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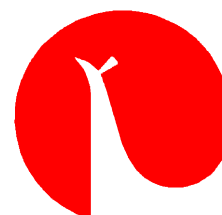


Political Killings and the Rule of Law

Conference Documentation, 8-9 May 2008, Berlin, Germany

Philipp Bück, Hannah Wolf (eds.)

Asienhaus / Action Network Human Rights – Philippinen



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This brochure is bilingual (English and German). Each presentation is printed in its original language, followed by a summary in the other language. Due to limitations in scope the discussions are only printed in English. This brochure is part of the project “Action Network Human Rights – Philippines”. Further information: www.menschenrechte-philippinen.de

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Telefon: +49 (0) 201 . 830 38-38; Fax: +49 (0) 201 . 830 38-30;

asiensstiftung@asienhaus.de

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Abkürzungen / List of Abbreviations

AFP – Armed Forces of the Philippines
 CARHRIHL - Comprehensive Agreement on the Respect of Human Rights and International Humanitarian Law
 CAT – Convention Against Torture
 CBCP – Catholic Bishops’ Conference of the Philippines
 CHRP - Commission of Human Rights of the Philippines
 COMELEC – Commission on Elections of the Philippines
 CPP - Communist Party of the Philippines
 CSO – Civil Society Organisation
 EED – Evangelischer Entwicklungsdienst (Church Development Service)
 EU – European Union
 EUJAM - EU Justice Assistance Mission
 FIDH - Fédération Internationale des Droits de l'Homme
 FLAG – Free Legal Assistance Group
 GRP – Government of the Republic of the Philippines
 HRD – Human Rights Defender
 HSA – Human Security Act
 IALAG - Inter-Agency Legal Action Group
 ICCPR - International Covenant on Civil and Political Rights
 IPON – International Peace Observers Network
 MNLF – Moro National Liberation Front
 NGO – Non-Government Organisation
 NRO – Nichtregierungsorganisation (NGO)
 NDF – National Democratic Front
 NPA - New People’s Army
 OBL – Oplan Bantay Laya
 OPCAT – Optional Protocol to the Convention Against Torture
 PAHRA – Philippine Alliance of Human Rights Advocates
 PNP - Philippine National Police
 PO – People’s Organisation
 UCCP – United Church of Christ in the Philippines
 UNHRC – United Nations Human Rights Council
 UN SR – United Nations Special Rapporteur
 UPR – Universal Periodic Review

Inhalt / Content

Abkürzungen / Abbreviations	4
Zusammenfassung / Summary (German only)	6
Begrüßung / Welcoming Addresses	9
Entwicklung und Politische Gewalt / Development and Political Violence	15
Straflosigkeit im rechtsstaatlichen Raum: Macht und politischer Wille / Impunity and the Rule of Law	36
Schutz von Menschenrechtsverteidigern / Protection of Human Rights Defenders	60
Handlungsperspektiven / Implementation of Human Rights Protection	72
Weitere Literatur / Further Reading	79

Tagungsbericht: „Politische Morde und Rechtsstaatlichkeit – Das Beispiel Philippinen“

von Philipp Bück

Über sechzig Zivilgesellschaftler/innen, Regierungsvertreter/innen, Kirchenvertreter/innen und interessierte Personen nahmen vom 8.-9. Mai an der Konferenz „Politische Morde und Rechtsstaatlichkeit – das Beispiel Philippinen“ in der katholischen Akademie in Berlin teil. Die Fachtagung war seit vielen Jahren die größte gesellschaftspolitische Tagung zu den Philippinen in Deutschland und wurde vom Aktionsbündnis Menschenrechte – Philippinen veranstaltet.

In den letzten sieben Jahren sind in den Philippinen viele hundert Aktivisten, Kirchenleute, Journalisten und Gewerkschafter von bewaffneten Schergen ermordet worden. Die Opfer sind investigative Journalist/innen, Mitglieder politischer Parteien, Kirchenleute, linke Zivilgesellschaftler/innen, Gewerkschafter/innen, Lokalpolitiker/innen oder Landreformaktivist/innen. Viele Partnerorganisationen kirchlicher Hilfswerke und anderer deutscher Nichtregierungsorganisationen sind betroffen. Bisher ist es in nur wenigen Fällen zu Verhaftungen und Verurteilungen der mutmaßlichen Drahtzieher in Politik, Militär, Polizei oder Großgrundbesitz gekommen. Nach Angaben des UN Sonderbeauftragten für außergerichtliche, summarische und willkürliche Hinrichtungen, Philip Alston, werden in manchen Gegenden Führungspersonen linker Gruppen systematisch gejagt, verhaftet, gefoltert und im Zuge von Verleumdungskampagnen ermordet, um Angst unter der lokalen Bevölkerung zu verbreiten.

Der Vorsitzende des Aktionsbündnis Menschenrechte – Philippinen Dr. Karl Schönberg (Evangelischer Entwicklungsdienst) machte zu Beginn der Tagung deutlich, dass sich weiterhin zahlreiche Mitarbeiter in philippinischen Entwicklungsprogrammen bedroht fühlen und dass es viele Anfragen an deutsche Hilfswerke gegeben habe. Entwicklungsarbeit könne nur dann nachhaltig und erfolgreich sein, wenn die Menschen nicht um ihr Leben und ihre Sicherheit fürchten müssen.

Bischof Juan de Dios Pueblos aus der Diözese Kidapawan wies darauf hin, dass eine steigende Zahl an Menschenrechtsverletzungen vor allem dort zu vermerken sei, wo Konflikte zwischen der Regierung und nichtstaatlichen Gewaltakteuren auftreten. Regierung und Bevölkerung sähen sich mit

wachsender Instabilität und Gewalt konfrontiert. Die außergerichtlichen Tötungen erschienen in diesem Kontext wie ein Überbleibsel der Jahre des Kriegsrechts unter dem ehemaligen Diktator Ferdinand Marcos.

Bischof Elizier Pascua von der United Church of Christ in the Philippines (UCCP) berichtete, dass aus den Reihen der UCCP in den letzten sechs Jahren 20 Pastoren und Mitarbeiter ermordet worden seien. Entgegen vielen Versprechungen und dem kontinuierlichen Dialog zwischen der UCCP und der philippinischen Polizei sei bisher niemand aus den Rängen von Polizei und Militär für diese zur Rechenschaft gezogen worden. Es sei wichtig, dass sich internationale Organisationen dieses Problems annehmen.

In dem in das Thema einführenden Block empfahl die Länderreferentin Philippinen von Amnesty International, Lea Biason, der philippinischen Regierung, den Zugang zu rechtsstaatlichen Mechanismen entsprechend verschiedener internationaler Menschenrechtsstandards zu gewährleisten, die unabhängige, umgehende und effektive strafrechtliche Verfolgung sicherzustellen, adäquate Zeugenschutzmechanismen umzusetzen sowie eine umfassende Rechtsreform, insbesondere in Bereichen des Folterverbots und der Institutionalisierung der Kommandoverantwortung durchzuführen.

Der Publizist Dr. Rainer Werning wies auf drei historische Kontinuitäten struktureller Gewalt in den Philippinen hin: Die ungebrochene Kollaboration der landbesitzenden politischen Elite mit der ehemaligen Kolonialmacht USA, die Politisierung des Militärs und Militarisierung der Politik während der Marcoszeit und Gewaltkonflikte in Zusammenhang mit der mangelhaften Umsetzung der Agrarreform oder des internationalen Krieges gegen den Terror im muslimisch dominierten Süden des Landes.

Philipp Bück vom Philippinenbüro e.V. im Aienhaus machte anhand des Wahlsystems beispielhaft strukturelle Ursachen für politische Gewalt in den Philippinen deutlich. Demokratisierungsbestrebungen stünden in Spannungs-

verhältnissen mit Partikularinteressen auf nationaler und lokaler Ebene. Während der Wahlen käme ein teils raubtierhaftes Verhältnis politischer Eliten oder verschiedener staatlicher und nichtstaatlicher Gewaltakteure zu den mit dem Wahlsieg verbundenen Ressourcen zum Tragen.

