



Action Network Human Rights – Philippines (Ed.)

Human Rights in the Philippines – Aspiration and Reality



Action Network Human Rights – Philippines

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Action Network Human Rights – Philippines

The Action Network Human Rights – Philippines (“Aktionsbündnis Menschenrechte – Philippinen” – AMP) aims to contribute to the improvement of the human rights situation in the Philippines by educating and influencing policy and decision makers as well as representatives of the civil society in Germany and the EU.

Member Organizations of the AMP are Amnesty International Germany, Bread for the World – Protestant Development Service, the International Peace Observers Network (IPON), Misereor, Missio Munich, philippinenbüro e. V. im Asienhaus, and the United Evangelical Mission (UEM). The main focus of the network lies on the core human rights issues of extrajudicial killings, enforced disappearances, and fabricated charges against political activists.

Activities of the Action Network

- Monitoring of the human rights situation in the Philippines based on information from our partners, media reports as well as direct research on the ground
- Informing the political actors and the general public about severe cases of human rights violations
- Dissemination of urgent actions and lobbying letters to politicians and political bodies in Germany, the EU, and the Philippines
- Briefing of political decision-makers as well as missions and delegation visits to the Philippines
- Organization of public events in Germany on political killings, enforced disappearances and fabricated charges in the Philippines

Services provided by the Action Network

- Analysis of the political and human rights situation in the Philippines
- To establish contacts to civil society organizations in the Philippines
- Publication of a monthly newsletter and regular press releases on human rights issues in the Philippines
- Documentation of cases of extrajudicial killings, enforced disappearances, and fabricated charges

The Action Network Human Rights – Philippines (“Aktionsbündnis Menschenrechte – Philippinen” – AMP) began its work in August 2007 in the face of an alarmingly high number of extrajudicial killings and other severe human rights violations committed against human rights defenders and members of the opposition. State authorities assume that at least 229 cases of extrajudicial killings have occurred since 2001, while some human rights organizations speak of over 1,300 cases in the same period.

Many of our partner organizations within the churches and civil society were either themselves affected by intimidation, politically motivated murders, and enforced disappearances of their staff and members or reported human rights violations against the local population. In discussions with representatives of the Philippine Government, by organizing international conferences, as well as events in the context of the United Nations Human Rights Council, the Action Network has in recent years contributed to ensuring that the demands of Philippine civil society for effective measures to end politically motivated human rights violations are heard internationally.

Since then, the Philippine state has indeed committed itself to upholding the rule of law and to investigating human rights violations and has ratified several international human rights conventions accordingly.

However, during the seven years the Action Network is following cases of human rights

violations in the Philippines, there has only been one successful conviction in a case documented by us, and nearly every month we receive reports of new cases of severe human rights violations. Even though the intensity and number of human rights violations has fluctuated over the years, we have found that extrajudicial killings, enforced disappearances, torture, and trumped-up charges against political activists are not isolated incidents but are instead an expression of systematic political oppression. These violations undermine the national laws and international conventions that the Philippine state prides itself on having enacted or ratified in recent years. They further political and economic interests as well as serve to secure the status quo. The lack of a political will to tackle far-reaching reforms (e. g., in the justice sector) and an enduring climate of impunity have the effect of legitimizing this political violence.

The purpose of this brochure is to systematically highlight the different forms of human rights violations which occur in the Philippines. By presenting individual cases, it illustrates the severe human rights violations and massive repression that activists who call for political reforms and respect for fundamental human rights have to endure.

For the Action Network Human Rights – Philippines:

Jochen Motte (United Evangelical Mission)

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Chapter 1: Introduction

“Human rights need protectors. Human rights need defenders. Governments may at times reject criticism, but that does not give them the right to intimidate critics, to abuse or even kill them.” – German President Joachim Gauck, UN Human Rights Council, Geneva, Switzerland, February 25, 2013

On December 10, 2012, International Human Rights Day, activists burnt an image of Philippine President Benigno “Noynoy” Aquino III to express their frustration over the lack of changes to improve the protection of human rights. This frustration was also due to the fact that Philippine human rights activists and critics of the government are themselves targets of human rights violations which the government has failed to investigate up to now.

The Philippines is often described as a trailblazer for human rights within ASEAN. In matters of international and national human rights legislation, the Philippines is in fact a role model in Asian comparisons. The Philippines has ratified eight of the most important international human rights conventions¹ and since 2011 is a member of the International Criminal Court in The Hague. In the second review of the country under the Universal Periodic Review (UPR) process before the UN Human Rights Council in May 2012, the Philippines accepted 66 out of 88 recommendations to improve the human rights situation. At the national level, the passage of an anti-torture law in 2009 and a law against

1 In particular, the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC), the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CPMW), and the Convention on the Rights of Persons with Disabilities (CRPD). Important exceptions are the Convention for the Protection of All Persons from Enforced Disappearance (CPPED) and the Optional Protocol to the ICESCR.

enforced disappearances in 2012 were hailed as historic victories in the battle against widespread human rights violations.

The other side of the coin – selective reform initiatives and lack of implementation

While the strengthening and cementing of the normative and legal framework is to be welcomed, up to now this has not been able to stop gross human rights violations or to guarantee adequate legal protection for the victims.

It is true that incidents of political murders and enforced disappearances have declined sharply since 2007, also as a result of the major local and international pressure exerted on the government.² Nevertheless, the still alarmingly high numbers of human rights violations committed against critics of the government and human rights defenders testify to the fact that political activists continue to be threatened because of their commitment (Chapters 3 & 4). In addition, hundreds of cases of extrajudicial killings and disappearances from the term in office of Aquino’s predecessor Gloria Macapagal-Arroyo (2001–2010) still await legal processing.³ Unlawful arrests, often accompanied by torture, are still on the agenda. It can likewise be established that there has been an

2 The report by the former UN Special Rapporteur on extrajudicial, summary, or arbitrary executions, Philip Alston, from 2008 (A/HRC/8/3/Add.2) was very influential.

3 The various sources differ considerably over the exact number of cases. While the Task Force USIG charged with investigating political murders is currently conducting investigations in 166 cases (<http://didm.pnp.gov.ph/TF%20USIG/TF%20USIG%20Executive%20Summary%20as%20of%20June%2021,%202012.pdf>), the human rights organization Karapatan lists 1200 cases for the presidential term of Arroyo and 142 cases since the assumption of office by President Aquino (Karapatan Monitor 2013, Issue 1, http://www.karapatan.org/files/Karapatan_Monitor_Issue1_2013_web.pdf). The comprehensive report by the lawyer Parreño documents 305 incidents involving 390 murder victims for the period from 2001 to 2010. (Parreño, Al (2011): Report on the Philippine Extrajudicial Killings 2001–2010 (<http://asiafoundation.org/resources/pdfs/ReportonPhilippineEJK20012010.pdf>)).

Recommendations not accepted	Recommended by
Invite UN Special Rapporteurs	UPR 2008: Slovenia, The Netherlands, Brazil UPR 2012: Uruguay, Madagascar, Austria, Slovenia, Portugal, Latvia, Norway, Mexico, Great Britain
Adequate reform of witness protection program	UPR 2008: Switzerland
Repeal of Executive Order 546, which stipulates the creation of paramilitary units for counterinsurgency	UPR 2012: The Netherlands, Spain
Ratification of the UN Convention for the Protection of All Persons from Enforced Disappearance (CPPED)	UPR 2008: Slovenia, Mexico UPR 2012: Argentina, Belgium, Brazil, Japan, France, Chile, Spain
Implementation in national law of all obligations arising out of the ratification of the Rome Statute of the International Criminal Court	UPR 2012: Slovakia, Switzerland, Belgium, Latvia, Slovenia, Liechtenstein
Recommendations accepted but not implemented	Recommended by
Cessation of extrajudicial killings and disappearances and punishment of the perpetrators	UPR 2008: Holy See, Switzerland UPR 2012: South Korea, Singapore, Holy See, Germany, France, Trinidad and Tobago, Spain, United States, Sweden, Timor-Leste
Effective protection of journalists and human rights defenders	UPR 2012: France
Effective implementation of the Anti-Torture Law	UPR 2012: Ireland, Mexico, Denmark
Further elaboration and immediate publication of a National Action Plan for Human Rights	UPR 2012: Palestine, Qatar
Immediate establishment of a national prevention mechanism against torture as specified in the Optional Protocol to the Convention against Torture (OPCAT)	UPR 2012: France, New Zealand, Denmark
Adequate resources for the Philippine national human rights institution, the Commission on Human Rights (CHR)	UPR 2012: Egypt, Australia, Russia
Disbandment of all private armies	UPR 2012: Chile
Reform of the judicial sector to combat impunity	UPR 2012: Spain, South Korea, The Netherlands,
Ensuring that all paramilitary organizations are subjected to the military command structure	UPR 2012: United States

increase in the number of fabricated charges against human rights activists (Chapter 2).

How can this manifest discrepancy between progressive legislation, on the one hand, and ongoing and for the most part unpunished human rights violations, on the other, be explained?

For one thing, despite the many pieces of legislation in specific thematic subareas, there is still a lack of a coherent and consistent interagency human rights policy. Symptomatic of this is that the National Action Plan for Human Rights, which has been announced for more than five years and was supposed to include concrete steps and measures to improve the human rights situation in accordance with the declaration of the World Conference on Human Rights in Vienna, has yet to be made public. Furthermore, key recommendations by the then UN Special Rapporteur on extrajudicial, summary, or arbitrary executions, Philip Alston, as well as recommendations from the Universal Periodic Review (UPR) process of the UN Human Rights Council, from other relevant UN committees, and from Philippine civil society were either not accepted at all or have not been implemented (see box). Whereas there are still only isolated gaps in the legal framework, a particular complaint is that existing institutions have so far not been able to finally end the problem of gross human rights violations.

