



MESSAGE

Doing human rights work is like walking in a tightrope. HR defenders never know when to fall, and whether or not we fall hard, when it happens. Thus, in the course of this mission, defenders learned and continue to learn ways, skills, knowledge and creativity not just to survive but also to multiply. There are still plenty of things to learn and to experience however, as we continue to address the urgency of strengthening human rights work in the country particularly at the grassroots level. So this handbook aims to be a modest contribution to that process of helping human rights defenders weathers the risks and dangers that the work entails.

This is also a follow-up to the Know Your Rights pocket-guide that CTUHR published on January 2009.

The practical content of the handbook is an accumulation of experiences of human rights defenders and families of victims of extrajudicial killings and other violations primarily in the labour sector that CTUHR worked with in its 25 years of existence.

We could not have finished the handbook though, without the patience, openness, critiques and recommendations of nearly hundred HR defenders from various organizations and sectors nationwide who joined the Luzon, Visayas and Mindanao pretests. Specifically, we thank the Pro-labour Legal Assistance (PLACE), Visayas Institute for Human Development Agency, Inc (VIHDA) and Nonoy Librado Development Foundation, Inc (NLDFI) for co-organizing the regional activities. To all of them, we owe our thanks.

CTUHR also thanks the EPJUST Team for making the whole process of discussing and re-writing the draft an enjoyable educational experience.



MESSAGE

Cooperation with CTUHR on this human rights defenders' handbook has a special significance for the European Union funded EPJUST program and myself: As early as 1870 trade-unions were formed in Europe, France and Germany in particular. Today, the largest union confederation in Europe is the German Confederation of Trade Unions representing 7 million people.

In former times, there were severe penalties for attempting to organize unions, up to and including execution. Today we realize that trade unions are an essential part of any free society. There can be no democracy without free trade unions. Therefore, trade unions and trade unionists were and still remain the main "targets" of any dictatorship. Some examples of those, who refused to accept human rights: in Nazi-Germany trade unionists were killed by the thousands in concentration camps; after the military coup in Chile in 1973 the Pinochet-regime tortured and arrested so called "leftist" trade-unionists. Many were never seen again. Up to today, trade unionists are threatened and harassed in several countries, sometimes even in would-be democracies.

Trade unionists are among the most active human rights defenders. This handbook is for them and other activists in the field of human rights protection. It is meant to protect those, who are protecting others.

A handwritten signature in black ink, appearing to read "Detlev Mehlis".

Mr. Detlev Mehlis

EPJUST Team Leader/ Senior Justice Expert

TABLE OF CONTENTS

I. Introduction.....	4
II. Your Human Rights.....	5
III. Your Legal Rights.....	11
IV. Responding to Risks and Threats to Safety.....	19
V. Important Contact Points.....	33

INTRODUCTION

Are you a political activist defending the rights to freedom of assembly and of expression? Or a trade unionist? Or an activist for housing rights, land rights, environmental rights, education rights, indigenous people's rights, women and child rights? Or someone active in promoting or striving for the realization of human rights and fundamental freedoms at national and international level individually or in association with others?

If you are one of them, then you are called Human Rights Defender (HRD)! The UN Declaration on Human Rights Defenders declares

“Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels”¹

Like other persons within a jurisdiction of a state, you have the right to be protected by the State, both in laws and in practice. You have the right to defend human rights. The same Declaration stresses **“that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State”²**.

Many human rights organizations and human rights defenders are not able to pursue their activities freely, including their right to freedom of association, or right of peaceful demonstration, and are often subjected to harassment and intimidation.

As human rights defender, your work is important not only for the sectors or issues you advocate, but to society in general. But since your work challenges persecution and injustice, it can be risky or life threatening at times.

So, this handbook is for you, not as fool-proof safety guarantee (there is no such thing like that!), but simple and helpful tips for basic protection while you perform your important mission.

¹ UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms

² Ibid.

YOUR HUMAN RIGHTS

Human rights are universal, indivisible, interdependent and interrelated whether they are civil, political, economic, social or cultural, and “must be upheld with equal determination in every country.”³ They derive from the inherent dignity of the human person. Human rights are recognised and codified in national laws and international treaties. Their enjoyment and fulfilment cannot be suspended in any situation, even under martial law or a national state of emergency. The State (all branches of government) and its agents have the duty to respect, protect and fulfil human rights of all individuals. In reality, however, violations of these rights exist, even in democratic countries.



1. The right to life.

Everyone has the right to life⁴. This right, however, can be violated in a variety of ways, including:

Killings by state agents, or persons acting in direct or indirect compliance with the State, when the force used is not absolutely necessary and proportionate (“extra judicial killings or extralegal killings”);⁵

- Deaths in custody as a result of neglect, use of excessive force and torture, or life-threatening conditions of detention (summary execution, “salvaging”);
- Deliberate killing by private groups or individuals or armed groups engaging war with the State (the Geneva Conventions and protocols (Protocol II) are important here particularly in the context of non-international armed conflicts);⁶

³ Kofi Annan, UN Secretary General “On Universality and Indivisibility of Human Rights”, 24 April 2003, UN Commission on Human Rights, Geneva, Switzerland

⁴ Universal Declaration of Human Rights (UDHR) Art. 3; 1987 Constitution Art. III Sec. 1