Mit dem Instrument der Menschenrechtsbeobachtung stellte Janina Dannenberg vom International Peace Observers Network (IPON) eine mögliche Interventionsform vor. Trotz vieler Herausforderungen könne politische Gewalt verhindert und die Arbeit von Menschenrechtsverteidigern geschützt werden. Der schmale Grad zwischen Neutralität und Intervention erfordere eine ständige Anpassung von Arbeitsweisen und Strategien an die Dynamik vor Ort.

Das Panel über Straflosigkeit im rechtsstaatlichen Raum begann Max de Mesa von der Philippine Alliance of Human Rights Advocates (PAHRA). Er machte die Notwendigkeit der Unterstützung zivilgesellschaftlicher Arbeit deutlich. Die internationale Gemeinschaft solle insbesondere die Arbeit in lokalen Gemeinden, Anwälte, unabhängige Dokumentation vermisster Personen und Beobachtungsinstrumente in Bezug auf schwere Menschenrechtsverletzungen, sowie die Zusammenarbeit zwischen lokalen und internationalen Menschenrechtsorganisationen fördern.

Consuelo Ynares-Santiago, Mitglied im Obersten Gerichtshof der Philippinen, stellte Initiativen innerhalb des Justizsystems vor und wies auf ein sich erhöhendes Bewusstsein und Verständnis für die bestehenden Rechtsmittel hin. Es bestünde jedoch weiterhin Handlungsbedarf die Friedensverhandlungen wiederaufzunehmen, internationale Abkommen zu ratifizieren und das Mandat der philippinischen Menschenrechtskommission zu erweitern, um die Untersuchung von Menschenrechtsverletzungen zu stärken. Die Initiativen des Obersten Gerichtshofes seien erste Schritte, die in Zukunft daran zu messen seien, ob Verantwortliche zur Rechenschaft gezogen werden.

Der Menschenrechtsbeauftragter der Bundesregierung, Günter Nooke, begrüßte die grundsätzlich demokratisch-parlamentarische Gesellschaftsordnung der Philippinen und wies auf die Abschaffung der Todesstrafe im Jahre 2006 hin. Die Philippinen würden auch eine Vorreiterrolle in der Schaffung eines ASEAN-Menschenrechtsmechanismus einnehmen. In scharfem und beklemmendem Widerspruch hierzu stünden jedoch die große Zahl unaufgeklärter, politisch motivierter Morde. Den Verlauf der Universal Periodic Review (UPR) im

UN Menschenrechtsrat bewertete Nooke weitgehend positiv und erklärte, Deutschland wolle nun auch die Empfehlungen des UN Sonderberichterstatters Philip Alston in partnerschaftlichem Dialog mit den Philippinen und im gemeinsamen Auftreten mit den EU-Mitgliedsstaaten verfolgen. Deshalb unterstütze Deutschland die Initiativen auf EU-Ebene tatkräftig.

Die Generalsekretärin von Amnesty International Deutschland, Barbara Lochbihler, machte deutlich, dass substantielle Veränderungen nur durch ernsthaften politischen Willen der Entscheidungsträger eingeleitet werden, Rechtstaatlichkeit umzusetzen und zu befolgen. Die Abschaffung der Todesstrafe durch die philippinische Regierung stünde daher im Widerspruch zu der öffentlichen Erklärung der Präsidentin, die linksgerichtete Opposition innerhalb kurzer Zeit auslöschen zu wollen.

In der anschließenden Diskussion wurde darauf hingewiesen, dass der Oberste Gerichtshof in seiner Rechtsprechung internationale Menschenrechtsabkommen stärken müsse. Mehrere Teilnehmer betonten, dass es in der deutschen Außenpolitik in Bezug auf das Problem der politischen Morde in den Philippinen keine Trennung zwischen wirtschaftlichen, sozialen und kulturellen Menschenrechten auf der einen und bürgerlichen Freiheitsrechten auf der anderen Seite geben dürfe.

Am nächsten Morgen wurde der Schutz von Menschenrechtsverteidigern diskutiert. Die Vorsitzende des Ausschuss Menschenrechte und humanitäre Hilfe des Bundestages, Prof. Dr. Herta Däubler-Gmelin, ermutigte die deutschen NRO und die Kirchen, die Zusammenarbeit mit dem Ausschuss weiterzuführen, um weiter das Bewusstsein für die Situation in den Philippinen zu schärfen und den Druck auf die philippinische Regierung durch den Ausschuss zu verstärken. Sie wies auf verschiedene Interventionsmöglichkeiten des Ausschusses hin. So besäße der Menschenrechtsausschuss die Funktion Abgeordneten, die in von massiven Menschenrechtsverletzungen betroffene Länder reisen, Informationen zur Verfügung zu stellen, sodass Menschenrechtsverletzungen bei Besuchen gezielt angesprochen werden.

Philippe van Amersfoort, stellvertretender Abteilungsleiter der Asien-Direktion der Generaldirektion für auswärtige Beziehungen der Europäischen Union, stellte die Zusammenar-

beit auf EU-Ebene vor. Die von Vorrednern geäußerte Angst, die Morde würden mit den ankommenden Präsidentenwahlen 2010 einen erneuten Anstieg erleben, könnte die EU mit einer europäischen Wahlbeobachtungsmission (EOM) begegnen. Philippe van Amersfoort forderte die philippinische Regierung auf, Schritte für die Ratifizierung des Römischen Statuts des Internationalen Strafgerichtshofes aufzunehmen, welches eine bedeutende Geste im Kampf gegen Straflosigkeit sei.

Marie Hilao-Enriquez von der Menschenrechtsorganisation Karapatan stellte die Schwierigkeiten menschenrechtlicher Arbeit in den Philippinen vor. Bei dem Versuch Menschenrechtsarbeit zu kriminalisieren, würden Verleumdungskampagnen sowie haltlose Anklagen gegen Menschenrechtsaktivist/Innen angestrengt. Haltlose Anklagen würden auch durch die von der Präsidentin eigens zur Bekämpfung von Straflosigkeit und außergerichtlichen Tötungen einberufene „Inter-Agency Legal Action Group“ (IALAG) angestrengt.

Das Verschwindenlassen von Personen stelle ein Verbrechen gegen die Menschheit dar, so Aileen Diez Bacalso von der Asian Federation of Human Rights Advocates (AFAD). Als Instrumente für die Bekämpfung von Straflosigkeit dienten auf internationaler Ebene die UN Konvention zum Schutz aller Menschen vor dem Verschwindenlassen sowie die EU Richtlinien zum Schutz von Menschenrechtsverteidigern.

In Folge diskutierten Teilnehmer/innen und Referenten/innen die Möglichkeit, bedrohten Menschenrechtsverteidiger/innen in Europa Asyl zu gewähren. Prof. Dr. Herta Däubler-Gmelin unterstützte diese Idee und bot an, die Diskussion weiterzuführen. Es wurde außerdem angemerkt, dass politische Morde auch von nichtstaatlichen Akteuren verübt würden und Instrumente geschaffen werden müssten, diese Menschenrechtsverletzungen zu bekämpfen, z.B. durch die Fortsetzung von Friedensverhandlungen.

In der abschließenden Diskussion über Handlungsperspektiven machte Vincent Forest von Frontline International deutlich, dass die EU-Richtlinien für Menschenrechtsverteidiger zwar ein notwendiges Instrument seien, diese jedoch in der Politik oft unbekannt und irrelevant seien. Es sei wichtig hier

Aufklärungsarbeit zu leisten und die möglichen Mechanismen zu nutzen. Dr. Jochen Motte von der Vereinten Evangelischen Mission und Dr. Theodor Rathgeber vom Forum Menschenrechte machten die Bedeutung von Lobbyarbeit in Bezug auf europäische Botschaften und Regierungen einerseits und den UN Menschenrechtsrat andererseits deutlich. Die Rolle der norwegischen Regierung im Friedensprozess zwischen maoistischen Rebellen und der Regierung in den Philippinen zu vermitteln, könne ein Ansatzpunkt für die EU sein. Auch gelte es, die Rolle der Sonderverfahren des UN Menschenrechtsrats zu stärken, denn diese hätten potentiell wichtige Einflussmöglichkeiten. Mehrere Teilnehmer betonten die Notwendigkeit bestehende Mechanismen zu nutzen und stückweise auszuweiten und die zivilgesellschaftliche Vernetzung auf europäischer und internationaler Ebene fortzusetzen und zu vertiefen.