There are also important structural reasons why already existing legal regulations and national laws are not actually implemented. The democratic institutions remain weak and above all are heavily dependent on the individual interests of a small number of family clans. The latter enjoy private monopolies on the use of force in their home territories, which they frequently maintain through control over state institutions, including the public security forces and the judicial system.⁴ Additionally, there are around 100 private armies controlled by mayors, members of congress, and governors. This monopoly on the use of force is often used shamelessly to enforce the particularistic political and economic interests of

the elites. Especially at the local level and in rural areas, violence and repression are regularly used as a means for maintaining power.

Finally, the political will to enforce existing laws even in the face of opposition and obstacles is often lacking. In many cases, it seems to be more convenient for the government to point to successes achieved in passing progressive laws instead of devoting itself to the tedious task of implementing these laws and ensuring that they are complied with. It is particularly disappointing in this context that President Aquino, who assumed office with far-reaching promises to put a stop to the serious human rights violations, scarcely addresses the topic any longer. But as the head of all executive organs of the state, in particular the defense department (DND) and the interior ministry (DILG), and as supreme commander of the armed forces, his commitment to ending massive human rights violations is indispensable.

This leads to a consistently poor implementation of domestic political measures at the regional and local levels intended to prevent, or at least punish, human rights violations. Thus, without exception the relevant UN committees as well as international NGOs criticize the failure to implement or violations of ratified international and national human rights laws in the Philippines.⁵

Human rights violations by the state: Counterinsurgency and economic interests

Most of the serious human rights violations are committed by police officers, members of the military, or members of paramilitary groups controlled by the military.⁶ These violations occur especially in the context of the protracted domestic conflicts with the communist New People's Army (NPA) and with the various armed groups of the Muslim independence movement in the south of the Philippines.

4 As a result of the Local Government Code of 1992, Philippine police units are answerable to the mayors and are often used in this connection to enforce personal political interests.

5 Thus, for example, the report of the World Organisation Against Torture (OMCT) on the implementation of the UN Committee against Torture and the UN Committee on Economic, Social and Cultural Rights (<http://www2.ohchr.org/english/bodies/cescr/docs/info-ngos/OMCT2Philippines41.pdf>).

6 Parreño, Report on Extrajudicial Killings, 13 ff.

Reform initiatives and legislative measures	Degree of implementation and deficits
Adoption of a national law against torture (Anti-Torture Act 2009)	To date no one has been convicted under this law.
Adoption of a national law against violations of international humanitarian law (Act on Crimes Against International Humanitarian Law 2009)	To date no one has been convicted under this law.
Ratification of the Rome Statute of the International Criminal Court (ICC)	There continue to be violations of international humanitarian law.
Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)	To date no National Preventive Mechanism in accordance with OPCAT has been established.
Adoption of a national law against enforced disappearances (Anti-Enforced Disappearance Act 2012)	To date no one has been convicted and none of the victims has been indemnified as stipulated by the law.
Revision of the penal law	To date a revised penal law has not been adopted.
Establishment of an independent commission against private armies (Independent Commission Against Private Armies 2010)	To date this commission has not made any concrete recommendations.
Establishment of various interagency committees (so-called superbodies) to investigate cases of political murders and disappearances	To date there have been only two successful convictions in cases of political murders. The committees do not submit any transparent progress reports.
New internal security plan “Oplan Bayanihan” recognizing the primacy of human rights in the counterinsurgency	There continue to be numerous reports of gross human rights violations by the military in the conduct of counterinsurgency measures.
Establishment of human rights offices in AFP and PNP	To date no transparent progress reports have been submitted by these offices.

The fact that large parts of the military continue to regard the institution as a bulwark against the communist insurgency often has disastrous consequences for political activists and defenders of human rights. The much-criticized counterinsurgency program “Oplan Bantay Laya II” launched under President Arroyo made civil society actors into explicit targets of military operations. Over the years, the military has declared numerous civil society groups, trade unions, and party lists publicly to be front organizations of the NPA, in most cases incorrectly. Their members were included on watch and hit lists, which according to the report of the then UN Special Rapporteur Alston represented the main cause of

political murders. And today especially those to whom the label “communist” is attached by the military remain in serious danger of becoming victims of repression and violence by public security forces (see Section 2.2).

A new domestic security plan “Oplan Bayanihan” came into force in January 2011 that explicitly recognizes the primacy of human rights in the counterinsurgency.⁷ In spite of this, the military has since then been connected with dozens of further cases

7 Internal Peace and Security Plan “Oplan Bayanihan” (<http://www.afp.mil.ph/bayanihan.pdf>).

of extrajudicial killings and enforced disappearances.

Furthermore, commercial interests in land are often closely linked with those of the military and politicians. A large proportion of the land available for agriculture and mining is owned by a small number of wealthy families or is controlled by multinational corporations. Here the police, the military, paramilitary forces, and private security companies are used specifically to guarantee the security of corporations and landowners and to enforce their interests against local resistance and statutory reform plans.

Threats to human rights defenders

The victims of human rights violations are those who pose a threat to the ruling elites. These are, on the one hand, members of competing family clans, which is why inter-elite violence that claims the lives of local politicians is a frequent occurrence.

Particularly threatened, however, are all of those who criticize the prevailing power structures and the deeply entrenched clientelism in the Philippines. These include members of system-critical party lists, progressive local politicians, environmental activists, farmers from the land reform movement, and indigenous people from the anti-mining movement who resist the violation of their economic and social human rights on the ground. NGO activists who speak out in support of social transformation and socio-economic change are as likely to become targets of repressive measures as are investigative journalists who uncover illegal activities by politicians and public officials.

Thus, the violation of political and civil human rights is inseparable from the diverse social conflicts and widespread poverty. The frequent human rights violations in the context of mining projects that affect indigenous groups in particular provide examples of this. These projects meet with resistance because the local population rarely benefits from them, but on the contrary is often subjected to compulsory expropriations and relocations and is exposed to serious environmental pollution. This resistance is suppressed by the military, paramilitary groups (so-called CAFGUs – Citizen Armed Forces Geographi-

cal Units), or private armies, which leads to an escalation of violence.⁸

The need for protection measures, as formulated by the UN Declaration on the protection of human rights defenders,⁹ becomes clear when one considers the many threats to which the latter are regularly exposed in the Philippines. The spectrum of forms of repression and serious human rights abuses ranges from illegal house searches by security forces, threatening phone calls and intimidating text messages, and intensive surveillance measures, through criminalization by defamation and fabricated charges and house demolitions, to death threats and abductions and murders.

The biggest problem: impunity

“In the past [...] no one was ever punished. It was as though the standard was to be blind, mute and deaf to these things. This is why those who were supposed to have been brought to justice were able to go in and out of the country, and those who were meant to hold them accountable lazily drag their feet. This will not happen in my administration. This time, we will right the wrongs and make straight those policies that are twisted.”
– President Aquino – speech delivered to the Military Academy in March 2011

An overarching problem and the chief cause of the continuing violation of human rights is the almost complete impunity of the suspected perpetrators and masterminds. Anyone who has influence and wealth in the Philippines can order killings and enforced disappearances without ever having to fear a criminal conviction. The conviction rate in cases of polit-

8 In the context of the planned gold and copper mine in Tampakan, Mindanao, for example, a number of leading mining opponents were targeted and murdered by military units. See Action Network Human Rights – Philippines: Letters to President Aquino of October 25, 2012 and September 5, 2013 (<http://www.asienhaus.de/menschenrechte-philippinen/index.php/de/letters-of-appeal>).

9 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, GA resolution 53/144 of December 9, 1998.

ical murders, for example, is a meager 1.9 percent.¹⁰ There is strong evidence that large sections of the police and public prosecutors are unable or unwilling to conduct impartial investigations and to uphold justice. Likewise, there are regular reports of security officials and employees in the judicial system who are implicated in abductions, drug trafficking, car smuggling, and other crimes.

In cases in which members of the military are accused of human rights violations, the police often refuse to pursue the matter. The reasons for this lie, among other things, in an esprit de corps among the state security forces. In addition, individual police officers are afraid of becoming victims of retaliation should they try to conduct investigations against the military.

Because of the lack of forensic expertise of the investigative authorities, criminal trials in the Philippines are heavily dependent on witness statements. However, witness protection is deficient and in effect nonexistent. Potential witnesses generally do not cooperate with the judicial authorities at all out of fear for their lives or, if they do, they often receive threats. Time and again, witnesses are also killed.¹¹ The absence of witnesses is therefore also the chief obstacle to the prosecution of human rights violations.¹²

“If you want to preserve your life expectancy, don’t act as a witness in a criminal prosecution for killing.” – Alston Report

Where there is no functioning rule of law and loyalties and personal ties to those in political power are prevalent, the result is a personalized judicial system whose institutions are only useful for those who have connections. As a result, public confidence in the rule of law and in the independence of the security and judicial sectors is profoundly shaken. Since courts often convene only at irregular intervals because of case overload and a lack of judges,

many cases drag on for several years. Judges and prosecutors are bribed¹³, or arrest warrants against individuals who enjoy protection are not executed. The path leading from an arrest warrant through arrest to prosecution and conviction is seldom followed through to its conclusion in the Philippine judicial system. The rare cases that come before the court at all are generally drawn out for years and demand a high frustration tolerance and enormous financial resources from the litigants.