⁵ “The international law definition of extrajudicial execution... encompasses any killing by Government forces as well as killings by any other groups or individuals which the Government fails to investigate, prosecute and punish when it is in a position to do so”, Prof Philip Alston, *UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions*, 15 October 2009. “Extralegal killings are killings committed without due process of law, i.e. without legal safeguards or judicial proceedings.” *Rule on the Writ of Amparo: Annotation, p.48 and Case law: Sec of National Defense v. Manalo (GR 180906, 7 Oct 2008)*

⁶ The Geneva Conventions and their Additional Protocols are international treaties that contain the most important rules limiting the barbarity of war. They protect people who do not take part in the fighting (civilians, medics, aid workers) and those who can no longer fight (wounded, sick and shipwrecked troops, prisoners of war). Protocol II relates to the Protection of Victims of Non-International Armed Conflicts, 8 June 1977

- Failure by the State to investigate, prosecute and judge violations of the right to life.

2. The right to freedom from torture.

Everyone has the right to freedom from torture and inhuman or degrading treatment or punishment.⁷

In 2009, torture became a crime under Republic Act No.9745 or Anti-Torture Act of 2009. This right can be violated through a variety of ways ; acts that constitute torture, include:

- the deliberate infliction of severe physical or psychological pain on a person or group by State agents or within the consent or acquiescence of a person in authority or public official or agent of a person in authority or armed groups with the intention of causing suffering (e.g. systematic beating, food deprivation, cigarette burning etc.), or obtaining information, or a forced confession for an alleged crime;
- expelling or returning a person to a place in which they face a real risk of being tortured or subjected to inhuman or degrading treatment or punishment;
- keeping persons in very poor conditions of detention, even if there is no intention to inflict suffering;
- corporal (physical) punishment of children and battering of spouses in the guise of disciplinary action; and
- `secret detention places, solitary confinement, incommunicado and other similar forms of detention where torture may be carried out with impunity are also prohibited.



⁷ The Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are annexed to General Assembly resolution 55/89 of 4 December 2000 and to Commission on Human Rights resolution 2000/43 of 20 April 2000, both adopted without a vote.

To investigate or assess allegations of torture, the UN's *Istanbul Protocol*⁸ is useful. It provides a set of international guidelines for the assessment of persons who allege torture and ill treatment, for investigating cases of alleged torture, and for reporting such findings to the judiciary and any other investigative body.

3. The right not to be subjected to forced labour.

No one shall be required to perform forced or compulsory labour.⁹ Compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.¹⁰ Forced or compulsory labour will require a level of coercion or deception between the employer and the victim, beyond that which might be expected in normal employment arrangement.¹¹

There are seven (7) major categories of forced labour:

- slavery and abductions;
- compulsory participation in public works projects;
- mandatory forced labour in remote areas;
- bonded labour or debt bondage - forcing another person to work in her/his household as domestic or in his family or company as payment of debt;
- worker or farm labourer as payment for debt or contractual obligation;
- involuntary labour resulting from trafficking in persons;
- domestic workers in involuntary labour situations;
- prison labour and rehabilitation through work unless it is a part of the punishment for the crime committed

4. The right to freedom of assembly and association.

Everyone has the right to freedom of assembly and of association with others including the right to form trade unions to protect their interests.¹²

⁸ Slavery, Servitude and Forced or Compulsory Labour, Ministry of Justice, United Kingdom

⁹ ICCPR Art. 8, Para 3 (a)

¹⁰ ILO Conventions No. 29, Convention concerning Forced or Compulsory Labour.

¹¹ ICCPR Art 21; 1987 Constitution Art. III Sec. 4

¹² ICCPR Art 22; ILO Conventions 87 and 98; 1987 Constitution Art. III Sec. 8

This right, however, can be violated in a variety of ways, including:

- preventing public demonstrations;
- restricting possibilities to join voluntary associations (e.g. community or peoples organization); and
- denying persons the right to form and/or join trade unions or workers' associations¹³

5. The right to freedom of opinion and expression

Everyone shall have the right to freedom of opinion and expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.¹⁴



While right to freedom of opinion is absolute, right to freedom of expression is not.¹⁵

This right, however, can be violated in a variety of ways, including by:

- limiting the freedom of the press or placing undue restrictions on the press or passing a law that allows government interference in media affairs (excluding reasonable licensing restrictions, e.g. prior restraint on what can be published as news on print and broadcast media);
- (print, broadcast including new media or internet channels);
- informal censorship on journalists through threats, intimidations and legal harassments;

¹³ UDHR Art. 23; ILO Conventions 87 and 98

¹⁴ ICCPR Art. 19; 1987 Constitution Art. III Sec. 4

¹⁵ "Freedom of Expression, a right (still) at risk", UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank La Rue, UN Human Rights Council, 14th session, 06 July 2010.

- restricting access to political, artistic or commercial information and ideas (e.g. denying individuals and organizations access to various political groups or correct information and services on sexual and reproductive health);and
- arrest of people for wearing advocacy t-shirts or using alternative media that can be critical of certain policies or authorities.