Am Rande der Fachtagung gab es weitere informelle Gespräche und Treffen in Brüssel und Berlin. Die teilnehmenden Organisationen stehen nun vor der Aufgabe, die Handlungsperspektiven umzusetzen und die besprochenen Diskussionen in ihre Netzwerke einfließen zu lassen.

Das "Aktionsbündnis Menschenrechte - Philippinen" besteht seit dem 1.8.2007. Ziel des Projektes ist, durch Öffentlichkeits- und Lobbyarbeit in Deutschland zur Verbesserung der Menschenrechtssituation in den Philippinen beizutragen. Das im Philippinenbüro e.V. im Asienhaus angesiedelte Büro koordiniert Publikationen, Veranstaltungen und Lobbyaktivitäten. Zielgruppe ist die Presse, politische Entscheider, Menschenrechtsengagierte und Multiplikatoren/innen in Deutschland und Europa. Thematischer Schwerpunkt der Arbeit sind politische Morde und Entführungen.

Trägerorganisationen des Bündnisses sind Brot für die Welt/Diakonie, der Evangelische Entwicklungsdienst (EED), Misereor, Missio, Philippinenbüro e.V. im Asienhaus und die Vereinte Evangelische Mission (VEM).

Weitere Informationen: www.menschenrechte-philippinen.de

Welcoming Addresses

Conference on Political Killings and the Rule of Law

First Day, 8 May 2008

Begrüßung

By Dr. Karl Schönberg*

* Chairperson of the Action Network Human Rights – Philippines and Philippines desk (Church Development Service (EED))

Zur Eröffnung der Fachtagung „Politische Morde und Rechtsstaatlichkeit - das Beispiel Philippinen“ möchte ich sie im Namen des Aktionsbündnisses Menschenrechte - Philippinen herzlich begrüßen. Ich bin Dr. Karl Schönberg, Philippinen-Referent beim EED, sowie derzeitiger Vorsitzender des Aktionsbündnisses.

Wir danken insbesondere unseren Gäste, die den langen Weg aus den Philippinen hierher nach Deutschland gekommen sind, nicht zuletzt Bischof Pueblos und Bischof Pascua. Dann natürlich den Gästen aus London, Brüssel und hier aus Deutschland. Wir freuen uns auch über die Teilnahme von Herrn Nooke, dem Beauftragten für Menschenrechtspolitik und humanitäre Hilfe der Bundesregierung und von Frau Dr. Däubler-Gmelin, der Vorsitzenden des Ausschusses für Menschenrechte und Humanitäre Hilfe im Deutschen Bundestag. Sie hat Ihre Teilnahme für morgen zugesagt.

Wir freuen uns, dass unsere Fachtagung auf großes Interesse stößt. Dies zeigt, dass die Fragestellungen um politisch motivierte Morde und außergerichtliche Hinrichtungen in den Philippinen vielen Personen und Organisationen in Deutschland und Europa unter den Fingern brennen.

Dem Aktionsbündnis Menschenrechte Philippinen gehören an

- Brot für die Welt und das Menschenrechtreferat der Diakonie
- Evangelischer Entwicklungsdienst (EED)
- Misereor
- Missio
- **philippinenbüro** im Asienhaus
- Vereinte Evangelische Mission (United Evangelical Mission)

Ziel des Aktionsbündnisses ist es, sich durch Öffentlichkeits-, Netzwerk und Lobbyarbeit für eine Ver-



besserung der Menschenrechtssituation in den Philippinen einzusetzen, mit dem Schwerpunkt außergerichtlichen Hinrichtungen entgegenzuwirken und zur Aufklärung bestehender Fälle beizutragen.

Zahlreiche unserer kirchlichen und NGO-Partner in den Philippinen haben Opfer aus ihren eigenen Reihen zu beklagen. Viele Mitarbeiter/innen in Entwicklungsprogrammen werden nach wie vor bedroht und müssen um ihre Sicherheit fürchten.

Unsere Partner haben uns seit mehreren Jahren wiederholt gebeten, sie in dieser Hinsicht zu unterstützen. Durch unsere Lobby-, Öffentlichkeits- und Netzwerkarbeit im Rahmen des Aktionsbündnisses versuchen wir dies nach Kräften. Solange Verantwortungsträger in Polizei und Militär nicht bestraft und es in nur wenigen Fällen zu Verurteilungen, geschweige denn Bestrafung der Täter gekommen ist, muss die philippinische Regierung ihre Verantwortung zur Einhaltung der Rechtsstaatlichkeit und zur Sicherung der Menschenrechte ernsthafter als bisher wahrnehmen.

Unsere Entwicklungsarbeit kann nur dann nachhaltig und erfolgreich sein, wenn die Menschen nicht um ihr Leben und ihre Sicherheit fürchten müssen. Ich wünsche uns allen eine interessante und fruchtbare Diskussion in der Hoffnung, dass diese Veranstaltung zu dem gesetzten Ziel beiträgt.

Welcoming Words

Summary of the Presentation by Dr. Karl Schönberg, Church Development Service (EED)

Dr. Karl Schönberg, the current chair of the Action Network Human Rights – Philippines, welcomed all guests to the conference – particularly the guests from the Philippines. He pointed out, that partner organisations in the Philippines had repeatedly asked development agencies to support their efforts to address the issue of political killings in the Philippines. The network tries to follow this request with lobby- and information work as well as networking. As long as key individuals in the security forces responsible for extrajudicial executions are not

brought to justice and only very few cases have led to convictions, the Philippine Government has to take its responsibility to protect the rule of law and human rights more seriously, Dr. Schönberg said. Development work can only be successful, if people do not have to fear for their lives and security. The Action Network Human Rights - Philippines hopes for interesting and fruitful discussions, so that the conference could contribute to this goal.

Welcoming Message (Summary)

By Bishop Juan de Dios Pueblos*

*Bishop of Butuan, Mindanao and former member of the Melo Commission

While the ongoing political killings observed in the Philippines appear to be a hang-over of the martial law years, the country is once again seen at a critical point in its history. Facing growing instability and violence, human rights violations are especially observed where conflicts between the government and non-state actors occur, widely followed by victimization of innocent people. This is particularly true in the Caraga-region, where indigenous peoples have increasingly fallen victims to human rights violations.

Yet, instead of the demand for more human and moral considerations, human rights have become a matter of political and ideological struggles.

In 2006 Bishop Juan de Dios Pueblos was appointed to the Melo Commission as a representative of the Catholic Bishops Conference of the Philippines (CBCP, see box).

One of the commission's advise to the government was to hold a national summit on extra-judicial killings under the Supreme Court. Following the commission's recommendation, in July 2007 Philippine Chief Justice Reynato S. Puno called on a "National Consultative Summit on Extrajudicial Killings and Enforced Disappearances - Searching for Solutions" which was then hosted by the Supreme Court.¹

As another result from the Melo Commission, the commission's final report put an emphasis on command responsibility, i.e. the culpability of military or police commanders in the light of politically motivated killings perpetrated by members of their squads or force. Closing his

Melo Commission

In August 2006 President Gloria Macapagal-Arroyo issued Administrative Order 157 for the creation of an independent commission to probe the killings of media workers and activists. Led by former Supreme Court Associate Justice Jose Melo, the other appointees were the National Bureau of Investigation (NBI) Director Nestor Mantaring and Chief State Prosecutor Jovencito Zuño from the government, Butuan Bishop Juan de Dios Pueblos and University of the Philippines (UP) regent Nelia Torres Gonzales from the private sector.

In February 2007 the commission's report was released indicating a systematic pattern of some of the Extrajudicial Killings and pointing to military personnel including Gen. Jovito Palparan as perpetrators of extrajudicial killings.

Congressional, militant and Church leaders have questioned the commission's independence, based on the NBI's and the Department of Justice's (DoJ) subordination to the President's office.