International concern is growing

In 2012, both the United Nations and the European Union reiterated their concern at the continuing extrajudicial killings, enforced disappearances of people, torture, and the impunity of the suspected perpetrators.¹⁴

The consensus among international and national observers is that the Aquino administration has not yet met its obligation to process the human rights violations dating from the years 2001 to 2010 and has yet to take decisive measures against the murder of opposition forces, against torture, and against the criminalization of members of civil society. In this way, political violence as a means of enforcing interests remains a practice legitimized by the state.

No improvement without legal prosecution

The true gauge of a discernible improvement in the human rights situation and the seriousness of the promise of the present government – aside from all laudable reform initiatives – can only be the prosecution and conviction of the perpetrators and of those pulling the strings in

10 Parreño, Report on Extrajudicial Killings, 2.

11 So far three witnesses in the criminal trial on the so-called Maguindano massacre have been murdered (<http://newsinfo.inquirer.net/219509/another-witness-in-maguindanao-massacre-killed>).

12 The report by UN Special Rapporteur Alston (p. 19, para 52) quotes an expert who indicated that the lack of witnesses prevents a court case from being opened in 8 out of 10 cases of extrajudicial killings.

13 Incorruptible judges, by contrast, must fear for their lives. Since 1999, more than 20 judges have been murdered in the Philippines (<http://attylaserna.blogspot.com/2009/01/16-judges-killed.html>).

14 OHCHR Press Release: UN experts urge Philippines to protect rights defenders from a growing wave of attacks and killings (<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12333&LangID=E>), European Parliament Resolution of June 14, 2012 on the cases of impunity in the Philippines (2012/2681(RSP)) (<http://www.europarl.europa.eu/sides/getDoc.do?type=MO-TION&reference=B7-2012-0335&language=EN>).

the background. This has not happened up to now.

The individual cases presented in this publication illustrate the continuing serious abuses and systemic deficiencies in combating and dealing with human rights violations. They illustrate the systematic crackdown on human rights advocates in the Philippines.

2.1 Criminalization of human rights defenders

The Philippine judicial system not only fails when it comes to processing and prosecuting crimes against political activists and human rights advocates. It itself is also systematically abused to silence the latter and to obstruct their work. This occurs through the deliberate criminalization of human rights advocates and their activities.

The criminalization of activists assumes a variety of forms, ranging from the improper interpretation of existing law with the sole intention of preventing political activities,¹ through targeted defamation (see Chapter 2.2), to arrests bereft of any legal basis and prosecution on spurious grounds.

According to the statistics of Philippine human rights organizations, to date there have been around 350 victims of illegal arrests followed by detention under the Aquino administration.² If one takes into account the cases from the previous administrations, then between 300 and 400 political prisoners are being detained nationwide.³ Systematic attempts to intimidate activists and human rights advocates have increased steadily in recent years. Therefore, the Philippine Commission on Human Rights (CHR) even speaks of a “judicial offensive” against (mostly leftist) political activists.

A particularly insidious form of criminalization is when activists become targets of contrived accusations, so-called “fabricated cases” or “trumped-up charges.” The masterminds behind the false accusations take advantage of the dysfunctional justice system, with its long-drawn-out trials that are costly for

the accused. As courts often convene only at irregular intervals because of case overload and a lack of judges, trials drag on for several years. If the defendants are accused of certain crimes for which bail cannot be posted (for example, murder, terrorist attacks, or robbery), they remain in custody indefinitely. Therefore, even manifestly false accusations lead to several years in prison. This also explains why innocent people are often forced to go into hiding.

A widespread *modus operandi* of fabricated charges is the use of John/Jane Doe warrants. In the case of a crime such as a murder or a terrorist attack, an indictment is filed against a person unknown – “John Doe” – or often even against dozens of persons unknown simultaneously. Although the Philippine Supreme Court already ruled in 1925 that indictments may be issued against persons unknown only if they include a precise description of the accused, this requirement is often not adhered to.⁴ These placeholders for names can then be filled at will with the names of troublesome activists.

Whether the targets are in custody or are forced into the underground, in any case the masterminds behind the fabricated charges have realized their objective: the victims have to cease their political activities and as a result are silenced.⁵ False accusations have this effect not only on the accused themselves. They also have a direct deterrent effect on others who devote themselves to politically sensitive causes. Thus, a case against the head of a local civic movement is often sufficient to close down the movement entirely. This strategy is therefore sometimes called “Strategic Legal Action Against Public Participation,” or SLAPP for short.

1 A typical example is the charge of trespassing on private property brought against activists in the land reform movement when they conduct a protest campaign on the land of peak landowners.

2 Task Force Detainees of the Philippines: Statistics of Cases of Human Rights Violations 2010–2012 (<http://www.tfdp.net/resources/statistics>), Karapatan Monitor 2013, Issue No. 2 (http://www.karapatan.org/files/Karapatan_Monitor_Issue2_2013_WEB.pdf).

3 Whereas the human rights group Task Force Detainees Philippines (TFDP) has documented 300 individuals, the human rights alliance Karapatan speaks of 400 detainees.

4 *People v Veloso*, GR No. L-23051, October 20, 1925.

5 Some examples of this are the trials against the “Abadilla Five,” the “Southern Tagalog 72,” and the “Tagaytay Five,” in which the defendants were acquitted only after years of court hearings. See Asian Human Rights Commission: PHILIPPINES: The fabrication of charges is ‘widespread and systematic’ (<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-272-2012/>).

“SLAPPs are attempts to bully people into political submission through inordinate demands. Their purpose is to terrify and enmesh. Even if they stand no chance of success, they ensure that campaigners who might otherwise have been trying to protect the environment or to defend workers’ rights are instead snarled up in the courts. [...] Those who might have joined the campaign are frightened off. Those who might have become active in other campaigns avoid politics altogether for fear of the consequences. Their absence impoverishes democracy.” – George Monbiot, *The Guardian*, February 25, 2013

The case of Temogen “Cocoy” Tulawie

“Cocoy” Tulawie is a well-known human rights advocate from Jolo, Sulu, in the southern Philippines. He is the head of the regional bureau of the Consortium of Bangsamoro Civil Society (CBCS) in Sulu and founder of the local human rights group Bawgbug. Between 2004 and 2006, Cocoy Tulawie was a member of the municipal council of the provincial capital Jolo and co-founder of the Concerned Citizens of Sulu, a citizens’ organization that campaigns for the democratization of local politics, transparency in government, and the preservation of civil rights of people living in Sulu.

His campaigns uncovered numerous human rights abuses and violations on the part of the local government in Sulu, among them mass rapes of women and girls committed by the sons of prominent politicians and their paramilitary protection forces and the unconstitutional declarations of states of emergency by the provincial governor Abdulsakar Tan.

When a bomb attack was committed against provincial governor Tan in May 2009, Tulawie was accused of masterminding the attack even though there was no evidence to support this suspicion. On the contrary, several witness testified that he was not in the area at the time of the attack.

Although two of the three incriminating witnesses in the end withdrew their statements and admitted that they had been forced into giving false testimony, an indictment was ultimately issued against him. Because Tulawie saw no chance of a fair and independent

trial in Sulu in the political sphere of influence of the governor, he responded by going into hiding. Over the following three years he was on the run, in constant fear for his family and of an impending arrest. During this time, Tulawie applied to the Supreme Court to have the legal proceedings transferred to Davao City as neutral ground. On June 13, 2011, the Supreme Court decreed that the proceedings should be transferred on the grounds that Tulawie’s life and that of his family would be in permanent danger should the case be heard in Sulu. On January 14, 2012, Tulawie was finally arrested and detained in Davao City.

Presumably on a directive from the provincial governor Tan, however, the court in Sulu tried to contravene the decree of the Supreme Court and bring Tulawie back to Sulu in a cloak-and-dagger operation. Only an intervention by local human rights organizations could prevent the unlawful relocation to Sulu at the last minute. Thereupon Governor Tan applied for the trial to be moved from Davao City to Manila on the grounds that Davao was “enemy territory” for him. This proposal was accepted, even though according to several reports a transfer to Manila would mean that Tulawie’s life would be in danger from imprisoned contract killers.

Finally, it became known that the last remaining witness against Tulawie, a confessed member of the Islamist terrorist group Abu Sayyaf, had himself been released from prison in the context of a rehabilitation program. It is suspected that this was done as a reward for his obliging testimony and at the directive of Tan.

The case of Cocoy Tulawie is a classic example of how human rights advocates become victims of human rights violations themselves. The prosecution of Tulawie was an attempt to silence his protest against the administration of the governor of Sulu. In addition, the legal proceedings against Tulawie illustrate the lack of independence of local judicial bodies in particular from regional and local power structures. Power holders like Governor Tan are above the law and can use the legal system to shore up their power and suppress critics without having to fear consequences.

Exemplary deficits

- Judicial bodies and criminal prosecution authorities, especially in the rural areas of the Philippines, are often highly dependent on local power brokers and can be systematically abused by the latter for personal interests.
- Even in cases of patently fabricated charges, trials lasting several years are the rule. As a result, even innocent people often serve long terms in prison.



