

Submission to the Universal Periodic Review on the Philippines

On the Mamasapano operation

1. The Aquino government, in cooperation with the US government, is complicit in the botched Mamasapano counter-terror operation that took place on January 25, 2015. The deadly operation resulted in the deaths of 44 Special Action Force troopers from the government, 18 Moro rebels and 5 civilians. The operation took place in Mamasapano, Maguindanao province in the Southern Philippines and was directed against a suspected Indonesian terrorist Zulkifli Abdhir. Based on official testimonies before different investigating bodies, the counter-terror operation was funded and directed by the United States' Joint Special Operations Task Force - Philippines working in cooperation with the Philippine government and was known to Philippine President Benigno Aquino III who himself gave the go-signal.
2. Before dawn of January 25, two units of the SAF entered a Moro Islamic Liberation Front territory to allegedly serve a warrant of arrest on Abdhir. Despite a ceasefire being in place between the Philippine government and the Moro rebels, no coordination was made regarding the operations and the entry of heavily armed government troops into MILF territory. When a firefight broke out between the SAF and their target, the whole community was alerted and engaged the government forces for several hours. Because of lack of coordination within government agencies itself, government reinforcements would not arrive until after several hours later, thus resulting in a very high casualty rate among the SAF troopers.
3. According to the Autonomous Region of Muslim Mindanao local government unit ¹, "four civilians, including a five-year old girl, were killed in the encounter while six others were injured. More than 6,000 residents in six barangays in the municipality have also been forced to flee their homes, and classes in 13 schools have to be suspended, affecting more than 6,000 students." The deaths of civilians in the course of the conflict constitutes violations of international humanitarian law.
4. Based on fact-finding report² of Kawagib, on January 25, "while residents of Bgy. Tukananipao, Mamasapano were preparing for their morning prayer, and some to tend their farm, PNP-SAF entered the community and started firing at the house of Tots Panangulon, probably on suspicion that that members Jamaah Islamiyah were hiding there. A child, Sarah Panangulon, died while her father Tots and mother Samrah were injured."
5. The same report cited that "a farmer, Badrudin Langalan, was found hogtied and dead at a bridge at Bgy Tukananipao. His body was riddled with bullets, his eyes gouged. Sarah Lawani Langalan, Badrudin's wife, said her husband passed through the bridge to go to Bgy. Tukananipao crossing to have his cellphone charged. The wife believed he met members of SAF."

¹ <http://www.armm.gov.ph/hataman-draws-attention-to-civilian-casualties-of-mamasapano-encounter-calls-for-peace-based-on-truth-and-justice/>

² <http://www.karapatan.org/independent-probe-on-mamasapano-incident-should-include-civilian-casualties>

6. In the conduct of the operations, it was also confirmed that Moro Islamic Liberation Front (MILF) rebels Omar Dagadas, Ali Esmail, Musib Hasim and Rasul Zukarnin were killed while they were resting inside a mosque. The MILF ceasefire monitoring committee has named Police Officer 2 Christopher Lalan, the lone survivor from his SAF unit, as the perpetrator of the killings which also appear to be a violation of IHL.
7. Both the PNP Board of Inquiry and the Senate report point to the possibility that some of the SAF troopers were shot at close range by armed groups even if the government troopers were hors de combat.
8. Based on a Senate Committee report³ and the Board of Inquiry report by the Philippine National Police⁴, President Aquino is being held ultimately responsible for the deadly operation by virtue of command responsibility and for approving the flawed operation.
9. Bayan believes that the President committed serious violations of law which led to the carnage in Mamasapano. Aquino violated the PNP chain of command by allowing a suspended PNP general to run the operation. In allowing suspended PNP chief Alan Purisima to run the operation, Aquino also violated an Ombudsman suspension order. Aquino and Purisima also failed to coordinate with other government agencies beforehand as well as with the respective ceasefire committees of the Government of the Philippines and the MILF, thus resulting in the outbreak of hostilities inside the MILF territory. Aquino also allowed a foreign government to plan, fund and direct a domestic operation, endangering the lives of Filipinos in the name of the “war on terror”. All formal government inquiries have established the presence of US forces at the tactical command post during the actual operation, an indication of foreign involvement in the operation.
10. To date, President Aquino faces at least two criminal complaints from the families of the SAF 44. The case is at the preliminary investigation stage before the Ombudsman. The Philippine Department of Justice has cleared PO2 Lalan from any liability and no complaint has been filed for the deaths of the four MILF fighters⁵. No cases have been filed in relation to the deaths of civilians in the course of the operations. Some 88 people, from the MILF and other armed groups, have been charged for the deaths of 35 out of the 44 SAF troopers⁶. The case was based on testimonies of two witnesses.

³ <http://gracepoe.ph/2016/01/26/full-committee-report-mamasapano-incident/>

⁴ <http://www.gov.ph/2015/03/13/boi-mamasapano-report-march-2015/>

⁵ <http://news.abs-cbn.com/nation/regions/10/08/15/saf-lone-survivor-cleared-no-raps-vs-killers-84th-seaborne>

⁶ <http://www.gmanetwork.com/news/story/577656/news/nation/doj-orders-filing-of-cases-vs-88-milf-biff-members-in-mamasapano-massacre-case>

Recommendations

The Mamasapano incident has been extensively documented and investigated by various Philippine government agencies and branches, yet accountability remains elusive for the victims of the failed operation. Two of the ranking police officials, former PNP Chief Alan Purisima and former SAF Director Getulio Napanas face charges before an anti-graft court. Former President Aquino faces charges and is undergoing preliminary investigation at the Ombudsman. Last August, the Department of Justice ordered the filing of cases against 88 individuals for the deaths of the SAF troopers.

1. The Philippine government, under the new Duterte administration, should probe the full extent of the liabilities of former top officials including former President Aquino, in the bloody incident. A review of the protocols of the police forces when conducting operations in civilian communities should also be undertaken.
2. The Philippine courts should ensure a speedy trial for those already charged in court. Those undergoing preliminary investigation should likewise be entitled to a speedy process.
3. The Philippine government should reopen the probe into the civilian deaths and establish accountability. Civilian victims who died or were forcibly displaced during the operation should also be indemnified.
4. The role of a foreign government, the US through its Joint Special Operations Task Force Philippines, should also be looked into by the Philippine government.
5. Possible IHL violations in the course of the confrontation between armed groups, both government and Moro rebels, should also be looked into by the appropriate Philippine government agencies as well as the ceasefire committees of the Philippine Government and the MILF.