(Source: 18.05.08: www.pcij.org/blog/?p=1139)

¹ For the documentation of the National Consultative Summit: www.supremecourt.gov.ph/publications/summit

welcoming address, Bishop Juan de Dios Pueblos encouraged the participants with a story from Kidapawan: In this case 29 farmers were illegally detained. Amnesty international intervened and

managed to pressure the German government to withhold its development aid. After a week, the joint efforts led to the release of the farmers.

Zusammenfassung: Grußwort von Bischof Juan de Dios Pueblos, Diözese Kidapawan, Butuan, Mindanao

Die Philippinen sind heute an einem kritischen Punkt der Geschichte. Regierung und Bevölkerung sehen sich mit wachsender Instabilität und Gewalt konfrontiert. Die außergerichtlichen Tötungen erscheinen in diesem Kontext wie ein Überbleibsel der Jahre des Kriegsrechts unter Marcos. Eine steigende Zahl an Menschenrechtsverletzungen ist vor allem dort zu vermerken, wo Konflikte zwischen der Regierung und nicht-staatlichen Gewaltakteuren auftreten. Zahlreiche unschuldige Menschen fallen diesen Konflikten zum Opfer, in der Caraga Region z.B. werden indigene Bevölkerungsgruppen in wachsendem Maße zu Opfern von Menschenrechtsverletzungen.

Anstelle von moralischen Forderungen nach mehr Menschlichkeit sind hier politische und ideologische Kämpfe um den Schutz von Menschenrechten getreten. 2006 wurde Bischof Juan de Dios Pueblos als Vertreter der CBCP in die von der Präsidentin einberufene Melo

Kommission berufen. Auf den Rat der Kommission wurde 2007 eine Konferenz einberufen, die sich mit den außergerichtlichen Tötungen befasste und vom Obersten Gerichtshof ausgerichtet wurde. Weiterhin forderte die Kommission in ihrem endgültigen Bericht, die Kommandoverantwortung als juristisches Instrument umzusetzen. Hier bleibt noch abzuwarten, ob die Empfehlungen umgesetzt werden.

Abschließend ermutigte Bischof Pueblos die Teilnehmenden mit einer Geschichte aus seiner Zeit als Priester in Kidapawan. Dort waren 29 Bauern rechtswidrig inhaftiert worden, woraufhin sich Bischof Pueblos an amnesty international wandte und deren Deutsche Sektion ihrerseits Druck auf die deutsche Regierung ausübte, Entwicklungshilfegelder zurückzuhalten bis die Inhaftierten entlassen würden. Bereits nach einer Woche zeigten die vereinten Kräfte Früchte und die 29 Bauern wurden entlassen.

Welcoming Message

by Bishop Elizier M. Pascua*

*General Secretary of the United Church of Christ in the Philippines (UCCP)

Good morning to everyone. I am sure we cannot thank enough the organisers and sponsors of this Conference by words alone. Nevertheless, let me say *salamat at mabuhay* (thank you and long live) to the Action Network Human Rights – Philippines and to every member organisation and to each one for making your time to come to this conference.

How are we to measure a government's record in the field of human rights? Quite often, we need to set apart its words from its actions. What a government actually does about the problem might not only differ from, but in reality might be running counter to its avowed proclamations.

President Gloria Macapagal-Arroyo, in all her official statements, has spoken of her unswerving commitment to the promotion and defence of human rights. Recently, as many of you know, she sent her Executive Secretary, Eduardo Ermita, to the United Nations Human Rights Periodic Review and there expounded on the Philippine government's

“strong adherence to the human rights princi-



ples and values.”

But what is the truth? What actually is taking place on the ground? Many fact finding missions and investigations regarding the actual human rights situation in the Philippines were conducted that out-rightly belied the government’s claim. And no less than the official findings of the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston, among others, concluded that:

“Over the past six years, there have been many extrajudicial executions of leftist activists in the Philippines. These killings have eliminated civil society leaders including HRDs, trade unionists and land reform advocates, intimidated a vast number of civil society actors, and narrowed the country’s political discourse. Depending on who is counting and how, the total number of such executions ranges from 100 to over 800. Counter-insurgency strategy and recent changes in the priorities of the criminal justice system are of special importance to understanding why the killings continue.

Many in the government have concluded that the numerous CSOs are “fronts” for the Communist Party of the Philippines (CPP) and its armed group, the New People’s Army (NPA). One response has been counter-insurgency operations that result in the extrajudicial execution of leftist activists. In some areas, the leaders of leftist organizations are systematically hunted down by interrogating and torturing those who may know their whereabouts, and they are often killed following a campaign of individual vilification designed to instil fear into the community. The priorities of the criminal justice system have also been distorted, and it has increasingly focused on prosecuting civil society leaders rather than their killers.

The military is in a state of denial concerning the numerous extrajudicial executions in which its soldiers are implicated...”

Indeed, there is a good number of “civil society” organizations referred to in the report of Mr. Alston to be those perceived by the Philippine military as fronts of the communists. One of them, in fact, is the United Church of Christ in the Philippines or UCCP of which I am the General Secretary. To be sure, the UCCP, as a church, is bound to carry out the mission and spread the Gospel of Jesus Christ –

“to preach good news to the poor, to proclaim freedom for the captives and recovery of sight for the blind, to release the oppressed, and to

proclaim the year of the Lord’s favor.”
(Luke 4: 18-19)

Over the last six years 20 active leaders and members of the UCCP have been extrajudicially executed, 2 have disappeared, 5 have been tortured and detained, and 6 have been subjected to threats and harassments. Many of these victims are pastors and lay leaders of our church.

Last year, following the scandalous abduction and torture of one of our local church pastors in a town not far from Manila, the top leadership of the Philippine National Police (PNP) decided to come to our national office and there they issued grandiose pronouncement coupled with an official apology to the effect that those military personnel (from the Naval Intelligence Security Force) responsible for the outrage would be penalized. Words versus actions! Up to now, we have yet to hear of anyone in the military who has been held to account. What we do know is that the top hatchet man, Gen. Jovito Palparan, who had openly declared war against activists and trade unionists, had been, shortly before his retirement last year, publicly commended and honoured by President Arroyo. Words versus actions! In fact very recently, a number of our local churches in the provinces down south of Manila were subjected to membership screening, surveillance and outright harassments by intelligence operatives. I have been personally and officially involved in following up these cases with the PNP and the Armed Forces of the Philippines (AFP).

Would a government that says one thing and does exactly the opposite take heed of the protests and remonstrance from religious leaders like us? Hardly. We have done that over and over again, though. We have even been in periodic dialogue with the PNP and AFP. But no let up in the campaign of fear and terror, of killing and depredations. Ironically, neither has there been any let up in the government propaganda of adherence to human rights.

On the other hand, would the voices of foreign institutions and civil societies from abroad, like what your Action Network Human Rights - Philippines, among others, has been doing, make any difference? We are confident they would, you would, as it had been in the past. As we are all aware, state terrorism in small countries like the Philippines is often a by-product, an extension, of the violence and terror espoused, albeit clandestinely, by large societies,

including those which are regarded as leaders of the democracies. With our experience, your support, your voices of solidarity, do make some headway in making my government realize that its actions in

human rights should not be moved too far away from what it repeatedly proclaims. Thank you very much. Danke.

Zusammenfassung: Grußwort von Bischof Elizier Pascua von der UCCP

Bischof Elizier Pascua bedankte sich bei dem Aktionsbündnis Menschenrechte für die Organisation der Konferenz und bei den Teilnehmer/innen für die breite Beteiligung.

Um die Erfüllung von menschrechtlichen Standards durch die philippinische Regierung bemessen zu können, muss zwischen der öffentlich erklärten Verteidigung von Menschenrechten durch die Regierung und den politischen Morden unterschieden werden. Zwischen 100 bis 800 Menschen sind seit Beginn der Regierung Arroyo politisch motivierten Mordanschlägen zum Opfer gefallen. Allein aus den Reihen der UCCP sind in den letzten sechs Jahren 20 Pastoren und Mitarbeiter/innen ermodert worden, zwei Mitglieder sind verschwunden, fünf wurden inhaf-

tiert und gefoltert, während sechs Mitglieder mit Drohungen und Belästigungen konfrontiert wurden. Entgegen vielen Versprechungen und dem kontinuierlichen Dialog zwischen der UCCP und der PNP wurde bisher niemand in den Rängen von Polizei und Militär für die Morde an UCCP-Mitarbeitern zur Rechenschaft gezogen. Die politischen Morde, Folter und Entführungen gehen weiter. Es ist wichtig, dass internationale Organisationen, zum Beispiel in Form von Aktionsnetzwerken sich dieses Problems annehmen, um der Regierung klar zu machen, dass sich ihre Taten mit ihren Versprechungen decken müssen, so Bischof Pascua.