Cocoy
Tulawie

2.2 Criminalization in the context of counterinsurgency

A special variant of the criminalization of human rights advocates and activists is the practice of state actors, and in particular the military, of publicly denouncing individuals who are critical of the government as insurgents or communist terrorists. While large parts of the military continue to see themselves as a bulwark against communism, civil society organizations from the left of the political spectrum are regarded as front organizations of the Communist Party of the Philippines (CPP) and its armed wing, the New People's Army (NPA), and their members placed under the general suspicion of belonging to the communist resistance. Although membership in the CPP is no longer an offense since the revocation of the "Anti-Subversion Act" in 1992,⁶ according to this logic a large portion of civic activism for social change is defamed as subversive.

This strategy, which is sometimes referred to as red-baiting⁷ or red-labeling because of the parallels to the McCarthy era in the United States, creates a clear enemy image and at the same time blurs the boundary between armed resistance and peaceful civil opposition. The military utilizes this strategy to legitimize its tough approach and grave human rights violations against portions of civil society by claiming that this serves to uphold public order and security.

The public vilification of activists is used systematically by the military (AFP) and in part by the Philippine National Police (PNP). In the past, this purpose was served by the so-called "order of battle" list on which the military listed organizations and their members whom it regarded as illegitimate.⁸ In the mil-

6 Congress of the Philippines, Republic Act 7636 (http://www.congress.gov.ph/download/ra_09/RA07636.pdf).

7 IPON Observer 2011, Vol. 3, No. 2.

8 Such a list from the year 2006 leaked to the then Special Rapporteur Alston contained the names of hundreds of activists and civil society organizations. See Alston Report para. 17.

itary's own radio stations or during the "peace seminars" hosted by the military, the individuals included on these lists were then publicly denounced as terrorists and members of the NPA. While the "order of battle" has in the meantime been banned by the Anti-Enforced Disappearance Act, there is a danger that it has been replaced by a shared list of the Ministry of Defense (DND) and the Interior Ministry (DILG) (Joint Order 14–2012) on which allegedly 235 communists who are being sought are listed.⁹ Although this is officially a wanted list for the civilian law enforcement agencies, the names of those being sought have until now been kept secret.

The members of civil society organizations that are regarded by the military or police as front organizations of the communist resistance are disproportionately affected by human rights violations.¹⁰ They become victims of threats and intimidation, enforced disappearances (Chapter 3), and extrajudicial killings (Chapter 4). In addition, through the current internal peace and security plan of the Philippine military (IPSP Oplan Bayanihan), further so-called legal offensives, thus the strategic use of civilian criminal prosecution against "insurgents, separatists, and terrorists," were officially approved as a counterinsurgency tactic.¹¹ The inclusion of legal offensives in the national security plan suggests that the court proceedings sought by the military primarily serve less constitutional than military interests. They are based on a strategy of systematic "neutralization" of the designated enemy and extend the military counterinsurgency to the courtrooms.

In the process, the military, which generally features as plaintiff and in effect does not have to fear any consequences, increasingly often also resorts to the means of fabricated charges (Chapter 2.1). Judges and public prosecutors sometimes facilitate absurd trials through active participation or by tacitly turning a blind eye.

9 DILG Central News: Roxas implements P2M reward a piece for Big 5 fugitives (<http://www.dilg.gov.ph/news.php?id=621&newsCategory=Central>), Karapatan: DND-DILG hit list legitimizes rights violation vs 60-year-old peasant organizer, (<http://www.karapatan.org/60+year+old+Tacalan+arrested+detained+thru+DND-DILG+hit+list>).

10 Parreño, Report on Extrajudicial Killings, 7 ff.

11 Internal Peace and Security Plan "Oplan Bayanihan", 44 (http://www.army.mil.ph/pdf_files/bayanihan.pdf).

Thus, systematic indictments against activists are an effective means of military repression in a justice system amenable to influence.

The case of Zara Reboton Alvarez

Zara Reboton Alvarez is a teacher, political activist, and human rights defender on the island of Negros. She was secretary general (2002–2004) and chairwoman of the youth organization Anak Bayan-Negros, coordinator of the student organization College Editors Guild of the Philippines (CEGP), deputy secretary general of the left-wing party list Bayan Negros, and campaign and education officer for the human rights organization Karapatan-Negros. In the run-up to elections, she worked as a campaigner in Negros and on the neighboring island of Panay. At the time of her arrest, she was working for the human rights organization Northern Negros Alliance of Human Rights Advocates (NNAHRA).

Already in 2004, Alvarez became the target of a defamatory campaign by the military denouncing her at public events and on military radio as a communist terrorist. In addition she received threatening text messages ("We are watching you") and her daily activities were subject to surveillance. In 2008, in the course of her repeated documentation of human rights violations, Alvarez was declared to be a *persona non grata* in Guihulngan City along with her colleagues Fred Caña and Felipe Levy Gelle.

The campaigns of defamation and harassment against Zara Alvarez finally culminated in her illegal arrest on October 30, 2012 in Cadiz City, her native city. However, the warrant was issued for a Sarah Alvarez, resident in Talisay City, and accuses her of being a senior member of the New People's Army (NPA). Like many others, Alvarez learnt of the accusation against her only at the time of her arrest.

As an alleged high-ranking officer of the NPA, Alvarez was supposed to have been involved in the murder of Archie Polenzo. Polenzo, a lieutenant in the Philippine army (AFP), died in a skirmish with suspected members of the NPA on March 7, 2010. Forty-three individuals have been charged in connection with his death. Twenty-two of them, among them Alvarez, were only subsequently

added to the indictment through the so-called John/Jane Doe process (Chapter 2.1).

This additional charge is based on the testimony of an alleged ex-rebel who is supposed to have participated in the armed encounter. However, he himself was never charged.

Many of the 43 persons accused are, like Alvarez, members or leading activists within human rights and political organizations in the province Negros Occidental. Five months after her arrest, a further arrest warrant was issued for Alvarez while still in detention for a robbery committed by suspected members of the NPA in a fish farm. A further month later, she received a warning from the military that she would face additional charges if she did not cooperate with the military.

The detentions not only prevent the work of the defendants but also intimidate relatives, sympathizers, and the law-abiding public. They spread a climate of fear among other activists that they could at any time become victims of arbitrary defamation campaigns and fabricated charges. For the military, by contrast, the arrest of an alleged high-ranking officer of the NPA represents a military, media, and statistical success in the context of the counterinsurgency.



Zara
Reboton
Alvarez

Exemplary deficits

- Members of civil society organizations from the left of the political spectrum become targets of the military counterinsurgency. In this context, the military increasingly also uses fabricated charges to deliberately neutralize political activists.

Chapter 3: Disappearances of activists

“My standards have gone down through the years. Whereas before, I’d say ‘Give him back to me alive and well, and let justice be served’, now I just want to find out what really happened. Because if I find out the truth, I’ll also find him.” – Edita Burgos, mother of disappeared person Jonas Burgos

The term »enforced disappearance« refers to the arrest or abduction of persons, carried out or approved by organs of the state, followed by a refusal to acknowledge this unlawful detention or to provide information about the fate or whereabouts of the persons in question. Through this procedure the abducted persons themselves and their relatives, who remain in the dark about their fate, are in effect denied any legal protection.¹

The singularity of enforced disappearance as a human rights violation resides in its continuous character.² Victims of forcible disappearances rarely turn up again alive. As a result, the families of the victims often suffer years of continuous uncertainty about what happened to their relatives. In addition, there is a particularly high risk of becoming a victim of torture and other forms of mistreatment in secret captivity. Therefore enforced disappearance is sanctioned in international law as a crime against humanity and counts as one of the most serious human rights violations.³

There is a long tradition of enforced disappearances in the Philippines. During the dictatorship of President Marcos (1972–1986), enforced disappearances were used as a central instrument for maintaining power. According to statistics of the Philippine organization FIND (Families of Victims of Involun-

tary Disappearance), there were 878 victims of forcible disappearances under the Marcos regime. Of these victims, 613 are still missing to this day. Under the presidency of Gloria Macapagal-Arroyo (2001 to 2010), there was a renewed increase in the numbers of victims, and people also continue to be abducted for political reasons under the current president Aquino, who has been in office since 2010. During the first two years of his term in office, twelve abductions were documented, of whom only four have turned up again. One person was found dead, while seven of the victims are still missing. Whereas the number of new cases has thus declined sharply under the Aquino administration, the failure to legally process old cases represents a continuous violation of human rights obligations by the Philippine state.

In by far the most of the cases of enforced disappearances, the perpetrators are suspected of being among the ranks of the military (AFP) or of paramilitary groups controlled by the military (CAFGUs). But the national police (PNP and NBI) also accounts for suspected perpetrators.

Many of the victims were accused by the military of being members of rebel groups (see Chapter 2.2) or of sympathizing with the extreme left. Most of the victims are indeed politically active, but mostly as members of non-violent organizations, such as women farmers’ organizations and union groups.⁴

Legal means and de facto opportunities for implementation

The Philippine legal system has developed a certain number of procedures that are supposed to serve the investigation of old cases and the prevention of new cases of enforced disappearances.

The extraordinary legal remedies *writ of amparo* and *writ of habeas data* introduced by the Supreme Court are court orders instructing the state security forces to publish informa-

1 For a definition of the offense of enforced disappearance, see the UN Convention for the Protection of All Persons from Enforced Disappearance (CPPED), Article 2, and the Rome Statute of the International Criminal Court, Article 7 (2)(i).

2 Working Group on Enforced or Involuntary Disappearances: General Comment on Enforced Disappearance as a Continuous Crime, A/HRC/16/48 (para. 39).

