



Aide-Mémoire

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Philippines

While the Philippines are state party to most of the important UN human rights conventions and treaties, their implementation is not a policy priority. Human rights violations are grave and widespread, and the human rights situation is deteriorating. The continuation of politically motivated killings is causing national and international concern. There is an urgent need for independent investigations into such killings.

Political Crisis

Since March 2005 the government of President Gloria Macapagal-Arroyo has been suffering its worst political crisis after evidence of electoral fraud, massive corruption of public funds and widespread violations of human rights surfaced. Facing constant opposition and threats of public uprising and military coups, the Arroyo government has tried to take control by infringing on civil liberties. Following the declaration of a weeklong state of emergency in February 2006 the number of political killings has strongly increased. In 2005 Amnesty International recorded 66 politically motivated killings. In 2006, this figure was reached in early September. Additionally, the government has failed to move against severe and widespread human rights violations and hundreds of political killings by local criminal groups (*goons*) connected to powerful political clans and strongmen.

In the Philippines, security policies and infringements on civil rights in the face of political crisis are often portrayed as a contribution to the global war against terrorism. However, human rights organisations are convinced that the so called "war against terrorism" is currently used as a pretext to suppress peaceful opposition. A recent Amnesty International Report (ASA 35/006/2006) and a follow up Memorandum (ASA 35/010/2006) point to a pattern of politically targeted extrajudicial executions connected to the broader context of a current counter-insurgency campaign of the Philippines government and the Armed Forces of the Philippines (AFP) against the Maoist New People's Army (NPA).

A general erosion of respect for the law and the failure of the state to identify, bring to trial and sentence human rights violators determine the human rights situation. The confidence of the population in the rule of law has in turn been seriously damaged. Facing political instability, the president has a) shied away from the implementation of crucial reforms in the justice system and b) exacerbated the human rights situation through its handling of the current political crisis.

Extrajudicial Executions

Extrajudicial executions are widespread and have worsened in the first half of 2006 and more cases are reported regularly. Already in 2005 numerous cases of extrajudicial executions of church leaders as well as activists of the left-wing Bayan Muna party were documented. Amongst those killed were Rev Edison Lapuz, Fr William Tadena and churchworkers Joel Baclao and Juancho Sanchez. The killings were carried out by masked men. So far, there have been no persistent official investigations into these incidents. Following a strike action at the sugar cane plantation Hacienda Luisita, seven demonstrators were killed on 16th November 2004 by police and military forces firing into the crowd.

Government and military officials insist that no secret “death squads” or state policy regarding extrajudicial executions exists and that most of the killings were carried out by members of armed groups in the context of factional rivalries or internal “purges”. The overwhelming majority of the executions remains however unresolved and the failure of authorities to act with due diligence has a corrosive impact on the confidence of the public in judiciary processes. There is a pattern of impunity in relation to extrajudicial executions and a) failures of security forces to protect the right to life and b) failures of the judiciary to overcome such patterns of impunity disregarding the political background of the victims. This has led national and international human rights organisations to assume a connection between the killings and recent political developments, including President Arroyo’s declaration of a State of Emergency in February, the collapse of the peace process with the NPA in March 2006 and the release of substantial additional funds to the armed forces to win the 30-years old war against the NPA. Since the resignation of Secretary of Defense Avelino Cruz in early December 2006, President Arroyo serves as defense secretary at the helm of the Department of National Defense, ordering the “strategic defeat” of communist and separatist rebels as well as terror groups in the country by 2010.

Military sources claim that churches and civil organizations have been infiltrated by communists and are therefore under surveillance. Human rights organisations believe this serves as a pretext to justify the criminalization of a broad range of political activists.

Since President Arroyo assumed power in 2001, more than 40 journalists, often after investigative reports into cases of corruption, were killed – more than half the total number of journalists killed since President Marcos was ousted from power in 1986. The number of election related deaths is rising and has reached 140 in 2004. The perpetrators usually go unpunished and persistent official investigations are extremely rare.

