against police officers should be filed before the PLEB and not before the NAPOLCOM.

However, the Philippine National Police Reform and Reorganization Act of 1998 expanded NAPOLCOM's disciplinary authority by providing it with summary dismissal powers over serious cases, previously exercised only by the Chief of the PNP and the PNP Regional Directors.[282] In

addition, this Act also created a new disciplinary body, the Internal Affairs Service.[283]

Thus, at present, administrative complaints can be filed by victims of torture or other ill-treatment before the PNP Command, the PNP Internal Affairs Service, the National Police Commission, the People's Law Enforcement Board, the Office of the Ombudsman and the Civil Service Commission. The first four of these deal exclusively with complaints against police officers, while the Ombudsman and Civil Service Commission also accept complaints against other public officers.

While the existence of several options where torture victims may lodge their administrative complaints may seem advantageous in theory, in reality, it makes for a confusing and complicated process particularly because these administrative accountability mechanisms often share overlapping jurisdictions but with different rules of procedure. In effect, some mechanisms are unnecessary replications of the others.

Yet, these mechanisms have different powers and mandates, and the victims are left to decipher which administrative accountability body could provide them with the best result. It doesn't help that the filing of multiple complaints in various administrative accountability bodies can lead to outright dismissal of the case. The following sections will examine the existing administrative bodies, their powers and limitations, and the problems torture victims and their families have to face in order to hold torture perpetrators accountable administratively.

4.5.1 THE VARIOUS ADMINISTRATIVE MECHANISMS

4.5.1.1 PNP COMMAND: Where there is a complaint that a police official committed acts of torture or other ill-treatment, the regional directors of the PNP and the Chief of PNP can exercise jurisdiction and the maximum punishment possible is dismissal from service.[284] Logistically, it should be relatively easy to file a complaint as it can be submitted in any police station. Upon receipt of the complaint, the PNP command can immediately suspend the respondent officers[285] or place them under restrictive custody pending investigation of the case.[286]

However, Amnesty International has concerns about the lack of confidentiality regarding the identity and whereabouts of complainants or their witnesses since copies of the complaint – with full names and addresses – are handled by various police officers in the course of the investigation. Neither are there provisions protecting whistleblowers. In practice, given the above, as well as the overall lack of public confidence in the impartiality of investigations conducted within the PNP Command, few victims of torture file complaints in police stations.

Concerns about confidentiality prevent victims of torture from filing complaints about police officers in local police stations.

None of the torture victims Amnesty International spoke to considered filing a complaint before a police station. In a meeting with representatives of the Philippine National Police's Human Rights Affairs Office, Amnesty International researchers asked for statistics of administrative cases filed against police officers on the ground of torture or other ill-treatment. Representatives of the

PNP's Human Rights Affairs Office promised to validate cases in their list before providing Amnesty International with statistics.[287] As of writing this report, Amnesty International has yet to receive this list.

4.5.1.2 INTERNAL AFFAIRS SERVICE (IAS): was created as an "independent, impartial and objective"[288] "institutional watchdog agency" for the Philippine National Police (PNP).[289] In addition to their mandate to conduct criminal investigations discussed above (Section 4.2), the IAS also has concurrent jurisdiction with other police-specific bodies to investigate administrative complaints and conduct summary hearings against PNP members.[290] The IAS is also mandated to conduct investigations on its own initiative (*motu proprio*) wherever a person in the custody of the police is seriously injured or where the police discharge a firearm.[291]

The Internal Affairs Service of the PNP is not specifically mentioned in the Anti-Torture Act (ATA) as an agency to undertake investigation into torture cases, but under its own mandate IAS can undertake criminal investigations when allegations of torture are made against police officers.[292] It can also recommend prosecutions or assist in the prosecution of the case; and provide assistance to the Office of the Ombudsman in cases involving the personnel of the PNP.[293] However in a meeting with Amnesty International, IAS officials confirmed that in practice, they have not carried out any criminal investigations against police officers. In fact, more than 15 years after it was established, the IAS has yet to come up with its own guidelines for investigations involving criminal cases. The 2010 IAS Guidelines and Procedures are conspicuously silent on this subject.

The IAS can issue subpoenas and administer oaths,[294] and can place respondent police officers on preventive suspension.[295] In any IAS investigation, the immediate superior of the personnel or unit being investigated are automatically included to determine if there have been lapses in administration or supervision.[296]

Despite these extensive powers, IAS findings are largely recommendatory and rely on the PNP Regional Director or the PNP Chief – who act as the disciplinary authority – to implement their recommendations. If the disciplinary authority fails to act within 30 days, the IAS' recommendation becomes the disciplinary authority's decision, which should be implemented. However, there is no system of monitoring the implementation of the disciplinary recommendations made by IAS.

Moreover, Amnesty International has concerns about the independence of the IAS, which is within the PNP structure, directly under the Office of the Chief of Police.[297] The head of the IAS – the Inspector General – must be a civilian appointed by the President, but after recommendation by the PNP Director General and endorsed by the National Police Commission.[298] However, the current head of IAS is, in fact, a police officer. Other officers are largely drawn from within the police.[299] IAS local offices are often housed in a small room within police district offices. Only a couple of the torture victims interviewed by Amnesty International were aware of IAS, and none of those who were aware considered it an independent body.

It is not clear how many administrative cases arising out of allegations of torture or ill-treatment are being investigated by the IAS. Such cases fall under wider categories of administrative cases called "grave misconduct" or "oppression". The IAS provided Amnesty International with a table of cases of "oppression" and "grave misconduct" in the form of physical injuries, which the IAS believes could cover investigations on incidents of torture. Of the 35 cases of "oppression" investigated from 2009 to 2013, the respondents were exonerated or the cases were dismissed in seven instances, while 21 cases were merely indicated as having been resolved, with no additional information on the outcome of these case. For the same period, the IAS investigated 223 cases of "grave misconduct" resulting in physical injuries. In almost half of these cases, respondents were either absolved or the cases were dismissed due to insufficient evidence or lack of interest of complainants. Disciplinary sanctions, including forfeiture of salary, withholding of privileges, demotion, suspension and dismissal, were meted out in at least 50 cases. No other details were provided regarding the nature of the decision in the remaining cases. An IAS representative told Amnesty International researchers that the IAS concentrates on administrative cases, and normally would not file a criminal case.[300]

In the case of **Darius Evangelista** (see Chapter 4.4), the PNP, through the IAS, conducted its own investigation following intense media scrutiny. In a resolution dated 22 October 2010, the IAS absolved 14 of the police officers investigated and suspended for 60 days two others, who were desk officers at the time of the incident. A senior officer was dismissed from service on the grounds of "command responsibility", as the offence was committed during office hours and/or within the premises of government offices.

The IAS also initiated its own investigation in the case of **Alfreda Disbarro** (see Chapter 3) after it received letters from members of Amnesty International. Within four months of receipt of the letter, the IAS had concluded its summary hearing. By the fifth month, the summary hearing officer has submitted his recommendation to the regional IAS office, who, after one month, submitted the final recommendation to the PNP superior having control over the respondent police officers. Under the rules, the PNP superior has 30 days to act on the recommendation.

4.5.1.3 NATIONAL POLICE COMMISSION (NAPOLCOM): was created to "administer and control" the national police.[301] To conduct its task of exercising administrative control and operational supervision over the PNP, NAPOLCOM is composed of civilians and law enforcement personnel. It is headed by the DILG Secretary– joined by four regular commissioners, three of whom must not be from law enforcement while the fourth one may be an active or retired member of law enforcement sector.[302] The Chief of the PNP is automatically a member.

NAPOLCOM exercises its disciplinary authority directly through its regional offices or the Investigation, Monitoring and Investigation Service (IMIS) at the central office.[303] NAPOLCOM, like the IAS, has extensive powers and can suspend respondent police officers, issue subpoenas, and administer oaths during the investigation. Further, its mixed composition and accessibility of the regional offices are also important aspects.

The NAPOLCOM however remains closely associated with the police. Among the torture victims interviewed by Amnesty International, at least five were aware of the role of NAPOLCOM, but they

did not perceive it to be a body independent of the police. Two complainants filed complaints before the NAPOLCOM regional offices. As will be explained in a later section, one case was dismissed on technical grounds (see discussion on "Forum Shopping" below) while another is still pending with the NAPOLCOM Legal Affairs Division for almost three years as of October 2014 (see the case of Brandon in Chapter 4.4).

In an interview, representatives from the NAPOLCOM told Amnesty International that from 2009 to 2013, the NAPOLCOM investigated only one case of torture, which was taken over by the IAS.[304]

4.5.1.4 PEOPLE'S LAW ENFORCEMENT BOARD (PLEB): is a city or municipality-based body with jurisdiction to hear and decide citizen's complaints or cases filed before it against members of the PNP.[305] PLEB is composed of civilians -- a member of the *sangguniang panglungsod/bayan* (local legislative body), a *barangay* captain (elected community-village leader) and three other members.[306] Under the law, PLEB is considered the central receiving entity for all complaints against the police – irrespective of the nature and gravity of the allegations.[307] Most decisions of the PLEB are final and executory but cases involving demotion or dismissal from service may be appealed by either party with the regional appellate board of the NAPOLCOM.[308]

PLEB has powers of investigation similar to the other bodies discussed above, but it is not clear whether they have any system to implement their decisions – which again rely on the PNP Command to execute. Decisions by PLEB exonerating the police officer in an administrative case are final and not appealable, leaving complainants with no other recourse.[309] While the creation of such a civilian board to hear complaints against police personnel is laudable, its highly decentralized structure could make it dependent on the political will of the local mayor as its creation requires the enactment of a resolution by the particular municipality/city. There is no national body monitoring the status of cases and holding PLEB members accountable. It is not clear how many torture cases involving the police are being investigated by PLEBs all over the country. However, what is clear is that few people know about them.

Among the alleged torture victims interviewed by Amnesty International, not one was aware of the People's Law Enforcement Board.