6. The right to liberty and security.

Everyone has the right to liberty and security. No one shall be subjected to arbitrary arrest or detention, deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.¹⁶ Deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.¹⁷

This right, however, can be violated in a variety of ways, including by:

- unlawful or arbitrary detention (where there is no legal basis for the deprivation of liberty), for example when a person is kept in detention after a mandatory period without a charge in court, or completion of their prison sentence, or despite an amnesty law which applies to them;
- threats, surveillances or harassments that limit the free movement of an individual from one place to another;
- detention of persons because they have exercised the rights and freedoms guaranteed by national and international laws and mechanisms;
- detention on false charges because you perform your role and functions as a human rights defender;
- detention after a trial which did not comply with international standards for a fair trial (*see the right to a fair trial*).

¹⁶ ICCPR Art 9; 1987 Constitution Art. III Sec. 1

¹⁷ Optional Protocol on Convention Against Torture (OP-CAT) Art 4. Para 2

7. The right to freedom from discrimination

Everyone has the right to freedom from discrimination and right to equal protection of the law¹⁸. This right, however, can be violated in a variety of ways, including by:

- sex;
- race;
- colour;
- age;
- language;
- birth or other status;
- beliefs (religion, opinions, ideology);
- political affiliations or associations;
- wealth or economic origin;
- nationality, social origin (association with a minority group (ethnic or sexual)); and
- mental or physical disabilities.

8. The right to a fair trial.

Everyone has the right to a fair trial¹⁹. This right, however, can be violated in a variety of ways, including by:

- secret trials;
- failing to respect the presumption of innocence by denying due process to accused persons (e.g. information on the alleged crime committed, time to prepare a proper defense, access to a lawyer, access to language interpretation etc.);
- hearing criminal charges before bodies which are not independent and impartial courts;
- trials in which, from the beginning, one party has a significant advantage over the other (breach of the principle of “equality of arms”); and
- excessive delays in bringing a case to trial and/or in completing court proceedings.

¹⁸ ICCPR Art. 26; 1987 Constitution Art. III Sec. 1

¹⁹ ICCPR Art14; 1987 Constitution Art. III Sec. 14 (2)

YOUR LEGAL RIGHTS

Human rights defenders' work is legal. Human rights defenders are legal and legitimated by national and international communities. Human rights defenders often risk their lives and well-being in the pursuit of truth and justice. This section provides some useful tips in lessening risks for human rights defenders in critical situations of arrests and detentions, and searches and seizures.

A. Arrests and Detentions

Everyone has the right not to be subjected to arbitrary arrest or detention. Everyone has the right not to be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.²⁰



You can only be legally arrested on two grounds: 1) if there is a case filed against you in court and an arrest warrant had been issued against you; and, 2) if you are arrested in any of the circumstances where warrantless arrests are legal under Rule 113 Section 5 of the Rules of Court.

The police has the judicial authority to serve a warrant and effect an arrest.

1. If you have been arrested and/or under investigation, RA 7438²¹ provides for your rights, as follows:

- You have the right to be informed of the reason of arrest and the charges against you;
- You have the right to remain silent and not to be compelled to testify against yourself;

²⁰ ICCPR Art 9; 1987 Constitution Art. III Sec. 2, 12 (2)

²¹ See Section 2. Rights of Persons Arrested, Detained or Under Custodial Investigation.

- You have the right to have a counsel of your choice to assist you at all times in any custodial investigation or interrogation²²;
- You have the right to be presented to a judge as soon as possible but not later than:
 - a) 12 hours after the arrest for a light offense
(e.g. *vandalism*)
 - b) 18 hours after the arrest for less grave offense
(e.g. *illegal assembly*)
 - c) 36 hours after arrest for a grave offense
(e.g. *murder, rebellion*)

Remember: If the arresting person failed to comply with the above, your arrest and detention become illegal and you should file a complaint to constitutional authorities at the first opportunity to do so. ²³

When you are presented to a judge,

- You have the right to make a formal complaint if you feel you have been denied counsel, pushed around, forced to confess, tortured or intimidated;
- You have the right to ask to be released on reasonable bail, unless you are charged with a crime punishable by *reclusion perpetua* or life sentence and the evidence of your guilt is strong;
- You have the right to be visited by a family member, relative, friend and lawyers.

²² RA 7438 Sec. 4. provides a penalty clause for (a) Any arresting public officer or employee, or any investigating officer, who fails to inform any person arrested, detained or under custodial investigation of his right to remain silent and to have competent and independent counsel preferably of his own choice, shall suffer a fine of Six thousand pesos (P6,000.00) or a penalty of imprisonment of not less than eight (8) years but not more than ten (10) years, or both. The penalty of perpetual absolute disqualification shall also be imposed upon the investigating officer who has been previously convicted of a similar offense.

²³ Revised Penal Code of the Philippines (RPC) Art. 125

2. If you continue to be detained while your case is being heard:

- You have the right to be treated with humanity and with respect for the inherent dignity of the human person.²⁴
- You have the right to a speedy and impartial procedure;
- You have the right to receive adequate food, and you may decide to procure food from outside through the administration of the detention center or through family and friends;
- You have the right to practice your religion;
- You have the right to a healthful accommodation with sufficient light and ventilation and adequate sanitary and bathing facilities;
- You have the right to be furnished with and to procure reading and writing materials;
- You have the right to be separated from sentenced convicts;
- You have the right to have at least an hour of outdoor exercise; and
- You have the right not to be compelled to work unless you wish to.