Development and Political Violence

Conference on Political Killings and the Rule of Law

First Day, 8 May 2008, First Session

Political killings, human rights and the peace process

By Lea Biason*

* Campaigner for Southeast Asia (Philippines, Malaysia, Singapore, Brunei) in the international secretariat of Amnesty International in London

Introductory remarks

From 2001, the number of killings of political and community activists in the Philippines, predominantly those associated with legal leftist or left-orientated groups, increased alarmingly. In 2006 Amnesty International released a report, *Political Killings, Human Rights and the Peace Process*¹, analysing the pattern of killings and their context and making urgent recommendations for remedial measures. During 2007 a significant decrease in the number of killings was reported, but periodic killings continue. The questions I hope we may be able to explore during this conference are:

- Will the reported current reduction in the number of killings be sustained?
- Will the reforms pledged by the government be implemented effectively – and what obstacles stand in the way of their implementation?
- How can the international community best monitor developments with regards to political killings and the wider human rights situation in the country, and so offer appropriate support both to civil society and to a programme of institutional reform?

The pattern of political killings

¹ To view the complete report in English: <http://www.amnesty.org/en/library/asset/ASA35/006/2006/en/dom-ASA350062006en.pdf>

Der vollständige Bericht auf Deutsch ist abrufbar unter:

[http://www2.amnesty.de/internet/deall.nsf/AlleDok/9714081448240547C125722C003E6EA8/\\$FILE/PhilippinenASA350606.pdf](http://www2.amnesty.de/internet/deall.nsf/AlleDok/9714081448240547C125722C003E6EA8/$FILE/PhilippinenASA350606.pdf)



The killings - mostly carried out by unidentified men often wearing face masks who shoot the victims before escaping on motorcycles - have rarely led to the arrest, prosecution and punishment of those responsible. A climate of impunity persists.

The methodology of the attacks, including prior death threats and patterns of surveillance by persons reportedly linked to the security forces, the leftist profile of the victims and the climate of impunity which, in practice, shields the perpetrators from prosecution, has led Amnesty International to conclude that the attacks are not an unconnected series of criminal murders but constitute a politically-motivated pattern of killings.

These victims are mostly members of political parties, human rights organisations, media, HRDs, farmers, community leaders, indigenous leaders etc. Our organisation remains gravely concerned that members of the security forces

may have been directly involved in the killings, or else have tolerated, acquiesced to, or been complicit in them. Subsequent international and national investigations have reinforced this conclusion. To name but a few:

- The national commission of inquiry, Melo Report, released February 2007, concluded that circumstantial evidence existed showing the involvement of certain elements in the military to the killings.²
- The Commission of Human Rights of the Philippines (CHRP), an independent body which receives and monitors complaints, has noted 'a pattern of acquiescence and complacency on the killings of journalists'³ and the direct involvement of the military and the police as suspects in cases of political activists.⁴
- UN SR Philip Alston highlighted the main causes of extrajudicial killings, namely the failure of the judicial system to address impunity and in particular the military's counter-insurgency strategy that seeks to target civil society labelled as communist fronts.
- A number of fact-finding missions has been undertaken by international NGOs such as Human Rights Watch, Fédération internationale des droits de l'homme (FIDH), World Association of Journalists, lawyers, women's groups etc.
- In addition, several cases have pointed strongly to the involvement of the military:
 - Pastor Isaias Sta Rosa (political killing - military)
 - Reynaldo and Raymond Manalo (enforced disappearance - military)
 - Gerardo Cristobal (police)

Amnesty International's concerns have been exacerbated by broader political developments during 2006 to 2007, including the declaration in February 2006 of a temporary State of Emergency, and an intensified counter-insurgency operations in the con-

text of an "all-out-war" against the NPA, the armed wing of the CPP.

- In January 2008, the AFP's force was strengthened with six new battalions involving the recruitment of 3,000 soldiers to undertake the 'final blow' against the communist insurgency.
- Meanwhile, the peace process with the communist insurgency has been stalled. Civil society representatives have expressed concern that the government is not committed to renewed negotiations as part of the peace process.
- The Comprehensive Agreement on the Respect of Human Rights and International Humanitarian Law (CARHRIHL), signed by the Philippine government and the CPP in 1998 remains a promising tool to help rebuild mutual trust and confidence in the peace process. However, the operationalisation of the Joint Secretariat and the Joint Monitoring Committee, tasked to investigate complaints of human rights violations, has been impeded by continuing disagreement between both sides.

Philippines initiatives and assistance from the international community:

The government has officially condemned acts of extrajudicial killings and denied the existence of a state policy that supported it. While the government has tried to displace responsibility of the killings to the NPA due to an 'internal purge', it has also admitted that 'rogue elements' in the military structure may have perpetrated a small number of the killings. In an effort to respond to the problem, the government has undertaken a number of initiatives. A selection of these are:

- Pushing for investigations
 - creation of an independent commission headed by retired Supreme Court Justice Jose Melo (Administrative Order 157, 21 August 2006, Executive Order No. 173, 23 March 2007)
- Strengthening of awareness of HR standards and implementation in different government agencies including military and police
 - establishment of Human Rights Offices in the AFP (February 2007)
 - activation of the PNP Human Rights Affairs Office which oversees the imple-

² To view the complete Melo Report in English: <http://www.asienhaus.de/menschenrechte-philippinen/dokumente.html>, click on "Melo Bericht"

³ Dr. Purificacion Quisumbing, CHRP and Extrajudicial Killings, Presentation at the 'National Consultative Summit on Extrajudicial Killings and Enforced Disappearance', Manila Hotel, 16 July 2007.

⁴ Commission of Human Rights of the Philippines (CHRP), Advisory on the Killings of Members of Bayan Muna, Anakpawis, Gabriela and Other Allied Organizations, Human rights Advisory CHRP A2005-05 (Philippines, 8 July 2005); Philippine Daily Inquirer, Gov't must answer for all killings – CHR, 23 May 2006.

mentation of police guidelines and policies on human rights (29 June 2007); implementation of a new set of PNP-wide policy directions and guidelines on the respect, promotion and protection of human rights (Letter of Instruction PAMANA, signed by PNP chief Director General Avelino Razon Jr., 7 February 2008)

- Strengthening prosecution and the courts
 - establishment of cooperation and coordination between the National Prosecution Service (NPS) and other concerned agencies of government for the successful investigation and prosecution of political and media killings (Administrative Order 181, 3 July 2007)
 - creation of 99 special courts for political killings (Administrative Order No. 25-2007, 1 March 2007)
 - creation of 5 military courts to try cases of human rights violations by military agents (June 2007)
- Fostering coordination among different government bodies
 - coordination of the Department of Justice and the Department of National Defence with the CHRP to set up a joint fact-finding body (Statement of the President, 31 January 2007)
 - creation of the Task Force against Political Violence (TFAPV) (Administrative Order No. 211) aimed at mobilising government agencies, political groups and sectoral organizations for the prevention, investigation, prosecution and punishment of political violence, and the protection of people and communities victimized and threatened (26 November 2007).
- Support in judicial reform initiatives aimed to strengthen the protection of victims and families through the:
 - promulgation of a new law, the Writ of Amparo, pursuant to the recommendations of the National Consultative Summit in July 2007 (A. M. No. 07-9-12-SC, approved by the Supreme Court 25 September 2007, in effect 24 October 2007).
 - promulgation of a new law, the Writ of Habeas Data in (A. M. No. 08-1-16-SC, approved by the Supreme Court on 22 January 2008, in effect 2 February 2008).
 - Facilitate access to the witness protection programme
- Facilitate congressional oversight

- revocation on 6 March 2008 of the Executive Order 464 (issued 26 September 2005) and Memorandum Circular 108 (issued 27 July 2006) thus ending the requirement for government officials, military and police officers to acquire consent from the President prior to appearing in a Congressional inquiry.