4.5.1.5 OFFICE OF THE OMBUDSMAN: Along with its powers of criminal investigation and prosecution, the Ombudsman has wide-ranging administrative powers and jurisdiction over virtually all elective and appointive officials in government.[310] The Ombudsman's power is not limited to directing the proper officer to remove, suspend, demote, impose fine or censure, or prosecute an erring public official of employee[311] but also extends to directing a public official or employee or any government office or agency to perform and expedite any act or duty required by law, or to stop, prevent and correct any abuse or impropriety in the performance of duties.[312]

In cases of torture or other ill-treatment, the Ombudsman has the power to suspend any government officer. Penalties can include dismissal from service with forfeiture of benefits and fines.[313] The Ombudsman's decisions are immediately effective and executory.[314] A motion for

reconsideration may be filed only on two grounds: (a) newly-discovered evidence; and (b) errors of law or irregularities prejudicial to the interest of the appellant.[315]

However, the Ombudsman's accessibility is limited by its focus on graft and corruption. On 25 September 2012, the Office of the Ombudsman entered into a Memorandum of Agreement with NAPOLCOM and the PNP, under which NAPOLCOM would take primary jurisdiction over allegations of grave abuses by police officers, and the PNP for lesser offences.[316] Given this, it is unlikely that the Ombudsman has taken up many grave administrative cases against police officers for alleged torture or other ill-treatment. An official from the Deputy Ombudsman for Military and Other Law Enforcement Offices provided Amnesty International with a list of investigations carried out or being investigated by the Ombudsman but the list mainly contained criminal cases for torture (see Chapter 4.2). It is not known whether any of the few cases listed under "grave misconduct" related to torture complaints.

4.5.1.6 CIVIL SERVICE COMMISSION (CSC): is an independent constitutional commission envisioned as the "central personnel agency" of the Philippine Government with powers to investigate and decide administrative cases against civil servants brought before it.[317] It has fiscal autonomy, civilian commissioners only and staff in a number of field offices in different provinces making it easily accessible and has all the requisite powers to aid investigations including holding individuals in contempt.[318]

The CSC's own rules of procedure grant heads of government agencies like the PNP original jurisdiction over cases against their own personnel, and limit themselves only to a review and appellate role.[319] Even where cases are filed against police officers directly before the CSC, it can refer the matter for investigation to the PNP.[320] This poses serious concerns for victims of torture who expect an independent investigation.

The CSC's appellate jurisdiction is also limited to cases where police officers and other government personnel have been meted out penalties beyond 30 days' suspension. [321] Private complainants are only treated as witnesses[322] and cannot appeal a decision of the PNP or other accountability mechanisms such as the NAPOLCOM to the CSC since they are not considered "parties adversely affected".[323] Moreover, the creation of various disciplinary mechanisms dedicated solely to dealing with complaints against police officers throughout the years have relegated the CSC to the background in terms of being seen as a viable accountability mechanism to deal with police abuses. Among the alleged torture victims interviewed by Amnesty International, not a single one had considered making a complaint to the CSC. In an interview with Amnesty International, a CSC representative admitted that very few cases against the police have been filed before them because people are not aware that the CSC can investigate such cases.[324] Amnesty International researchers requested statistics on cases filed against the police but were told that the data was not available.

'FORUM SHOPPING'

The rule on 'Forum Shopping' prohibits the filing of several complaints arising from the same cause of action involving the same parties asking for the same relief before two or more accountability mechanisms.[325] The rule prohibits the filing of the same kind of complaints, for example, filing two or more administrative complaints in different administrative accountability bodies. It does not prohibit filing an administrative complaint as well as a criminal complaint. The rule is intended to prevent multiplicity of suits which could result in conflicting decisions.[326] Originally applicable only to cases filed in courts, it found its way to administrative accountability mechanisms, due largely to the increasing number of mechanisms which have been created over the years.

All complaints are required to include a sworn certification attesting that complainants have not filed similar complaints before any other accountability mechanism and that, should they learn belatedly of another pending case, they would inform the court promptly. Non-compliance with this requirement could result in the immediate dismissal of the case.[327] With torture victims able to file complaints before various bodies and unaware of the relative advantages of one over another, this rule restricts them from filing a complaint with an independent body if they initially approached any other body.

The rule also appears to be used by some authorities to thwart attempts at redress by victims of torture. In one case documented by Amnesty International, a complaint was dismissed by NAPOLCOM not because of "forum shopping" but on the technical ground that the certificate to attest that they had not filed complaints elsewhere was not included at the time of filing.

In August 2010, five men were arrested by police officers in Luzon and allegedly tortured within a police camp. They collectively lodged criminal and administrative complaints. The criminal torture complaint was dismissed by the prosecutor on grounds of inadequate evidence (see discussion on the DOJ [NBI, NPS] under Chapter 4.2). In 2011, the family of one of the five men wrote to the DILG Secretary, concurrently the NAPOLCOM Chair, about the torture suffered by the men allegedly by police. The letter was forwarded to a NAPOLCOM Regional Office and was considered a complaint for administrative action on grounds of "grave misconduct". However in its report, the NAPOLCOM Regional Office dismissed the grave misconduct administrative case and exonerated all the respondents on the grounds that the complaint did not include the certificate on non-forum shopping. [328] The report stated: "The requirement to file a certificate of non-forum shopping is mandatory. Failure to comply with this requirement cannot be excused by the fact that plaintiff is not guilty of forum shopping."[329]

The fact that a letter to the head of NAPOLCOM is treated as a complaint and dismissed on technical grounds illustrates the difficulties faced by victims of torture in the Philippines. A Philippine human rights lawyer and expert on redress mechanism consulted by Amnesty International said that the rule on forum shopping should find no application in administrative cases: "It defies common sense. Rule should be simple – if complaint is filed with wrong office, refer it to proper office, not dismissal."[330]

4.5.2 COMPLEX AND COMPLICATED PROCESSES

Awareness of the existence of accountability mechanisms is one thing. Knowing which to choose and how to file a complaint is another. Potential complainants need to know, for example, the internal processes of the accountability mechanisms in order to determine which one they should approach. Such information is not readily available or accessible to the public. Knowledge of the

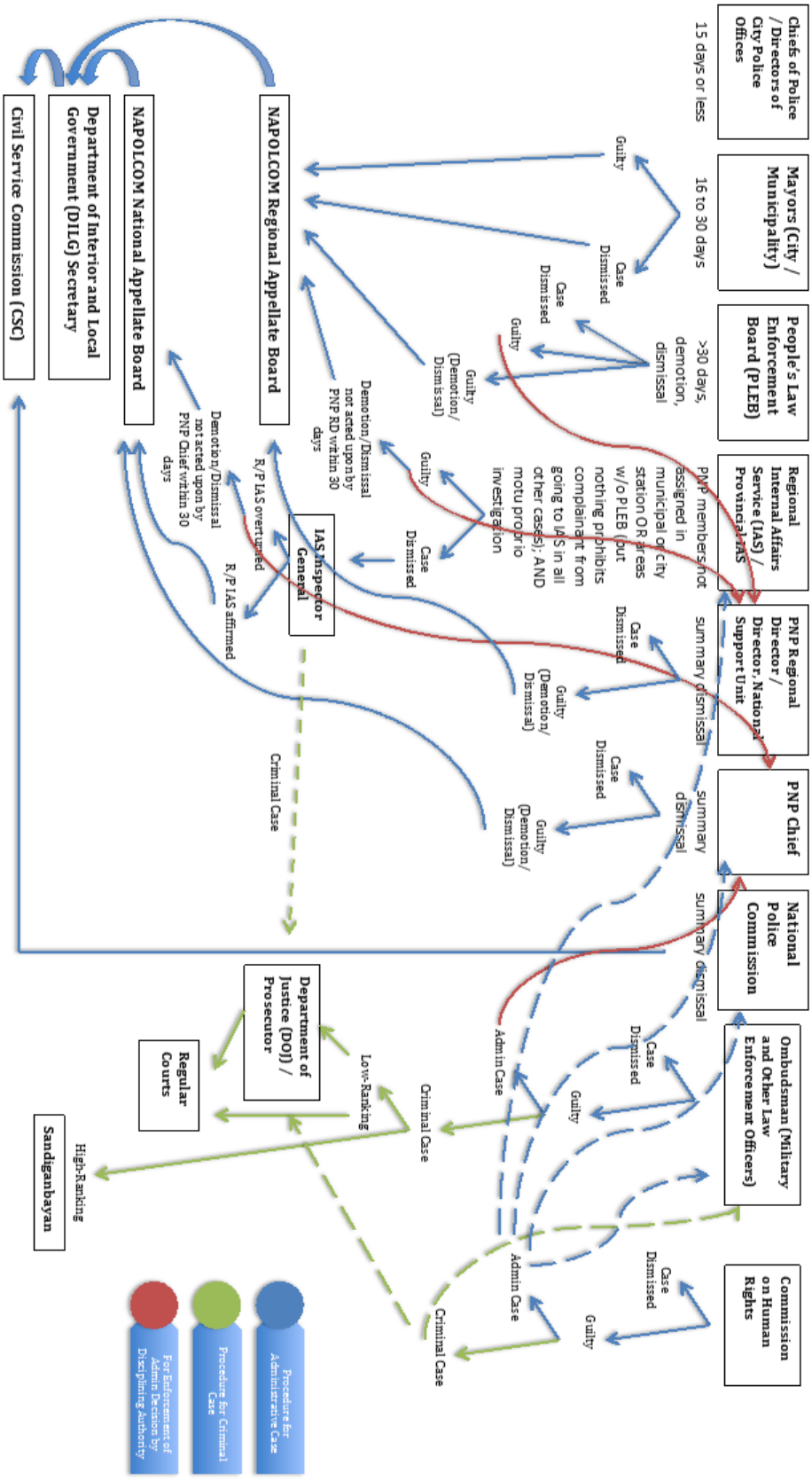
internal procedures, the extent of jurisdiction, and ability to implement rulings of the accountability mechanisms is crucial in determining where to complain – especially in light of the rule against "forum shopping".

The mechanisms discussed above do not have a clearly-defined delineation between their jurisdictions, which makes holding perpetrators to account all the more difficult.

The combination of complex and overlapping administrative accountability bodies, and persistent problems in the justice system discourage victims of torture and other ill-treatment from pursuing justice and accountability, contributing to the cycle of impunity.

Equally complicated is the appeals procedure for cases decided by the various mechanisms. Decisions of the PLEB, the PNP regional directors, and the recommendation of the regional/provincial IAS[331], which find a police officer guilty and impose the penalty of demotion or dismissal, may be appealed to the NAPOLCOM Regional Appellate Board. On the other hand, decisions of the PNP Chief, and the recommendations of the IAS Inspector General[332] that impose similar penalties are appealable to the NAPOLCOM National Appellate Board. The decisions of the NAPOLCOM Regional and National Appellate Boards may be appealed at the DILG Secretary, whose decision may be appealed at the Civil Service Commission. In contrast, decisions of the NAPOLCOM go directly to the CSC for review. There are no clear reasons why some mechanisms follow a more circuitous route than others. Knowledge of the whole procedure will help complainants choose the better forum but the sheer complexity of the whole appellate procedure discourages most victims of torture.

ACCOUNTABILITY MECHANISMS DIAGRAM



To add to the confusion, four of the mechanisms follow the same internal procedures promulgated by NAPOLCOM, while the Office of the Ombudsman and the CSC have their own internal rules. [333] The CHR, which could assist complainants in building a case, also has its own internal rules of procedure. It is impossible for victims who wish to make complaints to gain knowledge of the differing rules and their attempts to seek justice for the abuse they suffered are therefore adversely affected.