3. If you are facing trial:

- You have the right to be informed of what you are charged with and what acts you are accused of having committed;
- You have the right to be assisted by a counsel of your own choice;
- You have the right to be presumed innocent until you have proven guilty beyond reasonable doubt;

²⁴ ICCPR Art. 10, para 1

- You have the right not to be compelled to be a witness against yourself;
- You have the right to confront the witness(es) against you;
- You have the right to have compulsory process to produce evidence favourable to you;
- You have the right to present your defense;
- You have the right not to be placed twice in jeopardy for the same offense;
- You have the right not to be sentenced to pay an excessive fine nor to suffer cruel or unusual punishment; and
- You have the right to a speedy, impartial and public trial.

B. Warrantless Arrest

As a general rule, you can only be legally arrested when there is a warrant of arrest issued by the court against you. There are circumstances determined by law where warrantless arrest is valid and legal. Rule 113 Section 5 of the Rules of Court provides for instances of valid warrantless arrests as follows:

Section 5. Arrest without warrant; when lawful. — A peace officer or a private person may, without a warrant, arrest a person:

- (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
- (b) When an offense has just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

- (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraph (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with section 7 of Rule 112. (5a)

If you are arrested outside any of the above-written circumstances, the arrest is illegal and you should be immediately released. However, under the Ilagan Doctrine²⁵ of the Supreme Court, an illegal arrest can be cured and can be legalized if a corrected information is filed at the prosecutor's office or the court issued a warrant of arrest on the accused. The use of this doctrine is still being legally contested.

C. Searches and Seizures

You have a right not to have your house or office searched, your papers and belongings seized by State agents without a valid search warrant issued by a Judge, and not to have anything seized which is not specified in the presented search warrant. A search warrant is not a license to ransack your house or your office. If you are legally arrested, your person and surroundings may be searched for dangerous weapons and any evidence found on your person and immediate vicinity (***person and immediate vicinity only***) which may have been used to commit the crime you are charged of may be seized.

IF YOUR HOUSE OR OFFICE IS TARGETTED FOR A SEARCH AND SUPPOSED WARRANT IS ISSUED:

1. Check if the search warrant is valid. A search warrant is valid if:
 - it is signed by the judge who has jurisdiction over the place to be searched;

²⁵ Ilagan vs. Enrile, 139 SCRA 3491985

- it specifies one offense only;
 - it describes with particularity the exact location and/or address of the place to be searched, and list down exactly what things are to be seized. A search warrant can be issued only for objects that are the subject of the crime allegedly committed (e.g. unlicensed firearms) or fruits of the crime (stolen money);
 - it is executed within 10 days after its issuance;
 - it is not a photocopy search warrant.
2. If the search warrant is valid, only then should you allow the search to be conducted. Before letting the search party to enter your house or office, ask their names, rank, office, command or units they belong and get name and rank of the commanding officer. If it is a lawful search, the search party should normally give their names.
 3. During the search, accompany the group conducting the search at all times, do not leave them alone and always be alert, to prevent planting of documents, weapons or any other materials in your home or office that can be used against you later.
 4. If you have doubts about the authenticity of the search warrant, ask for a copy of the warrant from the court that issued it even if the search had been consummated. This is useful especially if you want to contest the search in court.



Remember: the search party is allowed to conduct the search only in the presence of the lawful occupant or any member of the family. If NO occupant or member of the family is present, the search must be conducted in the presence of two witnesses residing from the same locality, or a barangay captain.²⁶

²⁶ RPC Art. 130

5. If anything is taken from your house or office, the officer seizing the property must give a detailed receipt. Ask the officer of the group conducting the search and a member of your community to sign the receipt immediately below the last written line of its page.
6. You may ask to sign an affidavit of orderly search. If in your opinion the search wasn't orderly at all, do not sign the affidavit. If you are forced to sign, add in your signature, the phrase "under protest" or "under duress". In this way, you can register your objection.
7. If the WARRANT IS INVALID, the search and seizure is unlawful. Any evidence obtained as a result of an unlawful search and seizure cannot be used as evidence in any proceeding. You may resist, without liability to an unlawful search and seizure. You may also file criminal, civil or disciplinary action cases against the officer serving an unlawful warrant.
8. Where there is no search warrant, do not voluntarily submit yourself to a search. Object immediately and demand for their identity, names, rank, office or command they come from. Do not agree to be searched and register your opposition. A warrantless search without your expressed consent is ILLEGAL.

D. WARRANTLESS SEARCH

As a general rule, you need a valid search warrant before any search can be conducted. However, according to law, a warrantless search is valid or legal on the following circumstances:

1. search incidental to a valid arrest- it is natural that you will be searched for possible weapon, drugs or any illegal objects deemed by law
2. moving vehicle²⁷
3. smuggled goods or sometimes called as contraband

²⁷ Moving Vehicle/Probable Cause Doctrine--an automobile, truck, van, motorhome, boat, airplane or other movable object can be searched IF there is (a) probable cause (b) the vehicle is moving or about to be moved, and (c) a warrant cannot be readily obtained. Every part of the vehicle can be searched, including closed containers in the trunk, although special justification is needed for trunks.