- Sustain the momentum

- In April, the government of the Philippines announced in its voluntary commitment at the Universal Periodic Review of its human rights situation in the United Nations to 'sustain the momentum on addressing killings of activist and media'.

As I flagged at the outset, the challenge ahead is the implementation of these initiatives. President Arroyo has called on the help of the international community to which the European Union has responded with the EU Needs Assessment Report launched on 4 April. It forms the roadmap ahead for the EU Justice Assistance Mission (EJAM) that aims to provide technical assistance, training and capacity building to improve the criminal justice system of the Philippines. Amnesty International welcomes the recommendations in the EU Needs Assessment Report in strengthening the capacity of the justice system, through enhancing the skills and competencies of law enforcement agents, witness protection, prosecution, the judiciary, the AFP, the Commission on Human Rights and other government agencies.

A number of countries have raised the issue of political killings especially those who are providing development aid to the Philippines such as Japan, the US, Australia, New Zealand and Canada. Parliamentarians in some of these governments have engaged particularly in discussions on these issues.

Parliamentary scrutiny is increasingly being encouraged and used in monitoring and scrutinising the use of development assistance and as one way to improve the accountability of both donors and recipient states for the use of such assistance, and the human rights impact of assistance.

Ending Political Killings: Persisting Gaps and Challenges

- Political will: Although there is compelling evidence for the involvement of the security

sector in political killings, some officials appear to remain in a state of denial. It is important that security and military agents at all levels accept their responsibility to protect the right to life. Only with a changed mindset and attitudes can there be confidence that technical assistance will be aimed at a common goal in ensuring effective investigations, prosecutions and convictions of all those responsible, including state agents at the commanding levels.

- Counter-insurgency policy: This needs to be reviewed. Institutional reforms and pledges will be undermined if the line between civilians and combatants are blurred. A particular point of concern is the persisting 'red labelling' or the characterisation of legal left oriented political parties, sectoral groups and CSOs as 'front organisations' for armed groups and as 'enemies of the state' – that creates a climate in which fur-

ther political killings are likely to occur.

- Convictions: This is particularly important. The numerous initiatives undertaken by the government still need to result to a number of convictions. The recent decline in reported cases should not overlook the pressing need to provide access to justice to victims through successful convictions. This would have to embody the power of deterrence and therefore, combined with institutional reforms, to guarantee against the risk of any future resurgence.
- 1. Investigations and prosecution of cases - Successful convictions can be reached only if the present deficiencies in investigation and prosecution practices by Philippine authorities are addressed. A number of these were highlighted in the EU report.

Zusammenfassung: Philippinische Initiativen und die internationale Gemeinschaft

Offiziell verurteilt die philippinische Regierung die außergerichtlichen Tötungen und leugnet, dass eine offizielle Staatspolitik diesbezüglich existiert. Lea Biason nannte sieben Maßnahmen der Regierung, um den politischen Morden entgegenzuwirken. So wurden Untersuchungen der Morde eingeleitet (z.B. durch die Melo Kommission), Rechtsreformen zum Schutz von Opfern und ihren Familien unterstützt (z.B. der „Writ of Amparo“) und die parlamentarischen Kontrollfunktionen gefördert. Die Umsetzung dieser Maßnahmen bleibt jedoch weiterhin die zentrale Herausforderung.

Die philippinische Regierung hat die internationale Gemeinschaft um Hilfe bei der Umsetzung gebeten. Die EU hat daraufhin im April 2008 eine Bedarfsanalyse vorgelegt, die auch als Grundlage für die ab September 2008 erwartete Hilfsmission EUJAM dienen soll.

Besonders von Ländern, die direkte Entwicklungshilfe an die philippinische Regierung zahlen (Japan, USA, Australien, Neuseeland, Kanada), wurden die außergerichtlichen Tötungen thematisiert.

Politische Morde stoppen: Diskrepanzen und Herausforderungen

Für ein Ende der politischen Morde nannte Biason vier Bedingungen:

1. Der politische Wille muss besonders innerhalb der Streitkräfte gefördert werden.
2. Die Politik der Aufstandbekämpfung muss überprüft werden.
3. Hinterleute der Morde müssen bestraft werden.
4. Die Untersuchungen und strafrechtliche Verfolgung der Täter muss gewährleistet werden.

Lea Biason endet ihren Vortrag mit einigen Empfehlungen an die philippinische Regierung und die internationale Gemeinschaft, indem

5. der zeitnahe Zugang zu rechtstaatlichen Mechanismen entsprechend internationaler Menschenrechtsstandards gewährleistet,
6. die unabhängige, umgehende und effektive strafrechtliche Verfolgung sicher gestellt,
7. adäquater Schutz und Sicherheit für Zeugen durchgesetzt und
8. eine ernsthafte Rechtsreform (v.a. in Bereichen des Folterverbotes und der Institutionalisierung der Kommandoverantwortlichkeit), verfolgt wird.

Police

Amnesty International is concerned that inadequacies in policing practices seriously undermine the quality of investigations. The international standards under the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions stated that investigations need to be 'thorough, prompt and impartial.'

1. Reports have shown a pattern where the police failed to carry out 'prompt' investigations. This is illustrated in the case of Nelson Asucena, a youth representative allegedly shot by a member of the military accompanied by a group of men in December 2006. Despite complaints filed by his family who have identified the perpetrators, the police failed to investigate the suspects promptly and bring the case to the court.
2. The police also lacked forensic expertise and competence in applying thorough investigative techniques and professional policing practices. In December 2006 in the case of Alberto Yadan, a peasant leader campaigning on land reform issues, the police was reported to have failed to perform an autopsy, collect forensic evidence and carry out a proper investigation at the crime scene.
3. In a number of cases the police have themselves been suspected as the perpetrators of human rights violations and have failed to investigate such cases. This was illustrated in the attempted murder of Gerardo Cristobal, a labour leader, allegedly ambushed by the police in April 2006 and his eventual murder in March 2008.
4. The police have been reluctant in investigating senior military officials.
5. While government officials and the police have cited the lack of witness testimony as one of the major obstacles that prevent them from gathering evidence, they have failed to provide witnesses with adequate protection. The killing of Siche Bustamente-Gandinao in March 2007, a witness who has testified to Philip Alston, is illustrative of the potential fate of witnesses. (she testified against the murder of her father-in-law Dalmacio Gandinao, a provincial Bayan Muna chairman)
 - As mentioned in the EU report and in others, the 1991 Witness Protection, Security and Benefit Act needs to be strengthened to ensure the effective long term protection and support for witness and families of the victims – particularly the housing benefits

and medical care as well as the penalties against intimidation and threats.

- Example: the penalties against witness harassment; a fine of Peso 3000 (USD 65) and/or imprisonment between six months to one year are too minimal to provide adequate deterrence.
6. In January 2008, the police announced 'solving' 58 cases of political killings out of 113 cases and 22 cases of media killings out of 28, which totals 80 killings out of 141 cases from mid-2006 to 2007. They claimed they have solved 56.7% in 18 months. However, the police tend to categorise cases as 'solved' when they have been merely filed with the Public Prosecutor. This is only an initial stage in the justice process which does not guarantee that the cases will lead to a successful prosecution. Due to the inefficiency of gathering evidence and data and a heavy reliance on witness testimony which is not forthcoming, AI remains concerned that a high number of cases filed tend to be dismissed by the prosecutors, before being filed as a criminal charge in court.

Military

Although a number of investigative mechanisms exist for the military, these have failed to effectively scrutinise military officials allegedly involved in political killings.⁵

1. AI is concerned that apparent inaction of some senior military officers may be interpreted as a signal of condoning or tolerating political killings. Example: During the Melo hearings, AFP Chief of Staff, General Esperon stated that investigations into killings are undertaken only when a complaint is filed. As a result, despite the reports on General Palparan, particularly the increase of political activists slain in areas formerly under his command, the AFP did not con-

⁵ Military criminal justice system: Office of the Deputy Ombudsman for the Military and other Law Enforcement Agencies (MOLEO), Office of the Provost Marshall General (TPMG), the Office of the Inspector General (TIG), the Office of the Judge Advocate General (TJAG), and the Office of Ethical Standards and Public Accountability (OESPA), the AFP Human Rights Office. In addition, five new military courts have been set up in June 2007. Investigative mechanisms: Office of the Ombudsman.

duct any 'formal investigations' due to the absence of a 'formal complaint'.