Given the complicated process of filing complaints with the various accountability mechanisms, in practice complainants may need to be assisted by a lawyer before filing a case, not only to identify the best venue to file a complaint but to build a case worth filing. The burden of gathering evidence, including finding witnesses, and proving the allegations lies with the complainant since the accountability mechanisms act as impartial hearing officers. Instead of conducting their own fact-finding investigations, they rely on the pleadings and evidence presented by both parties. The need for counsel is in itself a challenge for most torture victims and their families who may not have the resources to hire a lawyer.[334]

OTHER RELEVANT GOVERNMENT BODIES

In addition to the various complaints mechanisms discussed in this chapter, there are a number of executive bodies that have a supervisory role, although they do not play a direct role in supervising the police. These include the Office of the President which has control over all the executive departments, bureaus and offices, including the PNP[335] and the DILG which assists the President in the exercise of general supervision over local governments and over the police.[336]

The Inter-Agency Committee on Extra-Legal Killings, Enforced Disappearances, Torture and Other Grave Violations, created by the President in 2012 under Administrative Order 35, is tasked with preparing an inventory of all such violations;[337] investigating unsolved cases; monitoring pending cases; and forming a team of special prosecutors to investigate and prosecute new cases.[338] Two years after, the Inter-Agency Committee has been convened, but is only in the process of training multi-agency investigators to effectively investigate new and unsolved cases of extrajudicial executions, enforced disappearances and torture. Moreover, it is not clear if teams of multi-agency investigators have been set up in every city, province and region in the country, as intended, and how many cases of torture have been investigated by them.

At the legislative level, both houses of Congress have permanent committees on human rights with powers to conduct inquiries into human rights violations for the purpose of formulating legislation on the matter. The ATA also provides for the creation of an oversight committee headed by the CHR with representatives from both houses of Congress. Amnesty International understands that this committee has only been convened once.

The lack of access to effective means of obtaining redress for torture victims is indicative of the failure of the Philippine government to meet its international obligations to investigate allegations of torture and prosecute cases of torture where sufficient, admissible evidence exists. The duty to investigate allegations promptly, impartially and efficiently is not complied with when the complainant bears the burden of procuring the necessary evidence to prosecute the case, particularly when they have to secure the services of their own counsel in order to ensure effective

and successful prosecution. Government bodies tasked with fact-finding functions, such as the CHR, must be given sufficient powers, resources and competencies to fulfil this function adequately.

The fact that torture victims and their families are unaware of their rights and of the proper channel through which to lodge their complaints shows that the Philippine authorities fail to provide an essential aspect of the right to remedy – to develop proper means of informing the public and human rights victims of their rights and the remedies available to them. The Philippine authorities likewise fail to comply with another aspect of the right to remedies when, other than a small amount of financial assistance to some human rights victims, reparation, particularly in the form of compensation and rehabilitation, for victims remains elusive.

The Philippine government is duty-bound to provide protection to torture victims who come forward to file complaints. The failure to meet this obligation is clearly demonstrated where admission to witness protection programmes is not readily available, and where some victims continue to report intimidation and harassment from perpetrators of torture.

5. CONCLUSION AND RECOMMENDATIONS

"It is not our policy to encourage or even abet any transgressions of the law. And towards that end, we have been investigating all of these allegations…We have adopted a policy that their only deterrence to crime is the certainty of punishment."

President Benigno Aquino III[339]

The Philippine government has enacted several pieces of legislation for the protection of human rights and has taken steps to curb human rights violations such as torture and other ill-treatment. However, the reality is that the incidence of such practices remain high – torture and ill-treatment continue to be inflicted, particularly upon criminal suspects. The Philippines has the potential to be a model of good practice in the region but if this is to be realised much more needs to be done to stop torture in the country.

Justice and redress are still out of reach for torture victims. Research for this report has found that the multiple gaps in the criminal justice system on the one hand, and the numerous and overlapping administrative accountability bodies on the other, present overwhelming obstacles to most survivors and their families to obtain justice and hold the perpetrators of torture and other ill-treatment to account. The repeated failure of the Philippine authorities to prohibit, prevent, investigate and prosecute cases of torture and other ill-treatment has created a climate of impunity in which those who commit such violations largely continue to do so as if they are above the law. More needs to be done to bridge the gap between the standards set out in the law and the reality in practice.

Amnesty International is offering a series of recommendations to Philippine authorities, addressed in particular to the Philippine President and government, the Chief of the Philippine National Police, the National Police Commission, the PNP Internal Affairs Service, senior police

officials, the Secretary of the Department of Interior and Local Government and the Secretary of the Department of Justice, the Philippine Congress, and independent bodies such as the Office of the Ombudsman, the Commission on Human Rights and the Civil Service Commission.

Amnesty International urges the Philippine authorities to:

- Immediately acknowledge publicly the seriousness and the persistence of torture and ill-treatment by police in the Philippines, and condemn all such acts unreservedly. Send a clear public message to the PNP and other security agents of the state that torture and other ill-treatment of detainees are strictly prohibited at all times, and are considered a crime under Philippine and international law. Give undertakings that all perpetrators will be brought to justice.

- Ensure that justice is obtained by victims of torture and other ill-treatment through concrete steps that will guarantee prompt, impartial, independent and effective investigations into all reports of torture and other ill-treatment by law enforcement officials. Those found responsible should be brought to justice through prosecution in a court of law, in proceedings which meet international standards of fairness, and the victims should be granted full reparations.

- Streamline the different administrative accountability bodies for police abuse, through a unified body such as an independent police complaints commission: national in scope, independent from the police, accessible to the public including in the regions, and with sufficient powers and mandate to effectively investigate allegations of torture. This body should have primary jurisdiction over all existing accountability bodies for administrative complaints against the police. The procedure for filing complaints should be simplified across the board and made accessible to the public. Wherever there is sufficient evidence of torture, other ill-treatment or similar offences to warrant prosecution, refer the complaint to the proper authority, such as the prosecutor or Ombudsman for prosecution in court;

- In line with the above, initiate a review of the existing administrative accountability bodies for police abuse and human rights violations to streamline the process of holding perpetrators to account and to avoid overlapping jurisdictions and contradicting rulings. This should include, where appropriate, the dissolution of redundant bodies whose mandate partially covers investigating, adjudicating and ordering administrative sanctions for police officers.

- Expedite the establishment of National Preventive Mechanisms (NPMs) in line with the Optional Protocol to the Convention Against Torture (OPCAT). The NPMs should be given the full powers, resources and mandate as stipulated in the OPCAT, in particular for unrestricted access to all places of detention and people deprived of liberty.

The following recommendations detail measures for preventing torture and ensuring that where people are subjected to torture, perpetrators are brought to justice and held to account.

5.1 PREVENTING TORTURE

- Establish a National Preventive Mechanism for torture which must have, among other things,

the following functions powers and resources, as prescribed by the Optional Protocol to the Convention Against Torture:

- Functional independence from the government with competent staff and with the necessary resources for effective functioning

- The authority to (a) regularly examine the treatment of persons deprived of liberty in all places of detention; (b) make recommendations to relevant authorities to improve the treatment and conditions of persons deprived of liberty; and (c) submit proposals and observations concerning existing or draft legislation

- The authority to have (a) access to all information concerning the number of persons deprived of liberty in places of detention, the number of places and their location; (b) access to all information referring to the treatment of persons deprived of liberty as well as their conditions of detention; (c) access to all places of detention and their installations and facilities; (d) the opportunity to privately interview persons deprived of their liberty; (e) the liberty to choose the places they want to visit and the persons they want to interview; and (f) the right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

- Ensure that the Philippine National police has sufficient resources, including human resources; at a minimum comply with Philippine legislation which provides a police officer per population ratio of 1:500.

- Provide sufficient training on human rights-based policing in general and treatment of prisoners in particular to police officers and other law enforcement personnel, particularly those in frontline duties. There should be emphasis on the absolute prohibition of torture and other ill-treatment. The training should be practical and address the realities of policing in the field. Scenario-based trainings should be developed which should include arrest techniques, detention procedures and the importance of the use of force only as a last resort and in accordance with international standards, including developing skills in exercising proportionality and necessity. Training on the rights of women and children should also be included in the curriculum of formal police training.

- Ensure that the Commission on Human Rights, the Department of Justice, the National Bureau of Investigation and other government agencies mandated under the Anti-Torture Act to conduct prompt investigations on allegations of torture and ill-treatment are sufficiently resourced to effectively perform their functions.

- Ensure strict compliance of police operations with standards set out in international instruments for protection against human rights violations, including the UN Code of Conduct for Law Enforcement Officials (Code of Conduct), UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles on Detention), and the UN Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules). In

particular:

- Police officers making arrests should wear uniforms, use marked vehicles, and identify themselves as police officers;

- Persons to be arrested must be clearly informed of the reasons for their arrest and of their rights under the law, including the right against self-incrimination, the right to remain silent and the right to access to counsel, family members, and medical doctors;

- Persons arrested must be taken without delay to the police station for detention, where the arrest must be promptly recorded in the police blotter;

- Police records must contain information regarding the arrest, including: the reasons for the arrest; the time of the arrest, of the taking of the arrested persons into the place of custody and of their first appearance before a judicial or other authority; the identity of the law enforcement officials concerned; and precise information regarding the place of custody. The medical condition of the persons arrested upon delivery to the place of custody should also be indicated;

- All detained persons must have prompt access to a judge or other judicial officer, and have the right to challenge their detention before a court;

- No secret or unofficial detention facilities may be used. Up-to-date lists of officially recognized places of detention must be published and made available to lawyers and the public. All cases of persons being held in an unofficial or secret place of detention must be investigated and those responsible for such detention be brought to justice;

- All detainees at police detention facilities must have immediate and thereafter regular access to their lawyers as well as access to their families;

- Lawyers should be present during interrogation. The identities of those present during interrogation must be recorded. Where possible, audio or video recordings of the interrogations should be made;

- The prohibition against blindfolding and against the use of hoods on detainees during detention and interrogation should be strictly enforced. All cases where such acts are committed must be investigated and perpetrators brought to justice;

- Police officers should be trained to ensure that an interview with a suspect is a means to gather more information or evidence, not to force the detainee to provide information or a "confession";

- Written custodial records must be kept up to date on a regular basis and made available to lawyers and detainees;

- The Commission on Human Rights and human rights organizations should be given unhindered access to detention facilities and their representatives should be given an opportunity to interview detainees, including possible torture victims, in confidence.