4. seizure of evidence in plain view- **plain view doctrine** allows an officer to seize without a warrant, evidence and contraband found in plain view during a lawful observation.
5. waiver or consented warrantless search- when consent is given freely and voluntarily and not through the use of force or threat
6. stop and frisk ²⁸
7. points of entry such as ports or airports
8. prisoners of war
9. administrative inspection in commercial establishments
10. checkpoints

²⁸ Stop and Frisk doctrine originated in the US in a 1968 case of Terry vs. Ohio- Under the Terry ruling, a police officer may stop and detain a person based on reasonable suspicion. And, if the police reasonably suspect the person is armed and dangerous, they may also frisk him or her for weapons.

RESPONDING TO RISKS AND THREATS TO SAFETY

Human rights defenders often face a myriad of challenges, both in conflict or post-conflict situations. Staying alive serves the cause of human rights and justice further. Therefore, risks have to be periodically assessed and threats mitigated to ensure that personal and organizational safety are not compromised.

WHAT TO DO If You Believe There Is a Threat to your Personal Safety

1. Do not go out alone and whenever possible, ask someone to accompany you to activities or meetings you attend. The risk of being abducted or killed has increased because there are no witnesses.
2. If you have been visited by suspicious men or women or armed groups several times in your house do not stay at home. Homes of human rights defenders are no longer safe sanctuaries. In recent experiences, your house or office becomes the most vulnerable place for surveillances and more. In the last few years, incidents of illegal arrest, abduction and even extrajudicial killings are committed in the homes or in the vicinity of the victims' residence.
3. Move to another place but maintain communication lines with your trusted friends, colleagues and/or a member of your family. Tell them about the threat or the possibility of your being abducted and what to do in that case. Tell them specifically, who to contact or run for help and how to get in touch with them and where to search for you. You may also decide to involve the police by filing a blotter, if you think it will help you.
4. Establish a way or system of communication that only you and your friends, or colleagues understand to alert them if you are in unsecured situation when normal communication cannot be used.
5. Before going out, tell your friends or colleagues where you are going, whom you will see and how long you expect to be out

and what to do if you fail to return on time or fail to reach your destination or keep your appointment.

6. When you go out, always carry an adequate identification and avoid carrying things that can be construed as incriminating.
7. In case you are arrested, particularly in public places, see to it that people know that you are being arrested by attracting attention to your arrest, and when possible shout your name and person/s arresting you or leave some sign or anything that can identify you.
8. Avoid establishing a pattern in your movements by avoiding the same routine everyday.
9. Do not stay outside late at night particularly in places that are not familiar to you or where no one knows you.
10. If you have reliable information that there is a plan or likelihood that you will be abducted or killed, or if you feel that you are under surveillance, immediately report this information to your colleagues or friends, and do not immediately go into hiding. While taking extra precautionary measures, ask your friends or colleagues or lawyers to check on the existence of a “watch-list” (“Order of Battle”), or if there is an arrest warrant against you, or if there are cases filed against you and status of those cases. When cases are still in preliminary investigation, ask your lawyer for advice.
11. If in your assessment, together with your organization, an arrest or abduction can be deterred by publicizing the threat, ask your colleagues to publicize your case as widely as possible and to issue letters of concern on your case. There are numerous human rights organizations that could intervene and support on your behalf.
12. Regularly update your friends on your whereabouts.
13. Do not discuss sensitive information on your cell phone, either through call or SMS, as it may be monitored.

WHAT TO DO If You Believe You Are Illegally Arrested?

1. Stay calm and focused in as much you are able. Ask the names and authority of persons arresting you. Invoke your right to call for a lawyer or a relative. If the persons making the arrest are in civilian clothes and refuse to give their names and the reason for the arrest, refuse to go with them. If force is used to take you, let them drag you out, shout, or try to make a scene to attract the attention of people near you and what is being done to you. If they ask questions, do not cooperate but also do not attempt to escape if the condition does not favour an escape.
2. Whilst it may be difficult, try to concentrate on every event as it happens, memorize the number and faces of people who forcibly took you, the vehicles and/arms they carry, the details of places your passing through until you reach your destination. If you are blindfolded, try to concentrate on the words and statements uttered by your abductors, the sounds in the environment and calculate the time when you were taken until you reach the final place where you will be held.
3. If you are told that you are not being arrested but merely invited for questioning, reply that you will consult your lawyer first. Do so, call your lawyer and let the lawyer talk to the officer or person in charge to arrange for a time and place for questioning. If you do not have access to a lawyer, call your organization or human rights organizations that may have lawyers to assist you. If they do not allow you to call, do not go with them. If they still insist and you cannot prevail upon them, make sure that you will be accompanied not by one of your relatives but three or more persons. Do not go with them alone. Ask your relative to call your organization to inform them on what is happening to you and where these people are bringing you.
4. Again, try to stay calm. Concentrate on what is happening now and do not try to imagine what will happen next, to avoid creating images in your mind that may cause you fear and panic.