Extrajudicial executions of local urban poor alleged criminals have become commonplace in at least two major cities: Cebu and Davao City. Davao is notorious for the Davao Death Squad (DDS) - between 1998 and early 2005 there were 320 extrajudicial executions by the DDS. The victims are often petty criminals and urban poor street youths. During the 2004 local elections Mayor Duterte stated that the number of extrajudicial executions in response to crime will double if he is re-elected: He is hence seen as the main culprit behind the DDS. In December 2004 Cebu Mayor Osmena formed the Hunter Team – a special force of 16 snipers who are paid by the number of crimes they allegedly prevented. The Mayors Duterte and Osmena are staunch supporters of President Arroyo and the government has not opposed the DDS and the Hunter Team.

The armed opposition groups are also responsible for severe and widespread human rights abuses. Human rights abuses committed by the Maoist NPA include the killing of Raymundo Tejeno on 20th March 2003 and various harassments and death threats against land-reform activists on Bondoc Peninsula. Armed opposition groups are also known for severe human rights abuses in other parts of the Philippines. Seven cases of human rights violations have been filed against the NPA with the governmental joint-ceasefire monitoring committee. The Communist Party of the Philippines (CPP), in the December 7, 2004 issue of its principal organ Ang Bayan (“The Nation”), has branded key activists, including Walden Bello, Liddy Nacpil, Etta Rosales and Popoy Lagman, as counterrevolutionaries. Human Rights groups fear that this is equivalent to a NPA hit-list. Due to the recent upsurge of politically motivated killings of activists of a broad range of political backgrounds, the human rights campaigns

against such killings have to a large extent unified. It is important to point out, that apart from the military, police and government officials none of the activist groups draw a connection between the recent upsurge of killings and a supposed internal purge within the left.

Enforced disappearances

Leftist activists "disappeared" as a matter of routine under the government of President Marcos, who was overthrown in 1986 and began to decline in the early 1990s. They are still reported periodically in the course of anti-insurgency operations against the armed wing of the legal Communist Party of the Philippines (CPP), the New People's Army (NPA), which has been fighting the government since the 1970s. Thousands of people still remain "disappeared". Under the Arroyo administration the numbers of "disappearances" have tripled: from 15 in 2001 - 2002 to 66 victims in 2003 – 2004.

"Disappearances" have contributed to the erosion of the peace process with the NPA over recent years. Amnesty International is gravely concerned that the patterns of "disappearances" in the light of counter-insurgency strategies of the government and counter-counter-insurgency operations of the CPP-NPA leadership will now worsen.

Torture

Torture in police custody is often experienced. The human rights NGO TFDP documented 95 cases of torture with 201 victims between January 1st 2001 and August 1st 2005. Amnesty International reports widespread use of harassments, beatings, sexual abuse and torture in custody in their 2003 report "Philippines: Torture Persists: Appearance and Reality within the Criminal Justice System" (AI Index: ASA 35/001/2003). While formally prohibited by law, torture during interrogation is not prevented, due to a lack of official investigation of allegations and cases of torture and due to weak institutional control mechanisms.

Violence against women

In January 2004, the Philippine Congress enacted legislation criminalizing acts of violence against women and their children within intimate relationships (Anti-Domestic Violence against Women and their Children Act, 2004). Despite this achievement, incidents of domestic violence remain endemic. On average, six out of ten women from poor communities experience domestic violence. Prostitution and human trafficking have also increased. Police, instead of protecting the victims, respond with raids, where they primarily arrest the prostitutes - not the traffickers and other criminals. Once in custody, the women are in danger of being victimised again by being raped and tortured. The lower their social status, the more likely the women are to suffer from such human rights violations. (for details see, for example: Amnesty International report "Philippines: Fear, shame and Impunity: Rape and Sexual Abuse of Women in Custody" (AI Index: ASA 35/001/2001). There are reports of widespread use of harassments, beatings, sexual abuse and rape of prisoners, in particular women, in custody. While formally protected by the law, a lack of official investigation and weak institutional control mechanisms fail to prevent torture during interrogation.

Women's groups in the Philippines continue to campaign for the effective implementation of the above mentioned anti-domestic-violence legislation through adequately financed government monitoring programmes and training. One of these groups is the "Legal Alternatives for Women Center, Inc.", based in Cebu City. Doing this work, Law Inc. members risk their life. One of their woman lawyers, Atty. Arbeit Sta. Ana-Yongco, was killed in the morning of 11 October 2004 inside her law office, situated in her own residence. She was shot at close range by a gunman: two shots into the neck, two shots into her right cheek. The killing looked like an execution. The perpetrator went unpunished. The case was never fully investigated.