5.2 OBTAINING JUSTICE AND EXACTING ACCOUNTABILITY

5.2.1 ON MEDICAL DOCUMENTATION

- Ensure prompt and comprehensive documentation of medical conditions of alleged torture victims. Towards this end:

  - All detainees should be provided with adequate medical care by a competent doctor independent of the police or other holding authority, as well as access to a doctor of their own choice;

  - Detainees must be given medical examination as promptly as possible after admission to a place of detention;

  - Medical examinations of detainees complaining of torture or other ill-treatment should be conducted in confidential conditions, out of the hearing and sight of police officers. They should be comprehensive, thorough and follow the Istanbul Protocol;

  - Results of the medical examination and its conclusions should be recorded in writing, made available to the person in custody and his/her counsel, and should be kept confidential from everyone else;

  - Doctors and medical personnel conducting medical examinations should be given proper training, particularly on international standards of medical investigation such as the Istanbul Protocol. The Protocol requires among other things that the following information be included in the medical examination report:

    - A detailed record of the subject's story given during the interview, including alleged methods of torture or ill-treatment, the times when the torture or ill-treatment is alleged to have occurred and all complaints of physical and psychological symptoms (History);

    - A record of all physical and psychological findings on clinical examination including appropriate diagnostic tests and coloured photographs (Physical and Psychological Examination); and

    - An interpretation as to the probable relationship of the physical and psychological findings to possible torture or ill-treatment (Opinion).

- Hospitals and clinics routinely used by the police to conduct medical examinations on detainees should adopt a non-discrimination policy whereby medical personnel should be able to examine injuries of criminal suspects similarly as with other patients, without regard to their

status as suspects;

- In cases of death in police custody, an autopsy must be conducted according to international standards such as the Istanbul Protocol and the UN Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions and the related technical manual. At a minimum, the autopsy should establish the identity of the deceased, the cause and manner of death, and, to the extent possible, the time and place of death. If the family appoints a forensic pathologist to represent them, he or she must be given access to the autopsy;

- Ensure prompt, impartial, independent and effective investigations into all reports of torture and other ill-treatment by law enforcement officials by an impartial body independent of the Philippine National Police. Where there are injuries or marks visible, prosecutors should initiate an investigation on how those injuries or marks were sustained, independently of a complaint.

5.2.2 ON CRIMINAL INVESTIGATIONS AND PROSECUTIONS

- Start criminal investigations on cases of torture and other ill-treatment immediately after receiving reports. Prompt investigations must be independent, impartial and effective, and done by competent investigating law enforcement officers who are adequately equipped with the necessary forensic equipment;

- Ensure immediate and effective implementation of AO 35 Guidelines, with periodic reviews and monitoring. AO 35 prosecutors and their teams must be independent from any influence from security personnel of institutions connected with the suspected torture perpetrators (for example, if the case is against a police officer, then the team investigating it should not include a police officer). AO prosecutors should be given the space to conduct thorough fact-finding investigations that will feed into better-prepared cases for prosecution;

- All prosecutions must be carried out in proceedings which meet international standards of fairness;

- Ensure that trials are completed and decisions rendered within a reasonable period of time. In determining what is a reasonable period, consideration must be given to the need to preserve evidence and to protect the security of victims, their families and witnesses;

- Provide ample protection to victims of torture, their families and witnesses, with due consideration to the urgency of the need for protection from threats to their lives and security. Witness protection, either through the DOJ or the CHR, should also ensure that torture survivors, their families and witnesses have sufficient access to education for children, medical care and an alternative means of livelihood, where necessary;

- Provide reparations in accordance with international standards to victims of torture and other ill-treatment, including families of victims;

- Ensure that the prosecution of police officers suspected of torture and other ill-treatment are

prioritized over administrative accountability and disciplinary processes, which must not be substitutes for criminal procedures.

5.2.3 ON STREAMLINING AND UNIFYING ADMINISTRATIVE ACCOUNTABILITY BODIES

- An independent police complaints commission should be set up with the following characteristics:

  - Fully independent of and free from influence of the Philippine National Police;
  - Centralized to ensure effective oversight;
  - Accessible to members of the public with offices in the regions. Publicity about the new mechanism and its offices should be undertaken to ensure that members of the public in general and detainees in particular are aware of this body, its functions and how to access it;
  - Required to report publicly on its activities;
  - Have the mandate and resources to receive complaints and other reports of human rights violations by police and to investigate such allegations;
  - Have subpoena, contempt and other powers sufficient to facilitate the gathering of evidence;
  - Have the mandate and resources to provide any necessary protection to complainants, victims and witnesses;
  - Have the mandate to order a preventive suspension on police officers under investigation;
  - Have the mandate to file a complaint to the criminal prosecutor, whenever its investigations have found sufficient and admissible evidence that a police officer has committed offences involving human rights violations;
  - Be authorized to procure and receive evidence and examine witnesses as necessary to conduct an effective investigation;
  - Be authorized to choose when to supervise or to manage investigations conducted by police investigation officers and when to carry out investigations using its own independent investigators;
  - Be authorized to refer matters to the criminal prosecutor and/or to the police internal disciplinary body as appropriate;
  - Be authorized to recommend appropriate action in respect of both individual officers

and the police system overall;

- Can recommend or award reparations to victims of human rights violations as appropriate.

- As a step towards a unified administrative accountability body such as an independent police complaints commission, review all existing administrative accountability bodies for police abuse and human rights violations, including the PNP Command and PNP Internal Affairs Service, National Police Commission, People's Law Enforcement Board, Office of the Ombudsman, Civil Service Commission and Commission on Human Rights. Overlapping jurisdictions should be clarified and streamlined, giving primary jurisdiction on all police abuse cases to a consolidated body such as an independent police complaints commission. To avoid confusion and overlapping mandates, this includes, where appropriate, the dissolution of bodies whose mandate partially covers investigating, adjudicating and ordering administrative sanctions for police officers. The review should include but not be limited to:

  - The effectiveness of the PNP Command and IAS, NAPOLCOM, PLEB, Office of the Ombudsman, CSC and CHR in terms of holding perpetrators of torture and other ill-treatment to account;

  - The clarity or complexity of the processes involved in filing a complaint and making appeals;

  - The accessibility of these agencies to the public, including the public's awareness of their agency as an administrative accountability body;

  - The duplication and overlapping jurisdictions between and among these administrative accountability bodies;

  - The adequacy and competence of the staff complement within each administrative accountability body to ensure effective investigations, hearings and case resolution;

  - The monitoring system within and across the bodies to ensure that all complaints are investigated and resolved within the prescribed period;

  - The monitoring system within the bodies to ensure that recommendations or resolutions are implemented and carried out by the disciplinary authority, including if the disciplinary authority is from another administrative accountability body (for example, the implementation by the PNP Command of IAS recommendations or of the Ombudsman's decisions on administrative sections);

  - The adequacy of each administrative body's system in ensuring the protection of complainants, including the confidentiality of their identity;

- The composition, powers and functions of NAPOLCOM and IAS to ensure effective disciplinary oversight of the PNP. In particular, ensure that there are adequate checks and balances to guarantee their impartiality and objectivity in receiving complaints and conducting investigations;

- The role of NAPOLCOM and CSC in administrative accountability proceedings – whether as an appellate body or as a forum where complaints may be lodged;

- The role of the Ombudsman, NAPOLCOM and the PNP in investigating cases of torture and other ill-treatment in light of their Memorandum of Agreement, as well as the role of the IAS in relation to this MOA;

- The independence of the IAS from influences within the PNP structure, including by having a civilian inspector general as envisaged in the law;

- The effectiveness of decentralized bodies without a national structure and oversight like the PLEBs and the similarity of standards applied by different PLEBs in cities and municipalities across the country;

- The lack of an option for complainants to appeal some administrative accountability body's decisions, (for example in PLEBs and the CSC where complainants cannot appeal if the decision is to acquit the alleged police perpetrator).

5.3 DISCIPLINING POLICE OFFICERS

- Ensure that there are clear guidelines requiring officers to report abuses, and an adequate policy for whistleblowers within the institution. These guidelines should be accessible to all officers at all levels of the chain of command. The principle of command responsibility should be applied in holding police superiors responsible for enforcing such guidelines, with penalties imposed for failing to report, or covering up, police misconduct;

- Ensure that disciplinary sanctions are imposed on police officers found responsible for torture and other ill-treatment. These sanctions should similarly apply to those exercising command responsibility. Preventive measures should be taken to avoid undue influence of alleged torture perpetrators or their superior officers over the investigations, or the intimidation or harassment of victims and witnesses;

- Ensure that appropriate disciplinary measures are taken against police officers and their auxiliaries who harass or intimidate individuals making a complaint about police misconduct;

- Ensure that the process for disciplining police officers is transparent, guaranteeing the protection of the right to a fair trial of both the alleged torture victims and the accused police officers; ensure that all information on police internal disciplinary procedures, administrative accountability mechanisms and prosecution for illegal police activity, including torture, are clearly set out in publicly available documents. Information on how to make a complaint about

police misconduct should be made readily available to the public (including at police stations, and on the PNP's website); ensure that those who are making complaints about police misconduct are kept informed of the disciplinary investigation process, by placing time limits for processing filed reports and establishing a system for reporting, both internally and publicly, on the investigation;

- Ensure that disciplinary procedures are thorough, prompt and fair. In particular, a complainant's name and address must be kept confidential, and officers who are the subject of a complaint have the right to know if they are being investigated, and if so under which provisions of the law or operational procedures.