2. According to the Melo Report there is circumstantial evidence linking the involvement of a group of the military to political killings. It also concluded that Gen. Palparan and some superior officers may be held responsible for failing to prevent, punish or condemn the killings under the principle of command responsibility.
 - The case of General Palparan was also taken up by a decision at the Court of Appeals following testimony from the Manalo brothers, Raymond and Reynaldo. As suspected communist insurgents, they have been abducted by the military and escaped after 18 months. They have testified to have been detained and tortured in several military camps and witnessed the killing of a peasant who was also abducted.
3. Amnesty International is concerned with the lack of clarity of the concept of command responsibility in law and practice in the Philippines. (Military officers and government officials have provided differing interpretations from international law. In addition, a commissioner from the CHRP has underlined the lack of a specific provision within the Philippine criminal law which prevents charges to be filed for criminal liability of commanders. As stated by the Melo Commission, although the Philippines is not party to treaty law specifically codifying the doctrine of command responsibility, it is however bound by it through international customary law.)

Prosecutions

Amnesty International is concerned that the cases involving political killings, especially where law enforcement agencies are suspected, tend to be dismissed or lead to questionable indictments.

Prosecutors have also reportedly been biased in their conclusions. In the case examined by the Asian Human Rights Commission on the alleged attempted murder against labour leader Gerardo Cristobal, the prosecution was faced with conflicting claims, one from the victim and the other from the police. While the prosecutor was aware that the police claim was filed by the same persons accused by the victim, the prosecutor took up the police claim without inquiring into the victim's case, hence indicting Gerardo Cristobal.

Recommendations

Amnesty International calls on the Philippine government and the international community to effectively make use of technical assistance in ending impunity by:

- Ensuring that victims are enabled to have effective access to justice in a timely manner and according to international human rights law standards, including through prompt and accurate convictions.
- Ensuring that investigations and prosecutions are independent, effective and prompt. To this end, the recommendation on the EU report for an independent monitoring body for investigations is encouraged.
- Providing witnesses with adequate security and protection, including protection of their right to life. Witness protection schemes should be secure and free of official interference.
- Ensuring legal reforms such as promulgating legislation under the Revised Penal Code prohibiting torture and institutionalising command responsibility.

Zusammenfassung: Lea Biason, amnesty international London - Politische Morde, Menschenrechte und der Friedensprozess

Seit 2001 ist die Zahl der Morde an politischen und lokalen Aktivisten massiv gestiegen. Amnesty International hat 2006 einen Bericht mit dem Titel „Politische Morde, Menschenrechte und den Friedensprozess“ (s. S. 9, Fußnote 1) verfasst und damit zur Analyse der Situation beigetragen. Während die Anzahl der politischen Morde im Jahr 2007 deutlich gesunken ist, gibt es weiterhin viele offene Fragen:

1. Wird der Rückgang an politischen Morden von Bestand sein?
2. Werden die angekündigten Reformen von der philippinischen Regierung umgesetzt und welche Hindernisse stehen dem entgegen?
3. Wie kann die internationale Gemeinschaft effektive Beobachtungsmechanismen für Menschenrechtsentwicklung in den Philippinen, sowie Zivilgesellschaft und institutionelle Reformen unterstützen?

Das Muster politisch motivierter Morde

In vielen Fällen werden bei verschiedenen außergerichtlichen Tötungen ähnliche Methoden angewandt. Oft sind die Täter nicht identifizierbar und ihre Verfolgung, Verhaftung und Verurteilung durch die polizeilichen und ju-

ristischen Organe findet nicht statt. Dies ist Ausdruck eines Klimas der Straflosigkeit. AI schließt daraus, dass es sich bei den Morden nicht um isolierte und kriminelle Einzelfälle handelt, sondern um ein strukturelles Muster mit politischer Motivation, das in Zusammenhang mit Aufstandsbekämpfungsmaßnahmen der Regierung steht.

Auf die Verstrickung von Sicherheitskräften in außergerichtliche Tötungen wurde nicht nur von den Betroffenen, sondern auch durch internationale wie nationale Untersuchungsmissionen hingewiesen.

Biason wies ebenfalls auf den Kontext der politischen Entwicklungen von 2006 und 2007 hin. Hier nennt sie stichwortartig mehrere Ereignisse, die markante Punkte in der Entwicklung darstellen: Der im Februar 2006 ausgerufene nationale Ausnahmezustand, die intensivierte Aufstandsbekämpfung und der „Totale Krieg“ gegen die NPA, die Aufrüstung des Militärs, der unterbrochene Friedensprozess und die mangelnde Operationalisierung des Abkommens über CARHRIHL zwischen der Regierung und der NDF.

Video-Input on the case of Dr. Chandu Claver

Dr. Constancio “Chandu” Claver is a practising physician in Kalinga Province in the Cordilleras. He is the Bayan Muna - Kalinga Chairperson and Cordillera Peoples Alliance (CPA) - Kalinga Vice Chair as well as the Chairman of the Board of the Philippine National Red Cross (PNRC) - Kalinga.

He was supposed to be one of the speakers at the conference but since he is seeking political asylum in Canada he was unable to come to Germany. Instead, he delivered a video message narrating his case:

On July 31, 2006 at around 6:40am Dr. Claver and his wife Alyce returned from St. Tony's College after sending their two older daughters to school. Dr. Claver was driving a private Land Cruiser, with his wife in the passenger seat. Their younger daughter, Sandy, was still with them when the incident happened. Suddenly two Delica vans – 1 white and 1 dark colored van – appeared and fired at the Land Cruiser. Dr. Claver sustained multiple gunshot wounds in the left arm and chest, while his wife Alyce sustained four gunshot wounds in the head,

neck, and shoulders. They were both rushed to the Kalinga Provincial Hospital in Bulanao.

At 7am of the same morning, barely 15 minutes after the ambush, the DCRH nationwide radio broadcast announced the death of Dr. Claver and his wife Alyce, although both were still fighting for their lives at that time. At mid-morning of the same day General Raul Gonzales of the Cordillera Regional Police Command was quoted in an interview accusing Dr. Claver to be a member of the NDF. Gonzales apparently based his statement on a previous radio report of Pedro Ramos at the same morning around 6:06am announcing Dr. Claver as a member of the NDF.

Contrary to the public announcements, Dr. Claver and his daughter Sandy survived the shooting while Alyce was only declared dead at around 12:30 pm.

In the aftermath of the incident, the investigation by the Health Alliance for Democracy (HEAD), a non-government organization of

health workers, concluded that the bullet holes in the driver's headrest suggested that not Alyce but Dr. Chandu Claver was the principle target of the ambush.

The radio announcement of the alleged death of the Claver couple, the reluctance of government agencies to investigate and prosecute the alleged perpetrators as well as numerous other developments in the area of Kalinga additionally pointed to the involvement of the military in the incident.

Between 7 March and 31 July 2006 the Province of Kalinga suddenly faced a number of unexplained killings. This was right after the appointment of Pedro Ramos as Provincial Commander of the PNP Kalinga.

Pedro Ramos had never been a police chief on provincial level before and he was assigned by direct order from Camp Crame¹ even without prior knowledge of the regional police office.

¹ Camp Crame is the National Headquarter of the Philippine National Police.

Zusammenfassung: Der Fall Dr. Chandu Claver – ein Video Input

Dr. Constancio "Chandu" Claver war praktizierender Arzt in der Provinz Kalinga in den Cordilleras. Er war der Vorsitzende von Bayan Muna - Kalinga und stellvertretender Vorsitzender der Cordillera Peoples Alliance (CPA) - Kalinga sowie Vorstandsvorsitzender des philippinischen Roten Kreuzes (PNRC)-Kalinga.

Dr. Chandu Claver war als Referent zu dieser Konferenz eingeladen, doch verwehrte ihm ein laufender Asylantrag in Kanada die Teilnahme. Er sandte daher eine Video-Botschaft.