3 Rome Statute of the International Criminal Court, Article 7 (1)(i) that the Philippines ratified on August 30, 2011.

4 IBON Foundation (2007): Stop the Killings, Abductions and Involuntary Disappearances in the Philippines, 9.

Cases of enforced disappearance by regime

Regime	Reported victims	Proven victims	Still missing	Turned up alive	Found dead
Ferdinand E. Marcos (1965–1986)	878	878	613	138	127
Corazon C. Aquino (1986–1992)	825	614	407	109	98
Fidel V. Ramos (1992–1998)	94	94	46	38	10
Joseph Estrada (1998–2001)	58	58	16	39	3
Gloria M. Arroyo (2001–2010)	339	182	58	107	17
Benigno C. Aquino (since 2010)	17	12	7	4	1
Total	2,211	1,838	1,147	435	256

Source: Overall Results of FIND's Search and Documentation Work, November 1985 – June 2012

tion about the whereabouts of missing persons. Furthermore, they authorize courts to inspect the places where it is suspected that missing persons are being held. Thus these instruments go beyond classical habeas corpus orders through which courts can order the release of a person, since the latter can take effect only if it has already been proven that a person is being held in state custody. According to the decree of a writ of amparo or habeas data, it is in theory no longer sufficient for the public security forces simply to deny the offense or to claim that nothing is known about the whereabouts of the person concerned. Instead, all documents must be disclosed in order to prove innocence.

The Anti-Enforced Disappearance Act has also been in force since January 2013. The statute criminalizes enforced disappearances, providing as a punishment 40 years imprisonment, or even life in prison, with no possibility of parole. Both the individuals who carry out the abduction as well as those who gave the order or are otherwise involved count as perpetrators. For subordinates there now also exists the explicit possibility of refusing to carry out orders to have civilians disappear. Furthermore, the victims are entitled to appropriate compensation.

While the Anti-Enforced Disappearance Act still awaits implementation, the existing laws and legal instruments have not been able to contribute to resolving cases up to now. In direct response to the legal remedy of the writ of amparo introduced by the Supreme Court, then President Arroyo issued Administrative Order 197 authorizing the military to keep information secret in the interest of protecting national security. The decree is seen as a direct attempt to invalidate the writ of amparo. It has thus encouraged the military to continue to resist the investigation of cases.⁵

The case of Sheryln Cadapan and Karen Empeño

The case of the disappearances of Karen and Sherlyn Empeño Cadapan provides an emphatic illustration of the refusal of the military to cooperate in dealing with human rights crimes. It also brings home how difficult it is in the Philippines to enforce even supreme court rulings and how slowly the mills of the legal system grind.

5 http://opinion.inquirer.net/inquireropinion/columns/view/20071028-97202/Writ_of_Amparo_vs_AO_197.

The two students Karen Empeño and Sherlyn Cadapan were abducted by armed men on the night of June 26, 2006 in Hagonoy on the island of Luzon where they were conducting field research on the situation of farmers. The farmer Manuel Merino tried to stop the perpetrators but in the process was abducted himself. The human rights group Alyansa ng mga Mama Mayan para Pantaong Karaptan–Bulacan (Alliance for Human Rights–Bulacan) reacted quickly and identified the vehicle used in the abduction as a military vehicle of the 56th Infantry Battalion of the Philippine army.

Relevant clues concerning the fate of the two young women, however, could only be gleaned from the courageous testimony of Raymond Manalo. Manalo was likewise a victim of an abduction along with his brother in 2006. After his escape from military detention, he reported on the brutal torture methods used against him and his fellow prisoners, among them also the two missing students.

The prime suspect in the case is the former General Jovito Palparan, who is also thought to be responsible for numerous other human rights violations. Also said to be involved are, among others, Sergeant Edgario Osario, Lieutenant-Colonel Felipe Anotado, and Sergeant Rizal Hilario. The reason for the abduction of the young women could never be unequivocally clarified. What is certain, however, is that the students were accused by the military of being linked with »leftist activities.«

More than two years passed before the Court of Appeals issued a protection order in September 2008 in the context of a writ of amparo and ordered the immediate release of Empeño and Cadapan, but without naming the perpetrators even though these were identified by several witnesses. When the two women still had not been released over a month later, their mothers applied for permission to visit military camps. Furthermore, they brought an action before the Supreme Court to have both senior representatives of the military as well as then President Gloria Magapagal-Arroyo be held accountable.⁶ When the Court of Appeals subsequently refused to enforce its own release order, the relatives proceeded to appeal to the

Supreme Court. The latter in turn took almost two years to confirm the original release order.

When in December 2011, over five years after the abduction, an arrest warrant was finally issued against Palparan and the other suspects, the latter went into hiding. With the sole exception of Osario and Anotado, who in the meantime have to face trial, all of the suspects are on the run.

The fact is that the proceedings would never have come about if the families of the victims had not fought so hard for them. For the state, which actually bears responsibility for human rights violations, did not take action.

Exemplary deficits

- The military consistently refuses to assist in the investigation of cases in which their own members are implicated.
- An investigation and prosecution is generally not undertaken by public authorities. Instead, the families of the victims have to carry out independent investigations of their own and file a lawsuit in court.

⁶ However, the action brought against President Magapagal-Arroyo was not admitted by the court on the grounds of her immunity as head of state.

Chapter 4: Extrajudicial killings of human rights defenders and political activists

»Extrajudicial killings are rampant and remain unsolved in the Philippines«
– Atty Al Parreño, Report on the Philippine Extrajudicial Killings (2001 – Aug, 2010)

Politically motivated extrajudicial killings are so numerous in the Philippines that a report by USAID and the Asia Foundation described them as a »national epidemic«.¹ This report documents 390 political murders for the period from 2001 to 2010.² Except for a few exceptions, all the cases dating from the tenure of President Arroyo remain unsolved and unpunished. And even though the number of extrajudicial killings decreased sharply since 2008, several dozen politically motivated murders have been committed during Aquino’s presidency.

The concept of extrajudicial killings refers to the deliberate and unlawful killing of

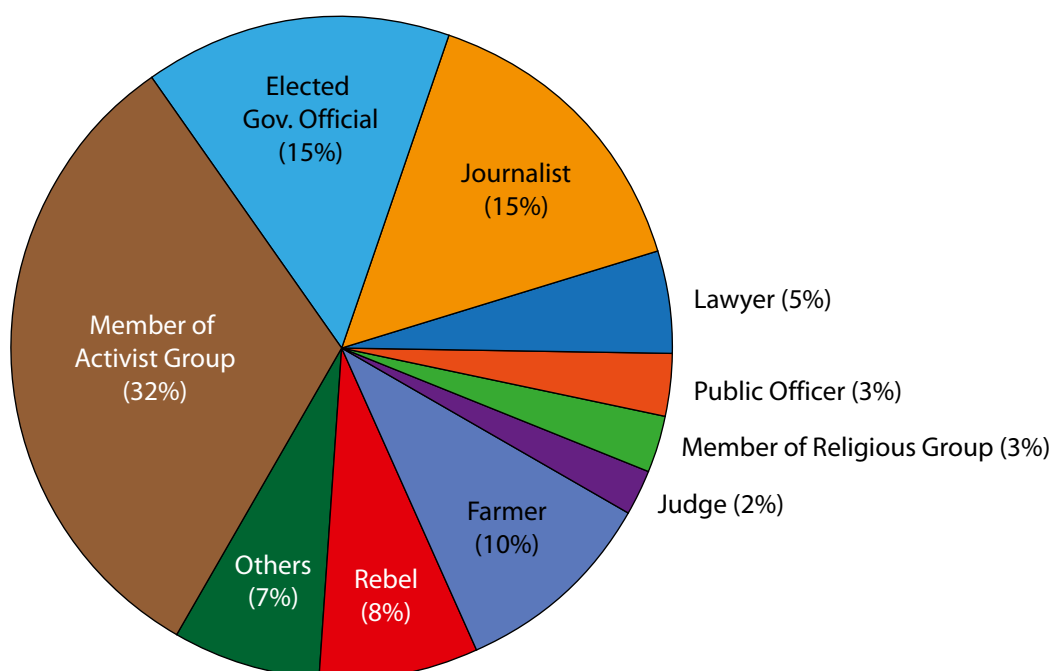
persons in which state bodies are involved.³ Insofar as the killing is politically motivated, for example because the victim had political influence that was unwelcome from the perspective of the mastermind of the offense, or the latter hoped that the assassination would lead to an advantageous political development, one can also speak of a political murder.⁴

Two main forms of political murders can be distinguished. First, violence repeatedly breaks out between rival family clans competing over political and economic influence. For example, the so-called Maguindanao massacre generated a worldwide sensation in 2009. In this massacre, 58 supporters and relatives of the politician Ismael Mangudadatu, among them

- 3 Under international law, extrajudicial killings constitute a violation of the right to life (UDHR Article 3, ICCPR Article 6). This right may not be overridden even in the case of a public state of emergency such as internal armed conflicts (ICCPR Article 4 (2)).
- 4 In contrast to extrajudicial killings, the term political murder does not necessarily imply involvement by state bodies.

1 Parreño, Report on Extrajudicial Killings, 4.
2 Ibid., 4 f.

Background of victims



Source: Parreño, Report on Extrajudicial Killings, p. 5

32 journalists, were murdered by members of the rival Ampatuan clan on their way to Mangudadatu's registration for the gubernatorial election.