ENDNOTES

[1] Interview with Amnesty International, 2 December 2013, Parañaque.
[2] Based on historian Alfred McCoy's paper, "Dark Legacy: Human Rights under the Marcos Regime", delivered at Ateneo de Manila University on 20 September 1999, http://www.hartford-hwp.com/archives/54a/062.html, last accessed 12 October 2014. For the full text: https://groups.google.com/forum/#!topic/soc.culture.filipino/QT98wo_RgKM, last accessed 12 October 2014.
[3] Republic Act No. 7438, An Act Defining Certain Rights of Persons Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining, and Investigating Officers, and Providing Penalties for Violations Thereof (1992).
[4] Republic Act No. 8493, Speedy Trial Act of 1998.
[5] Republic Act No. 6981, Witness Protection, Security and Benefit Act (1991).
[6] Amnesty International was provided with a copy of the CHR report.
[7] Concluding Observations of the Committee against Torture on the Philippines, UN Doc. CAT/C/PHL/CO/2, 29 May 2009. paragraph 9. http://www2.ohchr.org/english/bodies/cat/docs/cobs/CAT.C.PHL.CO.2.pdf. Last accessed 30 July 2014.
[8] UNCAT, ART. 12.
[9] UNCAT, Arts. 4 to 8.
[10] UNCAT, Art. 14.
[11] ICCPR, Art. 10.
[12] Human Rights Committee, General comment no. 29: States of emergency (article 4), UN Doc. CCPR/C/21/Rev.1/Add.11 (2001), para. 13(a).
[13] UNCAT, Art. 11.
[14] Human Rights Committee, General Comment 20, Article 7 (1992), UN Doc. HRI\GEN\1\Rev.1 at 30, para. 11.
[15] Paras. 13-14.
[16] ICCPR, Art. 2.3(a).
[17] ICCPR, Art. 2.3(b).
[18] UNCAT, Art. 12
[19] UNCAT, Art. 13
[20] UNCAT, Art. 14
[21] CRC, Art. 3.
[22] CRC, Art. 1.
[23] CRC, Art. 37(c).
[24] CEDAW, Art. 2.
[25] In particular when inflicted by or at the instigation of or with the consent or acquiescence of a public official, which overlaps the requirement that states exercise due diligence in preventing, investigating and punishing such violence when inflicted by non-state actors.
[26] See for instance Committee on the Elimination of Discrimination Against Women, General Recommendation 19, Violence against women (Eleventh session, 1992), UN Doc. HRI\GEN\1\Rev.1.
[27] Concluding Observations of the Committee against Torture on the Philippines, UN Doc. CAT/C/PHL/CO/2n 29 May 2009n para, 7. Available at http://www2.ohchr.org/english/bodies/cat/docs/cobs/CAT.C.PHL.CO.2.pdf. Last accessed 30 July 2014.
[28] Ibid.
[29] Ibid., paragraph 9.
[30] Concluding Observations of the Human Rights Committee: the Philippines, UN Doc. CCPR/C/PHL/CO/4 13 November 2012, para. 7. Available at http://www.ccprcentre.org/doc/2012/10/G1247605.pdf. Last accessed 30 July 2014.
[31] Ibid., paragraph 17.
[32] Ibid.
[33] Ibid.

[34] Review of the Working Group on the Universal Periodic Review Philippines, UN Doc. A/HRC/21/12, 9 July 2012. Available at http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/151/22/PDF/G1215122.pdf?OpenElement. Last accessed 30 July 2014.
[35] National report submitted to the Human Rights Council, UN Doc. A/HRC/WG.6/13/PHL/1, 19 March 2012. Paragraph 49. Available at http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/123/16/PDF/G1212316.pdf?OpenElement. Last accessed 30 July 2014.
[36] Ibid., paragraph 50.
[37] 1987 Constitution, Art. III, sec. 12.
[38] 1987 Constitution, Art. III, sec. 19.2.
[39] Anti-Torture Act (2009), sec. 3(a).
[40] Anti-Torture Act, sec. 3(b) in relation to sec. 5.
[41] See for instance Human Rights Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/74/CRP.4/Rev.6, 21 April 2004, para. 18; Committee against Torture, General Comment no. 2: Implementation of article 2 by States parties, UN Doc. CAT/C/GC/2, 24 January 2008, para. 7.
[42] Under sec. 4(a) of the Anti-Torture Act, physical acts of torture include systematic beating, food deprivation, electric shock, cigarette burning, submersion of head in water, being tied or forced to assume fixed and stressful body position, rape and sexual abuse, mutilation or amputation of essential parts of the body, dental torture, pulling out of fingernails, harmful exposure to elements, the use of plastic bag placed over the head, the use of psychoactive drugs, and other similar acts.
[43] Under sec. 4(b) of the Anti-Torture Act, mental/psychological acts of torture include blindfolding, threats of bodily harm or execution, confinement in solitary cells or secret detention places, prolonged interrogation, show trial or public humiliation, causing unscheduled transfers which creates belief that victim will be summarily executed, maltreatment of a victim's family member, showing torture sessions to family and relatives, denial of sleep or rest, shame infliction, deliberate prohibition to communicate with family members, and the like.
[44] Anti-Torture Act, sec. 14.
[45] Anti-Torture Act, sec. 6.
[46] Anti-Torture Act, sec. 15. Aside from the criminal case for torture or other cruel, inhuman or degrading treatment or punishment, a victim may also file the following criminal cases: under the Revised Penal Code – maltreatment of prisoners (art. 235), mutilation (art. 262), physical injuries (arts. 263, 265, 266), administering injurious substances or beverages (art. 264), rape (art. 266), acts of lasciviousness (art. 336), kidnapping and serious illegal detention (art. 267), grave threats (art. 282), grave coercion (art. 286), attempted or frustrated murder or homicide (art. 250), murder (art. 248), homicide (art. 249); or the Human Security Act (Republic Act 9372) which prohibits and penalizes the use of threat, intimidation, coercion and acts that will inflict any form of physical pain or torment, or mental, moral or psychological pressure, or which shall vitiate the detained person's free will; or the Victim Compensation Act (RA 7309); or the Civil Code (art. 32) for damages.
[47] Anti-Torture Act Implementing Rules and Regulations, sec. 45.
[48] Anti-Torture Act, sec. 16.
[49] Anti-Torture Act, sec. 7.
[50] Anti-Torture Act, sec. 8. The exception in the section is wider than that in Article 15 of UNCAT, where such statements can only be used "against a person accused of torture *as evidence that the statement was made*." [Emphasis added]
[51] Anti-Torture Act, sec. 9.
[52] Revised Rules of Court, Rule 102.
[53] The Rule on the Writ of Amparo (A.M. No. 07-9-12 SC), September 25, 2007. The petition for a writ of amparo is a remedy available to any person whose right to the life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity. The writ shall cover extralegal killings and enforced disappearances or threats thereof (Section 1). The court will require the respondent to explain his/her legal defences to the allegations; the steps taken to determine the fate or whereabouts of the aggrieved party and the person/s responsible for the threat, act or omission; all relevant information about the case; and, if respondent is a public official, specify actions to be taken to verify the identify of aggrieved party, recover and preserve evidence, identify witnesses,

determine cause, manner, location and time of death or disappearance, identify and apprehend persons involved and bring them before a competent court (Section 9). The court may issue interim reliefs such as temporary protection, inspection, production, and witness protection orders (Section 14).
[54] The Rule on the Writ of Habeas Data (A.M. No. 08-1-16-SC), January 22, 2008. The writ of habeas data is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting or storing of data or information regarding the person, family, home and correspondence of an aggrieved party (Section 1). The court may enjoin the act complained of, or order the deletion, destruction and rectification of the erroneous data or information and grant other relevant reliefs (Section 16).
[55] Anti-Torture Act, sec. 10.
[56] Anti-Torture Act, sec. 11.
[57] Anti-Torture Act, sec. 12.
[58] Anti-Torture Act, sec. 13.
[59] Anti-Torture Act, sec. 18.
[60] Anti-Torture Act, sec. 19.
[61] Consisting of the following provinces: Aurora, Bataan, Bulacan, Nueva Ecija, Pampanga, Tarlac and Zambales.
[62] Comprised of the following provinces: Batangas, Cavite, Laguna, Quezon, Rizal, Marinduque, Occidental Mindoro, Oriental Mindoro, Palawan and Romblon.
[63] Comprised of the provinces of Zamboanga del Norte, Zamboanga del Sur and Zamboanga Sibugay, and the city of Isabela.
[64] This partly explains why Amnesty International decided to focus on the National Capital Region and on Regions III and IV. For a complete picture of reported torture cases in the Philippines, please refer to the table preceding this chapter.
[65] President Benigno Aquino III's State of the Nation Address, 22 July 2013.
[66] The 2013 US State Department reports that the PNP has 147,190 members.
[67] Philippine Population Commission, July 2014.
[68] Philippine Daily Inquirer, "Mayor Binay asks PNP to augment police force in Makati," 1 July 2014, http://newsinfo.inquirer.net/615876/mayor-binay-asks-pnp-to-augment-police-force-in-makati. Last accessed 25 August 2014.
[69] DILG Act (1990), sec. 27, Republic Act RA 6975.
[70] Meeting of the Philippine National Police with civil society groups, University of the Philippines, Quezon City, September 2012.
[71] Ibid.
[72] UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 13.
[73] UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 14.
[74] UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 12.1.
[75] 2010 PNP Operational Procedures, Rule 2.
[76] 2010 PNP Operational Procedures, Rule 5.
[77] Ibid.
[78] 2010 PNP Operational Procedures, Rule 8, sec. 2 and Rule 14, sec. 1.
[79] 2010 PNP Operational Procedures, Rule 8, sec. 3.
[80] 2010 PNP Operational Procedures, Rule 14, sec. 1.
[81] 2010 PNP Operational Procedures, Rule 14, sec. 8 provides three instances: (a) in cases where the crime has been committed or is being committed before a police officer, (b) the police officer has probable cause to believe that the person to be arrested has committed an offence which has just been committed, or (c) the person to be arrested is a prisoner or detainee who escaped from prison or detention
[82] 2010 PNP Operational Procedures, Rule 14, sections 5 and 9.
[83] 2010 PNP Operational Procedures, Rule 15, sec. 1(b).
[84] 2010 PNP Operational Procedures, Rule 14, sec. 10 and Rule 15, sec. 1(g).
[85] 2010 PNP Operational Procedures, Rule 14, sections 6 and 9.