WHAT TO DO If You Believe There Is A Threat to Your Community or Community-Based Organisations

With the Republic Act No. 8551²⁹ which amended RA 6975 and Executive Order 546 (August 2006)³⁰, the joint operations of the AFP and the PNP in internal security, peace and order, has been legalized. As observed by Philip Alston, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions³¹, the Philippine government's approach to security threats particularly from communists have turned from negotiation to counterinsurgency. And the military's counterinsurgency strategy against the CPP/NPA/NDF increasingly focused on dismantling civil society organizations that are purported to be allied with communists. Note that membership in the Communist Party of the Philippines (CPP) is legal since 1992 when Congress repealed the Anti-Subversion Act (RA 1700). As Alston reported to the UN Human Rights Council, the campaign of vilification of, the enforced disappearance of or killing of activists or leaders of local organizations instilled fear in the communities, and such attacks led to some disintegration of organized civil society.

When your organization is faced with a situation like this,

1. If there is a sudden increase in the number and presence of armed groups in your community in the absence of reasons that may warrant it (declaration of state of emergency or martial law), stay alert and inquire quietly on the 'reason' of such presence.
2. If community organization/s exist/s, convene the leaders of your organization/s to assess the situation and to decide if action should be taken. If you are not sure, on the details of such sudden deployment, you can do the next step.

²⁹ RA 8551 – "Act Providing For The Reform And Reorganization Of The Philippine National Police And For Other Purposes" ,establishes the role and function of the Police in support of AFP's principal role in the internal security of the country by suppressing insurgency and other threats to national security

³⁰ EO 546 signed by Mrs. Gloria Arroyo directs the PNP to undertake active support to the Armed Forces Of The Philippines in Internal Security Operations For The Suppression Of Insurgency And Other Serious Threats To National Security, it also authorized the PNP to deputize the barangay tanods as force multipliers in the implementation of the peace and order plan in the area.

³¹ UN General Assembly Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston. Addendum mission to (the) Philippines (A/HRC/8/3/Add.2 of 16 April 2008 and A/HRC/11/2/Add.8 of 29 April 2009)

3. Inquire and/or ask for a dialogue with your barangay chairperson on the objectives of armed groups' deployment or encampment in your barangay. You may raise your organization's concern during the dialogue. Report to your membership and ask them to give feedbacks on the new situation.
4. If elements of armed groups start conducting a house to house visit, or a census asking for the member/s of any community, people's or partylist organizations that members may feel intimidated or threatened to raise their concern even at the barangay level, seek the support of a lawyer or other organization/s outside your community. A follow-up dialogue can again be requested or conducted, with the support of other human rights organizations or individuals of stature such as church leaders or other sympathetic public officials.
5. If incidents of harassments, intimidations or others threat to personal safety of community leaders have occurred, you can choose to do any of the following or both: 1) file a complaint at the CHR and seek their intervention; 2) publicize the incidents through the help of networks of human rights organizations to deter any possibility of committing more violations; 3) conduct a dialogue with the LGU's concerned and ask for their intervention to stop any violations; and 4) if perpetrators are identified, file a case at the regular courts. Other national organizations whom you ask for support can also advise the local community of any other possible actions.
6. If armed group operations (holding forums or interference in labour affairs) are in the workplace, (plantation, farms, factories etc), and the union exists, immediately seek a dialogue with your employer and ask for explanation. Tell the employer the effect of such operations on your membership and entire organization and seek immediate solution.

7. Send a letter and request a dialogue with the Department of Labor and Employment (DOLE) to report the incidents and impact on your organization, or check if they have knowledge on such operations. Similar to the above, ask them for an immediate solution to your concerns.
8. If in your assessment, publicity is a good option as deterrent to human rights violation, and your organization is not capable of doing that, seek the support of other organizations. There are many of them at the national or international level who are willing to help and launch a campaign on your behalf.
9. You can also decide other actions mentioned in paragraph 4.

WHAT TO DO In Emergency Situations Or Deployment of QRTs (Quick Response Teams)

In urban or town centres, this situation often includes violent evictions of slum communities or street vendors, dispersal or breaking up of protest rallies or demonstrations, labor strikes that results in injuries, arrests and subsequent detention. Other incidents which may happen both in rural and town centres include summary or extrajudicial killings, abduction and subsequent disappearance, forced entry into the homes or offices, serious threats such as stalking or hounding of another HR defender or their family or their organizational members by suspicious individuals or groups on unmarked vehicles etc.

When you or your organization is called to respond to any of these incidents, do the following:

1. Do not panic, ask the caller about the name of the victim or location and time where the incident took place and report it to your organization or office.
2. Verify the information, if you are in the area where the incident took place, establish contact with your colleagues in the area and tell them that you are close. Do not immediately go to the area alone (especially in case of abduction and disappearance)

and start asking question. If you are not in the area where the incident happen, contact your point persons or correspondent in the area, ask them if they are aware of such incident/ or contact the organization where the victim/s belong.