Second, politically motivated killings are committed against those who threaten the power of ruling elites »from below.« These are, on the one hand, political activists who address the grave social injustice and widespread poverty in the country and call for wide-ranging political and economic reforms. Particularly affected are members of left-wing political parties and organizations, progressive government officials, and farmers who are active in the land reform movement. For the ruling elites, these groupings represent a threat to the status quo of their position of power because they advocate fundamental political, social, and economic structural change.⁵

In addition, journalists who uncover the illegal activities of politicians or civil servants are repeated targets of political murders. The media enjoy a high level of freedom of expression and freedom of the press in the Philippines. Several dozen newspapers provide daily critical reports on cases of corruption, political repression, and human rights violations. The other side of the coin is that for years the

Philippines has been among the countries with the highest numbers of murders of journalists. Thus the Committee to Protect Journalists ranks the Philippines third among the countries with the most unpunished murders of journalists – surpassed only by Iraq and Somalia.⁶

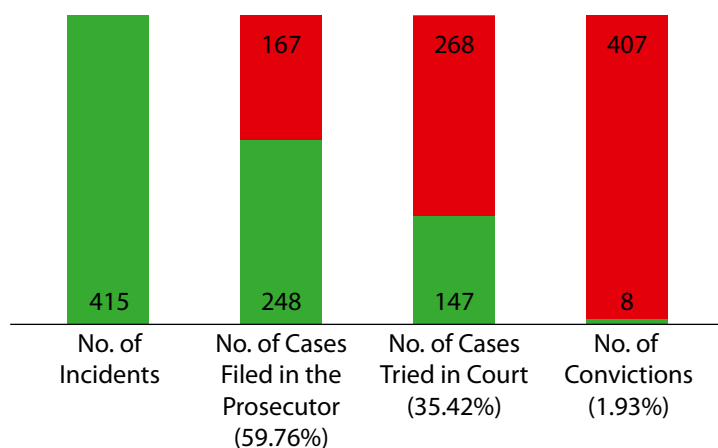
Modus operandi of politically motivated killings

Many victims of politically motivated extrajudicial killings are harassed or threatened in advance of their murder. The murders are planned systematically and the suspects generally escape without being recognized. The fact that most of the murders are committed in broad daylight suggests that the perpetrators are not afraid of being arrested. Most acts are committed in the victims' homes or on the open street.⁷

There is almost complete impunity in the Philippines in the case of extrajudicial killings committed by organs of the state: of 415 cases investigated between 2001 and August 2011, only 35.4 percent were even brought to trial. During the same period, the conviction rate in all cases was just 1.9 percent.⁸ And even under the Aquino administration, to date only two cases have resulted in convictions.⁹

Even when the suspected perpetrators are identified, they often escape criminal prosecution either because they are contracted and protected by politically influential persons or because they are members of the Philippine military, the police, or their civilian auxiliary units.¹⁰

Impunity Scale for EJK and JK –
Jan. 20, 2001 – Aug. 21, 2011



Source: Parreño (2011): Killings and Disappearances in a “Just and Humane Society”, p. 4

6 <http://www.cpj.org/reports/2012/04/impunity-index-2012.php#index>

7 Parreño, Report on Extrajudicial Killings, 2 ff.

8 Ibid., 4.

9 Embassy of the Philippines, Washington D.C. (2013): PH Embassy Welcomes Convictions in two EJK Cases in the Philippines (<http://www.philippineembassy-usa.org/news/3302/300/PH-Embassy-Welcomes-Convictions-in-Two-EJK-Cases-in-the-Philippines/d,phildet/>).

10 Ibid., 2.

5 Parreño, Report on Extrajudicial Killings, 7 ff.

The case of Jimmy Liguyon

The murder of Jimmy Liguyon illustrates the climate of impunity prevailing in the Philippines.

On March 5, 2012, Liguyon, an anti-mining activist and chairperson of the church council of the United Church of Christ in the Philippines (UCCP) in Dao, San Fernando, Bukidnon, was shot by Alde Salusad, the leader of the paramilitary organization New Indigenous People's Army for Reform (NIPAR). NIPAR is part of the civilian militia (Citizens Armed Forces Geographical Unit – CAFGU) and in this function under the command of the 8th Infantry Battalion of the Philippine military.

Liguyon was Barangay Captain of the village of Dao and chairperson of a local indigenous group which wanted to prevent mining projects planned in the region. In this function he came into conflict with Salusad, the head of the San Fernando Tribal Datus Association (SANMATRIDA), an association of local indigenous leaders who collectively make a claim to 52,000 hectares of land in order to be able to award mining concessions. However, Liguyon's consent was required to legalize their claim.

Because he refused to give it, he had already previously received a series of death threats, including several from Ben Salusad, the father of the suspect and himself a member of the 8th Infantry Battalion of the AFP. Alde Salusad is reported by a witness to have said after the murder: »I killed the captain because he wouldn't [join] the SANMATRIDA and refused to give certification to SANMATRIDA.«¹¹ In addition, NIPAR published a letter claiming responsibility in a local newspaper stating that they had killed Liguyon because he had been a member of the communist New People's Army (NPA).

Although Alde Salusad was identified by witnesses and has been sought on an arrest warrant since the end of April 2012, he has not been arrested to date. Numerous reports suggest that he is still living in Dao, San Fernando and is harassing and threatening other mining opponents. It is suspected that the local



Jimmy Liguyon

police know of his whereabouts but fear reprisals should they carry out the arrest warrant. Calls by international organizations and Philippine NGOs to have Salusad arrested by the national police instead for this reason have thus far gone unheard.¹²

In the meantime, Salusad and NIPAR control the small-scale prospecting activities in San Fernando. Seventy-eight families, including the family of the victim, have fled Dao because they fear for their lives as long as the perpetrator is at large. More than a year later, many are still in temporary makeshift accommodations in the provincial capital Malaybalay.¹³

Jimmy Liguyon is the third victim of a political murder within the UCCP since June 2010.

12 German Action Network Human Rights – Philippines: Letters to President Aquino of October 20, 2012 and September 14, 2013 (<http://www.asienhaus.de/menschenrechte-philippinen/index.php/de/letters-of-appeal>).

13 ISM (2012): Preliminary Report. International and Interfaith Solidarity Mission. In Defense of Indigenous Communities. Fighting Impunity. 17–19 November 2012 Provincial Capitol Grounds, Malaybalay, Bukidnon (http://www.iphrdefenders.net/index.php?option=com_content&view=article&id=188:philippines-preliminary-report-international-and-interfaith-solidarity-mission&catid=47:philippines&Itemid=97).

11 FIDH (2012): The Killing of Jimmy Liguyon, (<http://www.fidh.org/en/asia/Philippines/Killing-of-Mr-Jimmy-Liguyon>).

Exemplary deficits

- Arrest warrants are not executed by the local police, which is often involved in local power structures. Through the 1992 Local Government Code, the local and regional police is answerable to the respective mayors, who in turn often have alliances with or themselves control mining companies.
- Civilian militias officially under the command of the Philippine military (CAFGUs or Special Civilian Armed Auxiliaries – SCAAs) are as so-called »investment defense forces« (IDF) to suppress protests by the local population against mining companies or infrastructure projects by force.

“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.”

– UN Declaration on Human Rights Defenders, Article 1

Political murders, disappearances, and the criminalization of political activists and human rights defenders represent ongoing and serious human rights problems in the Philippines. These reached a negative peak during the term of President Arroyo from 2001 to 2010. Hundreds of cases of extrajudicial killings and disappearances occurred under her tenure.

With the assumption of office of Benigno “Noynoy” Aquino III, son of civil rights icons Ninoy and Corazon Aquino, in 2010 there was hope for improvement. Moreover, the Philippines has in the meantime ratified eight of the most important international human rights conventions and in addition has been a member of the International Criminal Court in The Hague since 2011. At the national level, the passage of the Anti-Torture Act in 2009 and of the law against enforced disappearances in 2012 were hailed as historic victories in the battle against widespread human rights violations.

However, this progress in strengthening the legal framework has thus far not led to an end to serious human rights violations. It is true that cases of political killings and enforced disappearances have declined sharply since 2007, also on account of the considerable local and international pressure exerted on the government. Nevertheless, the still alarmingly high numbers of human rights violations committed against critics of the government and human rights defenders and the increase in fabricated charges against them testify to the fact that political activists continue to be threatened on account of their commitment.

The victims of these human rights violations are chiefly members of leftist party lists, journalists, activists from the land reform, anti-mining, and environmental movements, and, not least, human rights defenders. Thus,

those individuals who voice criticism of prevailing power structures and speak out in support of social transformation and socio-economic reforms become targets of violence and repression.

In many cases the perpetrators of these crimes are to be found among the ranks of the state security forces, and in particular of the military. These crimes occur above all in the context of the protracted domestic conflicts with the communist New People’s Army (NPA) and the various armed groups of the Muslim independence movement in the south of the Philippines. But they are also committed within the context of the economic activities of national and international corporations, in particular in mining and the plantation economy.

The Aquino government has yet to fulfill its promise to bring the perpetrators and masterminds of these crimes to justice. Instead, almost complete impunity continues to exist in the Philippines when it comes to the most serious human rights violations. The reasons for this are inadequate investigation techniques, the lack of cooperation between authorities, the underfunding of the entire judicial sector, but often also simply the lack of a will to act. Especially cases in which the perpetrators are suspected of being members of the army are often not even pursued by the investigating authorities out of a misconceived esprit de corps or out of fear of reprisals. Witness protection is also utterly inadequate, so that time and again potential witnesses themselves become murder victims.