[86] Revised Penal Code, Art. 125
[87] Interview with Amnesty International on 21 November 2013, Muntinlupa.
[88] Interview with Amnesty International on 28 November 2013, Metro Manila.
[89] 1987 Philippine Constitution, Art. III, Section 12(3).
[90] Anti-Torture Act, sec. 7.
[91] See for instance UN General Assembly Resolutions UN Doc. A/Res/65/205 (2010), para. 21; UN Doc. A/Res/67/161 (2012), para. 23; UN Doc. A/Res/68/156 (2013), para. 27.
[92] Committee against Torture Concluding observations: Spain, UN Doc. CAT/C/ESP/CO/5, (2009) para.12.
[93] Human Rights Committee, General Comment 20, Article 7 (Forty-fourth session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI\GEN\1\Rev.1 at 30 (1994), para. 11.
[94] See for instance Report of the Committee against Torture, UN Doc. A/52/44 (1997), paras. 121(d) (re Georgia); 146 (re Ukraine); UN Doc. A/55/44 (2000), para. 61(b) (re Peru); UN Doc. A/58/44 (2003), para. 42(h) (re Egypt); UN Doc. A/59/44 (2004), para. 146(d) (re Yemen).
[95] UN Doc. E/CN.4/2002/76, 27 December 2001, Annex 1.
[96] UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 15 in relation to Principles 16 and 18.
[97] Standard Minimum Rules for Treatment of Prisoners, sec. 37.
[98] Standard Minimum Rules for Treatment of Prisoners, sec. 91.
[99] Standard Minimum Rules for Treatment of Prisoners, sec. 93.
[100] Interview with Amnesty International on 29 November 2013, Pampanga.
[101] Interview with Amnesty International on 30 November 2013, Pampanga.
[102] Interview with Amnesty International on 2 December 2013, Parañaque.
[103] 1987 Constitution, Art. III, sec. 12(2).
[104] Interview with Amnesty International on 8 September 2014, Metro Manila.
[105] Anti-Torture Act, sec. 7.
[106] 1987 Constitution, Art. III, sec. 12(3).
[107] Anti-Torture Act, sec. 8.
[108] Rules of Court, Rule 133, sec. 3.
[109]The 2013 US State Department report on the Philippines
[110] R.A. 7438, sec. 2(d).
[111] See the case of *People v. Racho,* G.R. No. 186529, 3 August 2010.
[112]G.R. 92957, 8 June 1992, affirmed in the 2000 case of *People v. Continente* (G.R. 100801-02, 25 August 2000), the 2004 case of *People v. Mojello* (G.R. 145566, 9 March 2004) and the 2010 case of *People v. Tuniaco, et al.* (G.R. 185710, 19 January 2010). For a confession to be admissible, it must be: a) voluntary, b) made with the assistance of a competent and independent counsel, c) express, and d) in writing.
[113] See Committee against Torture: *G.K. v Switzerland*, UN Doc. CAT/C/30/D/219/2002, (2002) §6.10; *P.E. v France*, UN Doc. CAT/C/29/D/193/2001, (2002) §3.4.
[114] Committee against Torture Concluding observations: Russia, UN Doc. CAT/C/RUS/CO/4, (2007) §21, Togo, UN Doc. CAT/C/TGO/CO/1, 2006 §24.
[115] Human Rights General Comment 32, §41.
[116] Interview with Amnesty International on 25 November 2013, Zambales.
[117] See for example the case of Quezon City Mayor Herbert Bautista slapping a drug suspect in front of the media. Manila Bulletin, 'Bistek' slaps big-time Chinese drug suspect, 9 August 2014, http://www.mb.com.ph/bistek-slaps-big-time-chinese-drug-suspect. Last accessed 13 October 2014. In 2013, a proposed legislation was filed banning the "parading" of suspects before the media. The Manila Times, Ban on 'parading' suspects before the media proposed, 19 August 2013, http://www.manilatimes.net/ban-on-parading-suspects-before-media-proposed/31102/. Last accessed 13 October 2014.
[118] Interview with Amnesty International on 1 December 2013, Pampanga.
[119]Anti-Torture Act, sec. 4a.
[120] Anti-Torture Act, sec. 4b.
[121] Interview with Amnesty International on 21 November 2013, Muntinlupa.
[122] Republic Act No. 8049, Anti-Hazing Law, 7 June 1995.

[123] Philippine Star, Police officials launch probe on cadet's death, 17 May 2000, http://www.philstar.com/headlines/88043/police-officials-launch-probe-cadets-death. Last accessed 29 September 2014.
[124] Philippine Star, Suspect in fatal hazing charged, 8 January 2003, http://www.philstar.com/nation/190719/suspect-fatal-hazing-charged, accessed 29 September 2014.
[125] GMA News, Family of PNPA cadet in alleged hazing refuses autopsy, 24 April 2006, http://www.gmanetwork.com/news/story/4658/news/nation/family-of-pnpa-cadet-in-alleged-hazing-refuses-autopsy. Last accessed 29 September 2014.
[126] See for instance Committee against Torture Concluding observations: Armenia, UN Doc. CAT/C/ARM/CO/3, (2012) para. 9, Russia, UN Doc. CAT/C/RUS/CO/5, (2012), para. 16.
[127] See Human Rights Committee, UN Doc. A/50/40, (1995), para. 400.
[128] Philippine Star, Alleged 'hulidap' mastermind suspended for PNPA hazing, 15 September 2014, http://www.philstar.com/metro/2014/09/15/1369174/alleged-hulidap-mastermind-suspended-pnpa-hazing. Last accessed 29 September 2014.
[129] Manila Bulletin, Lacson calls for 'internal cleansing' of PNP; AWOL cop surrenders, 11 September 2014, http://www.mb.com.ph/lacson-calls-for-internal-cleansing-of-pnp-awol-cop-surrenders/. Last accessed 13 October 2014.
[130] The Daily Tribune, Lawmaker wants police academy placed under PNP, 14 September 2014, http://www.tribune.net.ph/metro/lawmaker-wants-police-academy-placed-under-pnp. Last accessed 13 October 2014.
[131] Republic Act No. 7080, An Act Defining and Penalizing the Crime of Plunder (1991).
[132] Republic Act No. 1379, An Act Declaring the Forfeiture in Favor of the State Any Property Found To Have Been Unlawfully Acquired By Any Public Officer or Employee and Providing for the Proceedings Therefor (1955).
[133] Philippine Star, http://www.philstar.com/headlines/2013/07/11/964084/pnp-most-corrupt-agency-survey, last accessed 5 August 2014.
[134] Philippine Daily Inquirer, Purisima admits 'ashamedly' to corruption in the PNP, 30 September 2014, http://newsinfo.inquirer.net/641658/purisima-admits-ashamedly-to-corruption-in-pnp. Last accessed 13 October 2014.
[135] These corruption charges range from an anomalous firearms license contract, an overpriced renovation of his place of residence within the PNP compound, a mansion, and underpriced purchase of a vehicle. See Philippine Daily Inquirer, Plunder complaint filed vs PNP chief, firearms office head over license delivery deal, 22 April 2014, http://newsinfo.inquirer.net/596592/plunder-complaint-filed-vs-pnp-chief-firearms-office-head-over-license-delivery-deal. Last accessed 13 October 2014; Philippine Daily Inquirer, Multiple charges filed vs PNP chief Purisima, 22 September 2014, http://newsinfo.inquirer.net/639902/multiple-charges-filed-vs-pnp-chief-purisima. Last accessed 13 October 2014; Philippine Daily Inquirer, PNP chief Alan Purisima: My home is an ordinary house, not a mansion, 2 October 2014, http://newsinfo.inquirer.net/642174/pnp-chief-alan-purisima-my-home-is-an-ordinary-house-not-a-mansion. Last accessed 13 October 2014; and Philippine Daily Inquirer, PNP chief buys P4M Prado for P1.5M, 1 October 2014, http://newsinfo.inquirer.net/641818/pnp-chief-buys-p4m-prado-for-p1-5m. Last accessed, 13 October 2014.
[136] Interview with Amnesty International on 1 December 2013, Tarlac.
[137] CRC, Art. 3.
[138] CRC, Art. 1.
[139] CRC, Art. 37(c).
[140] CRC, Art. 40.3.
[141] CRC, Art. 37(a).
[142] Juvenile Justice Welfare Act of 2006, sec. 6.
[143] Juvenile Justice Welfare Act of 2006, sec. 6 in relation to sec. 20.
[144] Juvenile Justice Welfare Act of 2006, sec. 23.
[145] Juvenile Justice Welfare Act of 2006, sec. 24.
[146] Juvenile Justice Welfare Act of 2006, sec. 31.
[147] Juvenile Justice Welfare Act of 2006, sec. 32.
[148] Republic Act No. 8369, Family Courts Act of 1997, sec. 5.

[149] Interview with Amnesty International on 25 November 2013, Zambales.
[150] Interview with Amnesty International on 22 November 2013, Zambales.
[151] Interview with Amnesty International on 28 November 2013, Manila.
[152] Interview with Amnesty International on 30 November 2013, Zambales.
[153] "Leila" is the name used by the National Bureau of Investigation and media reports
[154] Philippine Daily Inquirer, Ranking cop sued for raping bar woman in his SPD office, 29 October 2014, available at http://newsinfo.inquirer.net/647476/ranking-cop-sued-for-raping-bar-woman-in-his-spd-office. Last accessed 4 November 2014.
[155] Protocol 8.1, Philippine National Police Criminal Investigation Manual (revised), 2011.
[156] Ibid.
[157] Philippine Star, PNP probes Pasay raid, rape, 31 October 2014, available at http://www.philstar.com/metro/2014/10/31/1386439/pnp-probes-pasay-raid-rape. Last accessed 4 November 2014.
[158] See for instance Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, Judgment of 2 September 1998, para. 687; Prosecutor v. Zejnil Delalic, Case No. IT-96-21, ICTY Trial Chamber II, Judgment of 16 November 1998, paras. 475-496, 943, 965; Prosecutor v. Anto Furundzija, Case No. IT-95-17/1-T, ICTY Trial Chamber, Judgment of 10 December 1998, paras. 264-9.
[159] See for instance Interim Report of the Special Rapporteur on torture to the General Assembly, UN Doc A/55/290 (2000), para. 5; Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/HRC/7/3, 15 January 2008, paras. 34-6; Aydin v. Turkey, European Court of Human Rights, Reports 1997-VI (57/1996/676/866), Judgment of 25 September 1997, para. 86; Fernando and Raquel Mejia v. Peru, Inter-American Commission on Human Rights, Report No. 5/96, Case No. 10.970, 1 March 1996; para. B(3)(a); Almonacid Arellano et al. v. Chile, Preliminary objections, merits, reparations and costs, Inter-American Court of Human Rights, Judgment of 26 September 2006, Series C No. 154, para. 82.4.
[160] See for instance UN Committee on the Elimination of Discrimination Against Women, General Recommendation 19, Violence against women, UN Doc. HRI\GEN\1\Rev.1 (1992), para. 23.
[161] Anti-Torture Act, sec. 4(a)(7).
[162] Anti-Torture Act, sec. 14(3).
[163] Interview with Amnesty International on 1 December 2013, Pampanga.
[164] CEDAW, Article 2.
[165] Interview with Amnesty International on 21 November 2013, Muntinlupa.
[166] Civil Code, Art. 32.
[167] See similarly Art. 2(3)(a) of the ICCPR: "Each State Party to the present Covenant undertakes... To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity".
[168] Based on Art. 17 of OPCAT, each State Party shall maintain designate or establish one or several independent National Preventive Mechanisms, at the latest one year after ratification. The Philippines ratified OPCAT in April 2012.
[169] Human Rights Committee, General Comment 20, Article 7 (Forty-fourth session, 1992), UN Doc. HRI\GEN\1\Rev.1 at 30, para. 14.
[170] General Comment No. 3 of the Committee against Torture: Implementation of article 14 by States parties, UN Doc. CAT/C/GC/3, 16 November 2012, para. 2,
[171] Republic Act No. 10368, Human Rights Victims Reparation and Recognition Act of 2013.
[172] Thus Art. 12 of the UNCAT provides for a duty to investigate "wherever there is reasonable ground to believe that an act of torture has been committed".
[173] Section 9 of the Anti-Torture Act directs the CHR, DOJ, PAO, PNP, NBI and AFP to conduct prompt and impartial investigations into torture complaints. Section 15 of the Implementing Rules and Regulations clarifies this by stating that the CHR, PNP, DOJ/NBI, AFP and other concerned government agencies are required to conduct prompt and impartial fact-finding investigations within 60 days while PAO is directed to assist victims in preparing affidavits and other legal documents. In addition, if the complaints are referred to the DOJ or Ombudsman, the 60-day period shall start from the filing of the complaint with these two agencies.