3. If the report is verified to be true, take your next steps.

3.1 If the incident involves extrajudicial killings, abduction or possibility of subsequent disappearance:

- i. Get as many details as possible from your contact person/s to help you in getting media attention or organizing a QRT (Quick Response Team of 3 or more persons and Fact-Finding Mission). Before a QRT leaves, make sure that someone will coordinate with the media, other lawyers and do other liaison work with different institutions
- ii. For QRT dispatch, prepare all your logistics (transportation, money documentation materials, etc) and people. Decide and clarify specific designation of task to each team member and the structure or processes how the QRT/FFM will be carried out. The objective is to review the circumstances, ascertain facts surrounding the incident, details of the incident including the possible perpetrators, gather evidence and look after the security and safety of victim's family members
- iii. For alleged abductions, prepare yourself to visit military camps or police stations if there are indications or witnesses that the perpetrators are from the state security forces. Immediately establish contact with the nearest CHR field office.
- iv. When you arrive at the crime scene, ahead of the police, do not touch, step or move anything since these are potential evidences which maybe tampered with your bare hands or footsteps. You may photograph or sketch

the place or scene as potential evidence. Do not pick up things and prevent others from doing so. ***Remember that you are not the official crime scene investigator, respect and secure the crime scene. Prevent others from 'spoiling' the crime scene.***

- v. Regularly update your main office or organization on the progress of your mission and document every event or progress or non-progress of your mission, the team's observations and analysis.

- 3.2 If the incident involves violent eviction in slum communities or in streets, resulting to injuries and you are far from the area, advice your contact person to provide some first aid treatment and when necessary bring the victims to the hospital. Whenever possible, bring them in public hospital and later ask for a medico-legal examination. When treatment is done, ask the doctor to give you a copy of the medico-legal certificate that will detail the nature and extent of injuries of the victims.

If the victim has already rested, interview him or her on the details of the incident and advise them, record the interview and tell him/her that it is best that a sworn statement is executed. Prepare a draft of the sworn statement and let the victim read it before it gets finalized and later notarized to make sure that your understanding of the facts are accurate. Both the certificate and the sworn statement have legal purpose, in case the victim later decide to file a case or reply to a case filed

- 3.3 If the incident involves arrest and detention, and there is no immediately available lawyer to assist, you may act as a paralegal. Get the names of all the arrested persons from your contact persons. With the other QRT members, follow those arrested to the police station to make sure that no violation of rights of the arrested person/s will happen and the police are reminded about the rights of the arrested and their responsibility to the former:

- i. Divide the team members into different tasks: a) as negotiator with the authority, b) one who will talk and attend to the needs of the arrested, and to inform of their rights, and later interview them; c) documentor;
- ii. At the police station, introduce yourself and organization that you represent and ask for the station chief or officer-in-charge.
- iii. Tell them about your objective: that you were called concerning the arrested person/s and ask if any charge has been filed. Ask the permission of the officer-in-charge before you or any other QRT member talk or interview the victims. Take the statements, as detailed as possible from the arrested and inform them that it will be used for their affidavits; other team members may focus on the well-being of the arrested, like provision of water or food when necessary.
- iv. If no case has been filed, try to negotiate diplomatically to get the arrested released without charges, or if one of your team members is a lawyer or trusted or prominent individual, ask them if custody of the arrested can be given to them. This happens occasionally if you are able to explain to the police or arresting officer the circumstances why the arrested and other community members resisted or protested and appeal for their understanding. Avoid being antagonistic in talking with the authorities, often it does not help and in some cases, it speeds up the process of filing charges against the arrested. Remember that your objective is negotiating the release without charges.
- v. If the case has been filed, and a lawyer is required during the inquest procedure, call your lawyer. When the lawyer/s arrives, orient them on what transpired and consult with them on the next steps.

While waiting for the inquest to happen, convene your QRT team to assess the assigned tasks and prepare the affidavit/s of the arrested. Normally, in cases like this, the role of QRT team ends when the arrested are released either on bail or for further investigation.

- vi. If you don't know where the police keeps the arrested person, call the nearby police stations where the reported incident happened, and inquire if that person you are looking for is under their custody. If after calling all the stations, the whereabouts of the person arrested is still unknown, try precinct or jail visitations to personally identify the arrested or missing person. Bring someone along who knows personally the said person, preferably in coordination with the Commission on Human Rights who has the authority to conduct jail and detention visits. When you find who you are looking for, then advice him/her on the situation and his/her legal rights, as previously discussed.
- vii. In all instances, make sure you document or record the details.

3.4. Basic requisites for QRT members.

- i. Make sure you are physically fit, so that you will not give additional concern to the team and that you will not be a subject of another QRT. It is not advisable that defenders who have some heart-related ailments join the QRT operations particularly in cases of EJK and disappearances.
- ii. You have completed a basic paralegal training.

- iii. Be creative and flexible in handling every situation – even if you have mapped out a fantastic plan, be prepared to make an adjustment when the situation warrants it.
- iv. Be cool, not aggressive but bold and vigilant – Although it is often difficult to stay calm, try your best, and make sure that all your senses are in their best. Be keen on every detail especially if you are in a new environment.
- v. Act and dress respectably – Stay away from your favourite worn-out jeans, shirt with your favourite political or social statement and sneakers or your rally attire, when going to police stations or camps. In a society where appearance matters to gain proper attention or respect, whether it is right or wrong, it is best to dress appropriately. Shirts with political statements also invite attention when you don't need it.
- vi. Be disciplined, reliable and dependable – Come on agreed time, not too early and not late. Always value the team unity highly. Do not make or execute any plan, no matter how excellent it is without consultation with the rest of the team members as this may jeopardize the security and safety of the QRT and the victims you are responding to. Always seek the opinion or idea of other team members when you need to decide on the spot and be quick to share yours. Abide by the rules you have previously agreed. Be patient, until the Team finishes its mission and you're all back home safely.