The gross human rights violations by state security forces will not stop as long as those responsible do not have to fear any sanctions. In the struggle against human rights violations, new and better laws can only be a first step. Rather, these laws must also be effectively enforced so that potential offenders can be assured that their participation in such crimes would lead to an end of their careers and appropriate punishment. Therefore, the Philippine government must take comprehensive and effective measures to put a stop to political murders, enforced disappearances, and the criminalization of political activists and to bring those responsible to justice.

Therefore the Action Network Human Rights – Philippines demands that:

The gaps in the existing legal framework for protecting human rights must be closed and UN bodies be given the opportunity to verify compliance with international human rights standards in the country.

- A national action plan for human rights must be published immediately. It should include a detailed implementation plan for the recommendations made here.
- The Convention for the Protection of All Persons from Enforced Disappearance (CPPED) must be signed by the President and promptly ratified by the Senate. At the same time, the committee monitoring implementation of the Convention should be authorized to accept and investigate individual complaints.
- A standing invitation should be issued to all special rapporteurs with thematic mandates and working groups of the UN Human Rights Council, in particular the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the situation of Human Rights Defenders.

The most serious cases of human rights violations must be investigated without delay and the perpetrators brought to justice. Judicial proceedings must be completed within reasonable periods of time.

- The police must immediately execute outstanding arrest warrants in cases of extrajudicial killings and enforced disappearances.
- The President should instruct the police and the National Bureau of Investigation (NBI) by executive order to investigate immediately and exhaustively all crimes suspected to have been committed by members of the military or police officers. A refusal to investigate such crimes must be treated as a refusal to obey orders and punished accordingly.
- The witness protection program must be expanded and adequately funded. The program must be capable of protecting witnesses before commencement of the police investigations and, if necessary, also after the trial has ended. Witness protection must also be provided for members of the armed forces and law enforcement agencies.

- The President as supreme commander of the armed forces must instruct the army to cooperate fully and unreservedly with the inquiries of all relevant public authorities, including the police, the NBI (National Bureau of Investigation), and the CHR (Commission on Human Rights).
- The CHR, the Task Force USIG, and the human rights offices of the army and the police must publish lists of all ongoing investigations into cases of extrajudicial killings and enforced disappearances and update them regularly.
- In order to be able to conclude criminal trials expeditiously, all vacant judge and prosecutor positions must be filled with qualified personnel. Contrary to current practice, trials should not be conducted at irregular intervals but should convene on several consecutive days.

Existing laws to protect human rights defenders must be implemented immediately. In particular, the persecution of political activists and human rights defenders by the military in the context of the counterinsurgency must be stopped immediately.

- The AFP (Armed Forces of the Philippines) must take all necessary measures to ensure that extrajudicial killings and disappearances cease immediately.
- Attacks on civilians and non-combatants must cease as stipulated by international humanitarian law. Those responsible for such attacks must be indicted and punished as war criminals.
- The AFP must immediately cease its practice of publicly equating political and civil society organizations with rebel groups.
- Compliance with the prohibition on the “order of battle” list and other watch lists, on which alleged NPA (New People’s Army) fighters are listed, must be controlled and monitored.
- The practice of incriminating political activists with fabricated charges must cease. Before initiating criminal proceedings leading to the defendant being remanded in custody, an adequate review of the remand must be conducted. Prosecutors and judges who pursue manifestly fabricated charges must be subjected to disciplinary proceedings.

- All necessary steps must be taken to ensure that the international law principle of command responsibility in the criminal prosecution of human rights violations can be effectively enforced.
- The Executive Order 546 (E. O. 546) issued by President Arroyo must be rescinded. This order instructs the PNP (Philippine National Police) to support the military in the counterinsurgency and stipulates the creation of militias and paramilitary organizations (CAFGUs) for this purpose. All paramilitary groups must either be subjected to the military chain of command or else must be disbanded.

Furthermore the Action Network Human Rights – Philippines calls on other governments, the EU and other international bodies to:

- Remind the Philippine Government firmly of the recommendations made during the second cycle of the Universal Periodic Review of the UN Human Rights Council, in particular those which call for the investigation of cases of enforced disappearances and the cessation of extrajudicial killings.
- Address individual cases of extrajudicial killings, enforced disappearances, and fabricated charges during the bilateral human rights dialogue with the Philippine Government and demand their immediate investigation.
- Monitor trials of cases of patently fabricated charges against political activists or human rights defenders. Demand the observance of basic standards of due process, should they be violated.

Chapter 6: Cases from 2003 to 2013

Overview of cases of extrajudicial killings, enforced disappearances, and fabricated charges from 2003 to 2013, which were followed by the Action Network.

Extrajudicial Killings

Date	Name	Location	Region	Affiliation/ Organization	Alleged culprit	Status
21.4.2003	Eden Marcelana ¹	Naujan Town, Oriental Mindoro Province, Southern Tagalog	III	Karapatan	AFP (204th Brigade) – Major Gen. Jovito Palparan Jr., M/Sgt. Donald Caigas, M/Sgt. Rizal Hilario, et al	None of the perpetrators have been arrested, though even the UNHCR called for an arrest. (As of April 2012)
21.4.2003	Eddie Gumanoy	Naujan Town, Oriental Mindoro Province, Southern Tagalog	III	Peasant activist	AFP	See Eden Marcelana
28.4.2004	Isaias Manano ²	near Divine Word College, Calapan City	IV-B	Anakpawis, UCCP, NDFP	AFP (204th Infantry Battalion)	No investigations were conducted.
12.5.2005	Rev. Edison Lapuz ³	Sitio Motor, Barangay Crossing San Isidro, Leyte, Eastern Visayas	VIII	UCCP, Karapatan	AFP	Task Force Usig accuses NPA despite strong counter evidence. Investigations have been discontinued. UCCP sued Ex-President Arroyo for compensation.
12.5.2005	Alfredo Malinao	Sitio Motor, Barangay Crossing San Isidro, Leyte, Eastern Visayas	VIII	Barangay Councilor	AFP	See Rev. Edison Lapuz
22.9.2005	Diosdado “Ka Fort”/”Ding” Fortuna ⁴	Barangay Paciano, Calamba City, Laguna, Southern Tagalog	III	Union activist, Anakpawis	PNP	PNP accuses Fortuna of being a drug pusher. Investigations have been discontinued.
25.10.2005	Ricardo Ramos ⁵	Hacienda Luisita, Tarlac, Central Luzon	III	Union activist	AFP (7th Infantry Division) – Army Sgt. Roderick Dela Cruz	One suspect has been arrested, proceedings continue (As of March 2011)

Date	Name	Location	Region	Affiliation/ Organization	Alleged culprit	Status
9.5. 2006	Rev. Jemais Tinambacan ⁶	Mobod, Oroquieta City	X	Gloria Step Down Movement, Bayan Muna	AFP (Philippine Army Intelligence) – Mamay Guimalan	Task Force Usig accuses NPA despite eye witnesses identifying perpetrators. Investigations have been discontinued.
27.5. 2006	Noel “Noli” Capulong	Barangay Parian, Calamba City, Laguna, Southern Tagalog	III	Bayan Muna	AFP/PNP	PNP accuses Bayan Muna member.
31.7. 2006	Alice Omen-gan-Claver ⁷	Bulanao, Tabuk, Kalinga	CAR	CPA	PNP	No results (As of August 2011)
3.8. 2006	Rev. Isaias Santa Rosa	Malobago, Daraga, Albay	VIII	Pastor United Methodist Church	AFP	Investigations have been discontinued for lack of evidence even though there is strong evidence implying the AFP.
3.10. 2006	Alberto Ramento ⁸	Tarlac City, Tarlac Province, Central Luzon	III	Karapatan, IFI, NCCP	AFP	Case is heard by a court without questioning the relatives as witnesses. Case is treated as a robbery homicide. (As of October 2010)
19.1. 2007	Prof. Jose Ma. Cui	University Town, Catarman, Northern Samar	VIII	University of Eastern Philippines, Bayan Muna	AFP	Status unclear
17.1. 2008	Ronald C. Sendrijas	Tagbilaran City, Bohol	VII	Environmentalist	AFP	Status unclear
10.3. 2008	Gerardo “Gerry” Christobal ⁹	Malagasang II, Imus, Cavite	IV-A	Labor activist	PNP	No results so far (As of March 2013)
15.5. 2008	Celso Pojas ¹⁰	Davao City	XI	Peasant activist		No results so far (As of June 2012)
4.3. 2009	Rebelyn Pitao ¹¹	Davao City	XI	Teacher, daughter of NPA leader Leoncio Pitao	AFP (MIG/10th Infantry Division) – Private First Class Edmar “Ben” Tipait, et al	Alleged culprit Tipait was arrested in January 2010, but released from custody the next day. No results since. (As of January 2010)