[174] Anti-Torture Act, sec. 11 and Anti-Torture Act IRR, sec. 18.
[175] Executive Order No. 292 (1987), Administrative Code, Book IV, Title III, Chapter 1, sections. 1 and 3.
[176] Republic Act No. 157 (1947), sec. 1(a).
[177] Republic Act No. 157, sec. 1(b) and (e)
[178] Republic Act No. 157, sec. 1(d).
[179] See Republic Act No. 157, sec. 5 for full details of the powers of the NBI.
[180] Republic Act No. 157, sec. 5(c).
[181] Republic Act No. 157, sec. 5(e).
[182] Other than divisions assigned to investigate cases of human trafficking and violence against women and children, it has no particular division dedicated to investigating torture and other forms of human rights violations.
[183] Interview of Amnesty International with NBI representatives on 15 October 2014, Manila.
[184] See for example the 2009 case involving NBI-Iligan (GMA News, Four NBI men charged for 'torture' of gasoline boys in Iligan, 9 November 2010, http://www.gmanetwork.com/news/story/205528/news/regions/four-nbi-men-charged-for-torture-of-gasoline-boys-in-iligan, accessed 29 September 2014); the 2010 case involving NBI-Sarangani (Mindanews, NBI Agents in Sarangani sued for the death of detainee, 5 March 2013, http://www.mindanews.com/top-stories/2013/03/05/nbi-agents-in-sarangani-sued-for-death-of-detainee/, accessed 29 September 2014); and the 2012 case involving NBI-Bacolod (Sunstar, Suspect in judge slay recants, claims torture, 23 August 2012, http://www.sunstar.com.ph/bacolod/local-news/2012/08/23/suspect-judge-slay-recants-claims-torture-238912, accessed 29 September 2014).
[185] Republic Act No. 10071, Prosecution Service Act of 2010, sec. 3.
[186] Prosecution Service Act of 2010, sec. 9(b).
[187] Ibid.
[188] Ibid.
[189] Prosecution Service Act of 2010, sec. 9(c).
[190] Prosecution Service Act of 2010, sec. 7.
[191] Prosecution Service Act of 2010, sec. 5(1).
[192] Prosecution Service Act of 2010, sec. 5(2).
[193] In fact, the Prosecution Service Act of 2010 provides for the automatic creation of positions of prosecutors each time a province or city, or a new court or branch is created. See Republic Act No. 10071, sections 8, 13.
[194] Medical Reports dated 8 August 2010. The medical findings for the five victims ranged from "highly conclusive," "not hard to conclude," "most probably," "no doubt" to "beyond any doubt" that the victims were tortured.
[195] Commission on Human Rights, Medical Evaluation of Torture, Physical Injury & Ill-Treatment dated 9 August 2010.
[196] National Police Commission, Report of Investigation dated 22 August 2011.
[197] Rules of Court, Rule 133, sec. 4.
[198] The Police Manual requires arresting officers to deliver the arrested person without delay to the nearest police station and to record the fact of arrest (sec. 14. 6.a and 14.6.e).
[199] Administrative Order No. 35 (2012), sec. 2(d).
[200] Operational Guidelines of AO 35, Art. III(B), sec. 11.
[201] Operational Guidelines of AO 35, Art. III(B), sec. 12.
[202] Operational Guidelines of AO 35, Art. VI, sec. 1.
[203] 1987 Philippine Constitution, Art. XI, sections 12 and 13(1).
[204] 1987 Philippine Constitution, Art. XI, sec. 14. In addition, RA 6770, sec. 38 provides that "Appropriations for the Office of the Ombudsman may not be reduced below the amount appropriated for the previous years and, after approval, shall be automatically and regularly released."
[205] 1987 Philippine Constitution, Art. XI, sec. 6.
[206] Republic Act 6770 (1989), Ombudsman Act, sec. 7.
[207] 1987 Philippine Constitution, Art. XI, sec. 2 in relation to RA 6770, sec. 8(1). On similar grounds, a deputy or the special prosecutor may likewise be removed from office, without need for impeachment.

[208] Republic Act 6770, Ombudsman Act, sec. 11(4).
[209] Based on the Ombudsman's website, aside from its main office, it only has offices in Calamba, Laguna; Cebu City; Iloilo City; Tacloban City; Davao City; and Cagayan de Oro City. Available at http://www.ombudsman.gov.ph/index.php?home=1&navId=MjY=. Last accessed 31 October 2014.
[210] 1987 Philippine Constitution, Art. XI, sec. 13
[211] Ombudsman Act, sec. 17.
[212] *Ibid.*
[213] 1987 Philippine Constitution, Art. XI, sec. 13
[214] Ombudsman Act, sec. 14.
[215] Memorandum of Agreement between Ombudsman, NAPOLCOM and PNP dated 25September 2012, sec. 2.
[216] Office of the Deputy Ombudsman for the MOLEO, List of Cases Relative to RA 9745 from September 2012 to 10 December 2013.
[217] Office of the Deputy Ombudsman for the MOLEO, List of Dismissed and Active Cases Relative to RA 9745 as of August 2012.
[218] 1987 Philippine Constitution, Art. XIII, sec. 17(1).
[219] 1987 Philippine Constitution, Art. XIII, sec 18(1).
[220] 1987 Philippine Constitution, Art. XIII, sec 18(2).
[221] 1987 Philippine Constitution, Art. XIII, sec 18(8).
[222] 1987 Philippine Constitution, Art. XIII, sec 18(4).
[223] 1987 Philippine Constitution, Art. XIII, sec 18(9).
[224] 1987 Philippine Constitution, Art. XIII, sec 18(6).
[225] 2012 CHR Manual on Investigation and Case Management Process, p. 35.
[226] *Ibid.*
[227] 2012 CHR Manual on Investigation and Case Management Process, p. 43.
[228] 2012 CHR Manual on Investigation and Case Management Process, pp. 43-44.
[229] 2012 CHR Manual on Investigation and Case Management Process, p. 45.
[230] Interview with Amnesty International, 8 September 2014, Metro Manila.
[231] See for instance Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 13.
[232] General Comment No. 3 of the Committee against Torture: Implementation of article 14 by States parties, para. 29. See also UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, sec. 11(c). See also Section 24.
[233] Anti-Torture Act of 2009, sec. 12.
[234] Implementing Rules and Regulations of the Anti-Torture Act of 2009, sec. 44.
[235] See Sandro's case, interviewed 25 November 2013, Zambales.
[236] Social Case Study Report of a child-care institution dated February 12, 2013.
[237] Interview with Amnesty International, 30 November 2013, Zambales
[238] Republic Act No. 6981, Witness Protection, Security and Benefit Act (1991), sec. 2.
[239] Witness Protection, Security and Benefit Act, sec. 8.
[240] Witness Protection, Security and Benefit Act, sec. 5.
[241] Commission on Human Rights Interview 8 September 2014.
[242] Interview with Amnesty International, 1 December 2013, Pampanga
[243] Office of the Provincial Prosecutor, Resolution dated 11 April 2011. Copy on file with AI.
[244] Prosecutor's Resolution, 11 April 2011.
[245] DILG Act, sec. 51(b).
[246] DILG Act, sec. 51(b), as amended by the PNP Reform and Reorganization Act of 1998, sec. 62.
[247] DILG Act, sec. 51(b)(4), as amended by the PNP Reform and Reorganization Act of 1998, sec. 63.
[248] UN Body of Principles for the Protection of Persons Under Detention or Imprisonment, Principle 24.
[249] Ibid., Principle 25.
[250] Anti-Torture Act of 2009, sec. 12.
[251] Rules of Court, Rule 131, sec. 3(m).

[252] UNCAT, Art. 10.1.
[253] Anti-Torture Act of 2009, sec. 21 and Implementing Rules and Regulations of the Anti-Torture Act of 2009, sec. 43.
[254] Office of the High Commissioner for Human Rights, Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol"), 2004, UN DO. HR/P/PT/8/Rev.1.
[255] Anti-Torture Act of 2009 IRR, sec. 22.
[256] Anti-Torture Act of 2009 IRR, sec. 22.
[257] Anti-Torture Act of 2009 IRR, sec. 24.
[258] Anti-Torture Act of 2009 IRR, sec. 24.
[259] Anti-Torture Act of 2009 IRR, sec. 23.
[260] Philippine Mental Health Association, Psychological Report dated 19October 2012. The report describes his condition as "regression and mental retardation."
[261] Commission on Human Rights, Resolution dated 22 November 2013.
[262] Commission on Human Rights, Resolution dated 22 November 2013.
[263] Medico-Legal Certificate dated 11 July 2012.
[264] Interview with Amnesty International, 27 August 2014, Pampanga.
[265] Affidavit dated 13 May 2011.
[266] Affidavit dated 13 May 2011.
[267] Medical Certificate dated 23 March 2011 (medical examination conducted on 15 March 2011).
[268] CHR Forensics Report for medical examination conducted on 30 March 2011.
[269] Human Rights Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/74/CRP.4/Rev.6, 21 April 2004, para. 15.
[270] Ibid., para. 18.
[271] See for instance ICCPR, Article 14(3)(c).
[272] Anti-Torture Act of 2009 IRR, sec. 15(a).
[273] Speedy Trial Act of 1998, sec. 7.
[274] Speedy Trial Act of 1998, sec. 7.
[275] Speedy Trial Act of 1998, sec. 6.
[276] GMA News, SC hopes to cut down trial from five years to 90 days with new system, 24 September 2014, http://www.gmanetwork.com/news/story/380662/news/nation/sc-hopes-to-cut-down-trial-from-5-years-to-90-days-with-new-system. Last accessed 29 September 2014.
[277] Three days after Darius' disappearance, his father received reports that a decapitated head was seen floating on Manila Bay. Darius' father and wife both recognized Darius' face when they went to the police who had custody of the head. Darius' wife saw three gunshots on the head. Police told Darius' wife that the recovered head would undergo DNA testing but since she could not produce any dental records for Darius, the police decided to bury the severed head. The identification of the skull of the severed head would later become one of the issues that would emerge during the trial of the case. Because the DNA test was not immediately conducted, the injuries and gunshots in the severed head and the identity of the person were not properly documented. Delays in the investigation and prosecution of the case further compounded the problem. By the time the prosecution managed to arrange for DNA examination of the skull, local crime laboratories could no longer positively identify if the skull belonged to Darius. A DNA test, conducted in the Philippines, came out with inconclusive results. Local crime laboratories simply did not have the capability to conduct a thorough DNA examination. Prosecutors are now considering having the DNA examination conducted in a forensic laboratory outside the country, which will also be difficult considering the need to follow the chain of custody. Under Philippine rules on DNA evidence, the chain of custody of the biological samples subject of a DNA test must always be clearly established to avoid any doubt on the identity and integrity of the DNA evidence. (Rule on DNA evidence, sec. 7a)
[278] Darius' widow identified the naked man as Darius Evangelista, and Darius' fellow detainees at the police precinct confirmed this.
[279] Executive Order No. 292 (1987), Administrative Code, Book IV, Title VIII, Subtitle II, Chapter 11, sec. 67.
[280] Executive Order No. 292, Administrative Code, Book IV, Title VIII, Subtitle III, sec. 71.