DOCUMENTATION: WHY IS IT NECESSARY AND HOW TO DO IT

Document and monitor your case, the incident you have responded to or following up. Human rights violations can only be effectively addressed if prompt, proper and accurate documentation exist. Documentation is essential for any future legal action or remedy. It can help win or defeat a court case. Documentation is also an effective tool for advocacy. It can provide a situation analysis, detailing the context, pattern or trends in human rights violations, and reflections on the weakness or strength of responses or existing mechanisms.

As HRD, it is imperative that you do documentation. Do not worry, documentation can be as easy as 1, 2, and 3 especially if you take it as part of your day-to-day work.

You can document in various formats:

1. textual or the written format, It can start from a fact sheet which contains answers to basic questions:
 - i. what - the incident or case is all about,
 - ii. when - date and time it happened, if the case is continuing, provide a chronology of events.
 - iii. who - victims names, ages, gender, organizational affiliation if any and perpetrator- names, gender command or station they belong to, organizations
 - iv. where - exact location where incident or case happened, street #, village or barangay, town or city, province, region)
 - v. why - motive, analysis of the possible reason why the incident occurred, and circumstances surrounding the incident
 - vi. how - manner by which the violation has been committed; if there are gunshot or stab wounds for example, specify how many gunshot / stab wounds and body parts hit
 - vii. background - information on the nature of work of the victim, issues she/he advocate and incidents that could

- be related to the present case.
- viii. Actions taken if there is any and the result/s of such action, including impact on the victim, his/her family members and community
 - ix. Update - development or progress of the case from the time of your first documentation. This is very important in a continuing case.
 - x. Date - do not forget to put a date when your document was written and the person responsible for writing it.
2. visual – take photo or video or make a sketch when you have no other equipment. Again, if you arrive in the place of incident, immediately take photographs or video footages or make sketches. In taking video, ask your colleague to identify the place and the victim and the date while you are taking the video so everything will be put on record. Ask him or her to state her name, organization before spewing out the details. The same, if you are interviewing a witness. Do not edit your video footages. Edited video footages are not admissible as evidence.

If you are in a high risk area, find a way to send or transmit your photos and videos to your organization's office or create backup copies, in case an untoward incident happens that may result to a loss of your recordings.



3. audio – this is useful when you are in situation that taking pictures is not possible or in recording conversation over the phone which can cause you to feel harassed or threatened.

Part of a continuing case documentation, is gathering evidence that may support the case: object, documentary or testimonial etc. Examples of documentary evidence are police blotter or report, medico-legal certificate, publications, court documents, and the like, and affidavits (testimonial).

It is also necessary that you monitor and record the progress or non progress of the case or incident you have first documented. If the case is filed in court, get an update. This is particularly important if you are doing advocacy in support of the case, because your network will expect you to give a regular update and advice for further action, if necessary or until the case is finished or settled.

If you have some difficulties in establishing a QRT, or performing as paralegals, or doing systematic documentation, organize specific training sessions on these concerns or does not have access to this training, request assistance from other human rights or service organizations in your network or region.

At the end of this handbook, we have compiled a list of networks involving the State and civil society which may be useful in the different aspects of work of a human rights defender.

IMPORTANT CONTACT POINTS

NATIONAL INSTITUTIONS:

1. Commission on Human Rights of the Philippines
Commonwealth Avenue, Diliman, Quezon City
Telefax: (632) 929 0102
Hotline: (632) 377 2477
Email: chair.rosales.chr@gmail.com

Contact person: Hon. Loretta Ann "Etta" P. Rosales, Chairperson

2. Philippine National Police
Human Rights Affairs Office
Camp Crame, Quezon City
Telefax: (632) 723 0401 loc. 3668
Email: pnphrao@gmail.com

NON-GOVERNMENT ORGANIZATIONS

1. Center for Trade Union and Human Rights, Inc (CTUHR)
702 Culmat Bldg, 127 E. Rodriguez Avenue
Quezon city, 1112 Philippines
Telefax No. 632.4110256; Hotline: 0910.3801897
Email: ctuhr.manilagmail.com or ctuhr.services@gmail.com
website: www.ctuhr.org
Contact person: Daisy Arago, Executive Director
2. Prolabor Legal Assistance Center (PLACE)
33-B E. Rodriguez Avenue
Quezon city
Telefax: 02.4134561
Email: pro_labor@yahoo.com.ph
Contact person: Atty Remigio Saladero Jr, Chairperson
3. Visayas Institute for Human Development Agency (VIHDA)
Door 8, 3rd Floor, AJ Sol Bldg
Junquera Street, Cebue city
Telephone 032.2548760
Contact person: Ms. Divina Malicay, Executive Director
4. Nonoy Librado Development Foundation, Inc (NLDFI)
085 Garnet Street, Phse 1, Coutryside Village,
Bangkal, Davao City
Telephone no. (082) 296 -0767
Email address: nldfi@yahoo.com
Contact person: Ms. Emma Ricaforte, Executive Director

HUMAN RIGHTS DEFENDERS HANDBOOK REGIONAL PRETESTS