Date	Name	Location	Region	Affiliation/ Organization	Alleged culprit	Status
9.3. 2009	Eliazar “Boy” Billanes ¹²	Koronadal City	XII	Bayan Muna		No results so far (As of February 2011)
5.6. 2009	Rene Penas ¹³	Bukidnon	X	Peasant activist		Investigations have been discontinued for lack of evidence. (As of June 2010)
24.1. 2010	Gerado “Doc Gerry” Ortega ¹⁴	Puerto Princesa City	IV-B	Environmental- ist, Journalist	Ex-Governor of Palawan Joel Reyes, Ex-Mayor of Colon Mario Reyes, Marlon Recamata	The perpetra- tor Recamata was sentenced to life imprisonment in May 2013. The alleged backers of the plot Ex-Gov- ernor Joel Reyes and his brother Mario were acquit- ted by the Court of Appeals in October 2013.
14.6. 2010	Benjamin Bayles ¹⁵	Sitio Antolo, Brgy. Suay in Himam- aylan City, Negros Occidental	VI	Anti-Mining activist	AFP (61st IB) – Roger Bajon, Rafael Cordova, Ronnie Caurino, Reygine Laus	AFP named the per- petrators who were released of duty in May 2011.
8.3. 2011	Celito Baccay ¹⁶	Dasmariñas, Cavite	IV-A	Union activist	MAGIKWO (PAG)	No results so far (As of July 2013)
17.10. 2011	Ft. Fausto Tentorio ¹⁷	Arakan, North Cotabato	XII	Italian mission- ary	Bagani Group (paramilitary group)/AFP	Two suspects have been arrested. A member of the Bagani Special Forces admitted to have ordered the murder in Novem- ber 2012 (As of October 2013)
5.3. 2012	Jimmy Liguyon ¹⁸	Barangay Dao	VII	Anti-mining activist, UCCP, Kasilo	SAN- MATRIDA – Aldy “Butsoy” Salusad	See Chapter 4
1.5. 2012	Francisco Canayong ¹⁹	Naparaan, Salcedo, Eastern Samar	VIII	Anti-mining activist		No results so far since all witnesses are afraid to give tes- timony. (As of May 2012)

Date	Name	Location	Region	Affiliation/ Organization	Alleged culprit	Status
3.7. 2012	Willem Geertman	Central Luzon	III	Anti-mining & land rights activist	Harold L. Dela Cruz, Marvin Marsan	Case is treated as a robbery homicide even though there is strong counterevidence. (As of December 2012)
4.9. 2012	Jordan Manda ²⁰	Conacon, Bayog, Zamboanga del Sur	IX	Son of anti-mining/indigenous people activist Timuay Locenio Manda	Marlon Luao/ "Tatang", Tuting Entag, Caloy Entag	The father of the victim identified 3 suspects who were arrested and arraigned for murder and illegal possession of fire arms. (As of October 2012)
18.10. 2012	Juvy, Jordan und John Capion ²¹	Datal Aliyong, Kiblawan, Davao del Sur	XI	Family of indigenous peoples leader Daguil Capion	AFP (27th Infantry Battalion)/ CAFGU – Lt. Col Noel Alexis Bravo, 1Lt. Jimenez	Commander Bravo resigned from his post. Involved soldiers were relieved of their duties and charged by a court-martial. (As of October 2013)
23.8. 2013	Anteng und Victor Freay	Kimlawis, Kiblawan, Davao del Sur	XI	Indigenous peoples leader	AFP (39 th Infantry Battalion)/ CAFAGU	The regional office of the CHR has opened investigations. (As of October 2013)

Enforced Disappearances

Date	Name	Location	Region	Affiliation/ Organization	Alleged culprit	Status
14.2. 2006	Raymond Manalo	San Ildefonso, Bulacan	III	Brother of a NPA member	AFP/CAFGU – Master Sergeant Hilario/Rollie Castillo, Donald Caigas,	Raymond is able to flee from custody in August 2007. He files a lawsuit against the military in 2009. The process is ongoing. (As of March 2013)
14.2. 2006	Rainaldo Manalo	San Ildefonso, Bulacan	III	Brother of a NPA member	AFP/CAFGU	See Raymond Manalo

Date	Name	Location	Region	Affiliation/ Organization	Alleged culprit	Status
26.6. 2006	Sherlyn Cadapan ²²	San Miguel, Hagonoy, Bulacan	III	Student	AFP (7 th Infantry Devision) Major General Jovito Palparan Sgt. Edgario Osario, Lt. Col. Felipe Anotado, Sgt. Rizal Hilario	See chapter 3
26.6. 2006	Caren Empeño	San Miguel, Hagonoy, Bulacan	III	Student	AFP	See chapter 3
28.4. 2007	Jonas Burgos ²³	Quezon City	Metro Manila	Land rights activist	AFP (56th Infan- try Battalion) – Harry Baliaga, Brig. Gen. Eduardo Año, Lt. Co. Melquiades Feliciano, Gen. Hermogenes Esperon, Gen. Romeo Tolen- tino, Lt. Gen. Alexander Yano, Gen. Avelino Razon	Jonas Burgos remains disap- peared. In 2013, an arrest warrant was issued against Baliaga. The cases against the other suspects were dropped. (As of October 2013)
17.9. 2008	James Balao ²⁴	La Trinidad Town	CAR	CPA	AFP	James Balao remains disappeared (As of March 2013)
3.1. 2011	Najir Ahung, Rasdi Kasaran and Yusup Mohammad	Manila Airport	Metro Manila		PNP (CDIG)	The three men remain disappeared (As of October 2013)

Attempted Extrajudicial Killing

Date	Name	Location	Region	Affiliation/ Organization	Alleged culprit	Status
31.7. 2006	Dr. Con- stancio “Chandu” Claver ²⁵	Bulanao, Tabuk, Kalinga	CAR	CPA	PNP	See Alice Claver. He received political asylum in Canada.

Fabricated Charges and Denunciations as Insurgents

Date	Name	Location	Region	Affiliation/ Organization	Accusation	Status
27.5. 2007	Rev. Berlin Guerrero ²⁶	Malabanan, Biñan, Laguna	IV-A	Pastor UCCP	Charge: Murder, NPA membership	Was released in September 2008. Received death threats afterwards.
8.9. 2008	Oliver Gimenez	Sta Catalina, Negros Oriental	VII	CERNET	Charge: Murder of AFP member, NPA membership	Was charged in September 2008 and acquitted in October 2009.
14.11. 2008	Edwin Egar ²⁷	Sitio Ilas, Baran- gay Puray, Rodri- guez, Rizal	IV-A	Pastor UCCP	Charge: Murder of AFP member, NPA membership	Charges dropped for lack of evidence.
31.1. 2010	Ira Pamat ²⁸	Tagbilaran City	VII	Women’s rights activist	Denunciation: NPA membership	
6.2. 2010	“Morong 43”: 43 doctors and nurses	Morong, Rizal	IV-A	Council for Health and Development, UCCP	Charges: Illegal possession of fire- arms and explo- sives, NPA mem- bership	Several of the detainees were allegedly tortured. Among them were NPA fighters.
2.12. 2010	Jean-Marie Ferraris ²⁹	Davao City	XI	Environmentalist	Denunciation: NPA membership	
14.1. 2012	Temogen “Cocoy” Tulawie ³⁰	Jolo, Sulu	ARMM	CBCS	Charges: Attempted murder of Gov- ernor Abdulsar- kar Tan	See Chapter 2.1
30.10. 2012	Zara Reboton Alvarez	Cadiz City	VI	AnakBayan, Karapatan	Charges: Murder, NPA membership	See Chapter 2.2

Annotations

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Abu Sayaf	Islamist terror organization whose main focus of activity is in the southern Philippines
AFP	Armed Forces of the Philippines
Anakpawis	leftist party list
Bayan Muna	leftist party list
CAFGU	Citizen Armed Force Geographical Unit – paramilitary groups officially under AFP command
CBCS	Consortium of Bangsamoro Civil Society – civil society umbrella organization in Mindanao
CHR	Commission on Human Rights – national human rights organization
CIDG	Criminal Investigation and Detection Group – PNP department mainly in charge of investigating organized crime
CPA	Cordillera Peoples Alliance – human and indigenous rights organization in Luzon
CPP	Communist Party of the Philippines
DILG	Department of the Interior and Local Government
DND	Department of National Defense
FIND	Families of Victims of Involuntary Disappearance – human rights organization with focus on cases of enforced disappearance
IB	Infantry Battalion
ICC	International Criminal Court
IFI	Iglesia Filipina Independiente – Independent Catholic Church
NBI	National Bureau of Investigation – national police force in charge of particularly severe crime
NCCP	National Council of Churches in the Philippines – alliance of Protestant churches
NDFP	National Democratic Front Philippines – leftist alliance, including NPA and CPP
NPA	New People’s Army – military wing of the CPP
Karapatan	Philippine human rights organization
PNP	Philippine National Police
Task Force USIG	special police unit in charge of investigating extrajudicial executions
TFDP	Task Force Detainees Philippines – Philippine human rights organization
UCCP	United Church of Christ in the Philippines – Protestant church
UPR	Universal Periodic Review – UN Human Rights Council procedure for the periodic review of member states’ human rights records



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Political murders, disappearances, and the criminalization of political activists and human rights defenders represent ongoing and serious human rights problems in the Philippines. With the assumption of office of Benigno “Noy” Aquino III, son of civil rights icons Ninoy and Corazon Aquino, in 2010 there was hope for improvement. And indeed, the Philippines has ratified the most important international human rights conventions and passed national laws to combat human rights violations. However, this progress in strengthening the legal framework has thus far not led to an

end to serious human rights violations. The still alarmingly high numbers of human rights violations committed against critics of the government and human rights defenders testify to the fact that political activists continue to be threatened because of their commitment. The individual cases presented in this publication illustrate the continuing serious abuses and systemic deficiencies in combating and dealing with human rights violations. They illustrate the systematic crackdown on human rights advocates in the Philippines.