[281] DILG Act, sec. 14(6) and (7).
[282] DILG Act as amended by the PNP Reform and Reorganization Act, sec. 42.
[283] PNP Reform and Reorganization Act, sec. 39.
[284] NAPOLCOM Memorandum Circular No. 001-2007 Uniform Rules of Procedure Before Administrative Disciplinary Authorities and the Internal Affairs Service of the Philippine National Police (2007), Rule 5, sec. 1.
[285] NAPOLCOM Memorandum Circular No. 001-2007 Uniform Rules of Procedure, Rule 16, sec. 1.
[286] Republic Act 6975 (1990), as amended by RA 8551 (1998), sec. 41(b).
[287] Amnesty International meeting with PNP HRAO representatives on 27 November 2013, Camp Crame, Quezon City.
[288] Executive Order 101, 7 May 1999, whereas clauses.
[289] Philippine National Police Reform and Reorganization Act of 1998. See RA 8551.
[290] RA 8551, sec. 39.
[291] RA 8551, sec. 39.
[292] Philippine National Police Reform and Reorganization Act of 1998, RA 8551, sec. 39.
[293] Philippine National Police Reform and Reorganization Act of 1998, RA 8551, sec. 39.
[294] NAPOLCOM Memorandum Circular No. 001-2007 Uniform Rules of Procedure, Rule 23, sec. 1.
[295] NAPOLCOM Memorandum Circular No. 001-2007 Uniform Rules of Procedure, Rule 16, sec. 1.
[296] Philippine National Police Reform and Reorganization Act of 1998, sec. 48.
[297] Rule III(c) of the PNP IAS Guidelines and Procedure explains the organizational relationship of the IAS with the PNP: …Sec. 39 of RA 8551 provides that "An Internal Affairs Service of the PNP is hereby created which shall"… the word "of the" connotes IAS is a part of the PNP. Executive Order 101 describes further that "RA 8551 has established the IAS as the mandated institutional watchdog agency for the PNP organization." And that the "government provides the PNP with a highly professional and competent office within the PNP that shall be independent, impartial and objective…" See also PNP Organizational Structure from the PNP website, www.pnp.gov.ph.
[298] Philippine National Police Reform and Reorganization Act of 1998, sec. 41.
[299] 2010 PNP IAS Guidelines and Procedures, III(b). The Deputy Inspector General down to the Intelligence Agent Driver/Security has ranks ranging from Police Director to Senior Police Officer I, indicating that the police officers assigned to IAS are still very much within the PNP structure.
[300] Internal Affairs Service interview, 5 December 2013.
[301] 1987 Philippine Constitution, Art. XVI, sec. 6.
[302] At least one of the regular commissioners must be a woman and commissioners should have some background in human rights law, sociology, criminology, criminal justice and other related disciplines. RA 6975 as amended by RA 8551, sections 13, 15(b).
[303] NAPOLCOM Memorandum Circular No. 001-2007 Uniform Rules of Procedure, Rule 12, sec. 1. NAPOLCOM also has appellate jurisdiction. The National Appellate Board considers appeals from the decisions of the Chief of the PNP involving demotion in rank or dismissal from service while Regional Appellate Boards have jurisdiction over appeals from decisions of regional directors, other officials, mayors and the People's Law Enforcement Board (PLEB). See RA 6975 as amended by RA 8551, sec. 44.
[304] Amnesty International meeting with NAPOLCOM representatives on 4 December 2013, NAPOLCOM, Makati City.
[305] DILG Act, sec. 43 and NAPOLCOM Memorandum Circular No. 2002-10, 2002 PLEB Revised Rules of Procedure, Rule II, sec. 2.
[306] DILG Act, as amended by Philippine National Police Reform and Reorganization Act of 1998, sec. 43(b). One of the members must be a woman and another, a member of the bar or, in the absence of a lawyer, a college graduate or the principal of the central elementary school in the locality
[307] Ibid.
[308] DILG Act, as amended by Philippine National Police Reform and Reorganization Act of 1998, sec. 43(e).
[309] NAPOLCOM Memorandum Circular No. 2002-10, 2002 PLEB Revised Rules of Procedure, Rule IV, sec. 25.
[310] Except over members of Congress, the Judiciary and other officials who may be removed only by impeachment. See Ombudsman Act, sec. 21.
[311] 1987 Philippine Constitution, Art. XI, sec. 13(3).

[312] 1987 Philippine Constitution, Art. XI, sec. 13(2).
[313] Ombudsman Act, sec. 25.
[314] Ombudsman Act, sec. 27.
[315] Ibid.
[316] Memorandum of Agreement between Ombudsman, NAPOLCOM and PNP dated September 25, 2012, sec. 2.
[317] Executive Order No. 292, Administrative Code, Book V, Title I, Subtitle A, Chapter 3, sec. 12(11).
[318] Executive Order No. 292, Administrative Code, Book V, Title I, Subtitle A, Chapter 3, sec. 12(11).
[319] Revised Rules on Administrative Cases in the Civil Service, sec. 9.
[320] Revised Rules on Administrative Cases in the Civil Service, sec. 16 in relation to sec. 117.
[321] Executive Order No. 292, Administrative Code, Book V, Title I, Subtitle A, Chapter 7, sec. 47 and Revised Rules on Administrative Cases in the Civil Service, sec. 7(A)(2) in relation to sec. 45.
[322] *National Appellate Board v. Mamauag,* G.R. No. 149999, August 12, 2005.
[323] Revised Rules on Administrative Cases in the Civil Service, sec. 4j.
[324] Amnesty International interview with representative from the Civil Service Commission on 20 December 2013, Quezon City.
[325] NAPOLCOM Memorandum Circular No. 001-2007, Uniform Rules of Procedure Before the Administrative Disciplinary Authorities and the Internal Affairs Service of the Philippine National Police, Rule II, sec. 1(n).
[326] The rationale is explained further in the Philippine case of *Sps. Arevalo v. Planters Development Bank*, G.R. No. 193415, 18 April 2012, where the Supreme Court ruled: The rationale against forum-shopping is that a party should not be allowed to pursue simultaneous remedies in two different courts, for to do so would constitute abuse of court processes which tends to degrade the administration of justice, wreaks havoc upon orderly judicial procedure, and adds to the congestion of the heavily burdened dockets of the court.
[327] NAPOLCOM Memorandum Circular No. 001-2007, Uniform Rules of Procedure Before the Administrative Disciplinary Authorities and the Internal Affairs Service of the Philippine National Police, Rule II, sec. 4 and Rules of Court, Rule 7, sec. 5.
[328] National Police Commission, Report of Investigation dated 22August 2011.
[329] National Police Commission, Report of Investigation dated 22 August 2011.
[330] Interview with Atty. Jose Manuel Diokno, Dean, De La Salle University College of Law and Chair, Free Legal Assistance Group, 6 December 2013, Quezon City.
[331] The recommendations made by the regional or provincial IAS, if not acted upon by the regional or provincial PNP directors within 30 days, automatically become binding as a decision.
[332] The recommendations made by the IAS Inspector General, if not acted upon by PNP Chief within 30 days, automatically become binding as a decision.
[333] These are: PNP Command, Internal Affairs Service, National Police Commission and the People's Law Enforcement Board.
[334] The Anti-Torture Act designates the Commission on Human Rights (CHR), along with the Public Attorney's Office (PAO) and the National Bureau of Investigation (NBI) as fact-finding agencies, which should complete a prompt and impartial investigation into allegations of torture within 60 days. It is not clear however what weight the findings of the investigations of the CHR, PAO and the NBI will carry considering that they do not have disciplinary authority over the police. At worst, their investigations could be an added layer to the bureaucracy.
[335] Executive Order No. 292, Administrative Code, Book III, Title I, Chapter 1, sec. 1.
[336] Executive Order No. 292, Administrative Code, Book IV, Title XII, Chapter 1, sec. 2.
[337] Administrative Order No. 35, 22 November 2012, sec. 2a.
[338] Administrative Order No. 35, 22 November 2012, sec. 2d.
[339] Statement in response to a question on the Philippines' human rights record at the EU Headquarters in Brussels, Belgium on 16 September 2014. Philippine Daily Inquirer, 17 September 2014, Aquino confronted on human rights record in Belgium forum, http://newsinfo.inquirer.net/638627/aquino-confronted-on-human-rights-record-in-belgium-forum-2#ixzz3EwncPAIs. Last accessed 2 October 2014.

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ABOVE THE LAW

POLICE TORTURE IN THE PHILIPPINES

Anyone arrested on suspicion of criminal activity in the Philippines risks being tortured or otherwise ill-treated in police custody. Many victims are children and almost all are from poor and disadvantaged backgrounds.

Methods of torture include systematic beatings, electric shocks, water-boarding, asphyxiation, hitting with truncheons or similar objects and being threatened at gunpoint. Although the Philippines is bound by international and domestic law to prevent and investigate acts of torture and other ill-treatment, such practices are rife during arrests and interrogations in many police stations. The severely understaffed police force, assisted by auxiliaries, is predisposed to taking "shortcuts" during arrests and investigations. A lack of forensic and investigative capacity, and reliance on testimonial evidence, underlie the use of torture and other ill-treatment to extract "confessions", regardless of evidence or the truth of the matter. No perpetrator has ever been convicted of torture in court; not one torture victim has obtained justice.

Above the law: Police torture in the Philippines explores the context since the Anti-Torture Act was enacted in 2009 and documents how people continue to be subjected to torture and other ill-treatment by police. The report discusses barriers to justice and accountability for torture, including impediments to filing complaints, ineffective investigations and obstacles to prosecution of perpetrators, and makes recommendations to the Philippine government.

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