Investment Policies

Human rights violations are also connected to foreign direct investments and private national investments: Workers rights within export-processing or special industrial zones are often violated and local small-scale farmers get expelled from the territory of such zones without compensation. Agricultural lands owned by the land-owning elite are often considered fenced-in patches of impunity: On entering the hacienda, national law becomes secondary to the landowner's hacienda law. The implementation of the

Comprehensive Agrarian Reform Law (CARL) has hence met with the violent resistance of large-scale landowners, such as Victor Reyes, Michael Matias or Allan Uy. Human rights abuses in the land reform area particularly Negros island, but also in other parts of the Philippines, such as Bondoc Peninsula, include harassments, murder and deceptive legal cases filed against harvesting peasants by large-scale landowners hindering the implementation of landreform legislation, as documented by NGOs such as the PEACE Foundation or Partnership for Agrarian Reform and Rural Development Services (PARRDS).

Particularly since the presidency of Arroyo, progressive human rights legislation such as the Indigenous People's Rights Act (IPRA) or CARL has been overruled in favour of foreign direct investments and individual interests. Multiple human rights abuses have for example been documented connected to the operations of the Canadian mining company TVI Pacific in Canatuan, Zamboanga del Norte. Whereas IPRA gives indigenous peoples a certain degree of autonomy for their lands, and asks for their prior and informed consent, e.g. to mining operations there, a Supreme Court Ruling of 1 December 2004 contravenes this progressive legislation. It gives business interests priority over indigenous rights, if such business interests are declared to be "in the national interest". Together with an executive order (EO 270) that promotes mining all over the Philippines, the consequences for the human rights of indigenous peoples – on whose land the majority of mining operations are – are disastrous.

Death Penalty

In June 2006 legislation repealing the death penalty law Republic Act 7659 was passed, making the Philippines the 25th country in the Asia-Pacific region to end capital punishment. All death sentences are now converted into lifelong sentences. We hope that the abolition of the death penalty will contribute to the progressive development of human rights in the country.

Studies from - amongst others - Amnesty International and civil society organisations in the Philippines, also show that in the past the death penalty was disproportionally implemented against poor and marginalised people that had no or insufficient access to the legal system. In November 2005 the total number of prisoners on death row was 1.184.

Misereor, Missio-München, VEM and Philippinenbüro im Asienhaus are therefore calling on the Human Rights Council:

- to look into human rights violations in the Philippines and to instruct the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions Philip Alston, Special Representative of the Secretary General for Human Rights Defenders Hina Jilani, the Special Rapporteur on Torture Dr Manfred Nowak, the Special Rapporteur on Human Rights and the War on Terror Martin Scheinin and the Special Rapporteur on Freedom of Expression Ambeyi Ligabo, the Special Rapporteur on the Independence of Judges and Lawyers Leandro Despouy and the Special Rapporteur on Indigenous Peoples Rodolfo Stavenhagen to investigate systematic and politically motivated human rights abuses committed by military, paramilitary or criminal groups against church leaders, human rights lawyers, political and human rights activists, trade unionists and journalists
- to strengthen the role of such representatives and independent mechanisms regarding the human rights situation in the Philippines and to integrate victims' organisations and human rights organisations into the periodic review mechanism regarding the human rights situation in the Philippines.
- to provide additional financial support and technical assistance for judicial reform and the development of an independent and functional justice system via the Human Rights Council and the Office of the High Commissioner for Human Rights (OHCHR), particularly with regards to institutional mechanisms regarding extrajudicial killings and witness-protection programmes.

Misereor, Missio-München, VEM and Philippinenbüro im Asienhaus e.V. request the German Government

- to send the human rights officer of the German Federal Foreign Office to investigate the human rights situation in the Philippines and to discuss the findings of this visit with the authors of this Aide Mémoire and the Federal Ministry for Economic Cooperation and Development.
- to provide technical assistance to efforts supporting judicial reform and witness-protection programmes and to discuss the implementation of human rights related projects during the negotiations between the German Federal Ministry for Economic Cooperation and Development and the government of the Philippines in spring 2007.