Am 31. Juli 2006 um ca. 6:45Uhr wurden Dr. Claver, seine Frau Alyce und ihre jüngste Tochter Sandy im Auto von zwei Kleintransportern überrascht. Deren Insassen begannen sofort auf den Wagen zu schießen. Während Dr. Claver mehrere Schusswunden im linken Arm und in der Brust erlitt, wurde seine Frau Alyce durch vier Kugeln in Kopf, Nacken und Schultern getroffen. Beide wurden in das Provinzkrankenhaus nach Bulanao gebracht.

Um 7 Uhr desselben Morgens, nur 15 Minuten nach dem Angriff, strahlte das landesweite Radionetzwerk DCRH die Meldung von dem Tod Dr. Clavers und seiner Frau Alyce aus. Etwas später wurde General Raul Gonzales vom Regionalkommando der Polizei in einem Interview zitiert, Dr. Claver als Mitglied der NDF identifiziert zu haben. Die Angaben von General Raul Gonzales basierten wiederum auf einem Radiobericht von 6:06 Uhr des sel-

An intelligent officer who came to be a long time patient of Dr. Chandu Claver and who attended a meeting by the Inter-Agency Legal Action Group or IALAG on 22 May 2006 later revealed to Dr. Claver that Pedro Ramos during this meeting admitted to be tasked to "neutralize" perceived "enemies of the state" in the Province of Kalinga.

Until today state authorities have neither properly investigated this case of extra-judicial killing and frustrated murder nor were the perpetrators prosecuted or even punished.

Instead, in January 2007, the case was dismissed on the base of insufficient evidence and Dr. Constancio "Chandu" Claver was forced to seek asylum in Canada, as threats to his and his children's lives continue.

bigen Morgens, in dem Pedro Ramos Dr. Claver beschuldigt hatte Mitglied der NDF-Kalinga zu sein.

Entgegen den öffentlichen Meldungen, hatten Dr. Claver und seine Tochter Sandy den Angriff jedoch überlebt, während Alyce Claver zum Zeitpunkt des Radioberichts noch um ihr Leben kämpfte. Erst um 12:30Uhr erlag sie ihren Verletzungen.

Die Untersuchungen der Health Alliance for Democracy (HEAD), einer Nicht-Regierungsorganisation, ergaben, dass Dr. Chandu Claver das eigentliche Angriffsziel des Hinterhalts gewesen war.

Die Radionachrichten vom angeblichen Tod der Clavers, das Zögern staatlicher Behörden den Fall zu untersuchen und aufzuklären, sowie weitere Entwicklungen in der Provinz Kalinga deuten darauf hin, dass staatliche Sicherheitskräfte in den Mord an Alyce Claver und den versuchten Mord an Dr. Chandu Claver verwickelt waren.

Zwischen dem 7. März und dem 31. Juli 2006 kam es in der Provinz Kalinga zu mehreren unaufgeklärten Morden. Diese folgten der Benennung Pedro Ramos' zum Polizeipräsidenten in Kalinga.

Durch Nachfragen stellte sich heraus, dass Pedro Ramos noch nie zuvor die Funktion eines Polizeipräsidenten auf Provinzebene ausgeübt hatte und nun auf direkten Befehl von „Camp Crame“, dem Haupt-

sitz der philippinischen Bundespolizei, mit dem Kommando in Kalinga betraut worden war. Dies geschah ohne vorheriges Wissen der regionalen Polizeistelle in Kalinga.

Ein Informant, der zufällig ein langjähriger Patient von Dr. Claver war, teilte diesem später mit, dass Pedro Ramos während eines im Mai 2006 stattgefundenen Treffens der „Inter-Agency Legal Action Group“ (IALAG) zugab, mit der „Neutralisierung“ von sogenannten Staatsfeinden in Kalinga beauftragt worden zu sein.

Bis heute bleibt der Fall der Clavers unaufgeklärt. Weder wurden von den zuständigen staatlichen Behörden um-

fassende Untersuchungen durchgeführt, noch wurden die Täter strafrechtlich verfolgt oder gar verurteilt.

Stattdessen wurde der Fall im Januar 2007 wegen unzureichender Beweislast fallengelassen. Aufgrund andauernder Gefahr für Leib und Leben, sowie das seiner beiden Kinder sah sich Dr. Constatio „Chandu“ Claver gezwungen, die Philippinen zu verlassen und Asyl in Kanada zu suchen.

Anmerkungen zur Kontinuität struktureller Gewalt in den Philippinen

Von Dr. Rainer Werning*

* Dr. Rainer Werning, Politikwissenschaftler und Publizist mit den Schwerpunkten Südost- und Ostasien, sowie Mitherausgeber des „Handbuch Philippinen – Gesellschaft, Politik, Wirtschaft, Kultur.“

Vorbemerkung

Zum Hintergrund und für das Verständnis des Themas scheinen mir seit Gründung der Republik der Philippinen am 4. Juli 1946 zumindest drei Faktoren von Belang zu sein, die konstitutiv sind für die Kontinuität struktureller Gewalt im Lande:

1. Ungebrochene Kollaboration der politischen Eliten mit der vormaligen Kolonialmacht USA und die Konservierung feudalen Grundbesitzes mittels systematischer „Pazifizierung“;
2. Politisierung des Militärs während der Marcos-Ära (1966-86) und eine seitdem – zumindest über längere Zeit – praktizierte Militarisierung der Politik;
3. Anhaltende bewaffnete Auseinandersetzungen angesichts einer uneingelösten Land-/Agrarreform und des schwelenden sogenannten Moro-Konflikts im Süden des Archipels im Kontext „des internationalen Kampfes gegen den Terror“.

Ad 1:

Zwar wurden die Philippinen am 4. Juli 1946 im völkerrechtlichen Sinne ein souveräner Staat, doch die Machtprärogativen verblieben weiterhin bei den USA. Auf Drängen von General Douglas MacArthur, dem „Amerikanischen Caesar“ (Manchester 1978) und Oberkommandierenden der US-Streitkräfte im Fernen Osten, zog mit Manuel Roxas ein Mann in Manilas Präsidentenpalast Malacanang

ein, dessen zuvor pro-japanische Haltung die USA geschickt für ihre Zwecke instrumentalisierten. Gerade wegen seiner Vergangenheit war Roxas erpress- und manipulierbar. Kein Wunder, dass während seiner Amtszeit mit Washington ausgehandelte Gesetze die Dominanz der einstigen Kolonialmacht in sämtlichen Bereichen des öffentlichen Lebens festschrieben.

Allein die Verabschiedung solcher Verträge wie der Militärische Beistandspakt (1946), das Militärbasenabkommen (1947) und der 1951 geschlossene gemeinsame US-amerikanisch-philippinische Sicherheitsvertrag gestattete es Washington, auf seinen Militärbasen Clark Air Field und Subic Naval Base, seinerzeit die größten außerhalb des nordamerikanischen Kontinents gelegenen Stützpunkte, extraterritoriale Rechte auszuüben und federführend „den inneren Aufruhr und die Subversion“ zu bekämpfen. Gemeint war damit die Hukbalahap (Antijapanische Volksbefreiungsarmee, die sich später in Volksbefreiungsarmee umbenannte), die vor allem auf Luzon die Speerspitze des Widerstandes gegen die japanische Okkupation und die eigenen feudalen Landlords organisiert hatte. Da sich die Huks weigerten, ihre Waffen zu strecken und neokoloniale Herrschaftsinteressen zu akzeptieren, gerieten sie ins Visier der im Militärjargon kurz genannten „Counterinsurgency“ (Aufstands- bzw. Aufruhrbekämpfung). Immerhin dauerte es ein Jahrzehnt (bis Mitte der 1950er Jahre), bis es dem philippinischen „Ausnahmestaat“ mit Hilfe der militär-

strategisch bedeutsamen Vereinten US-Militärberatungsgruppe (JUSMAG) gelang, der Hukbalahap das Rückgrat zu brechen. Was im Laufe dieses Anti-Huk-Feldzugs experimentiert worden war, diente später dem US-amerikanischen Oberkommando in Südvietnam als Blaupause für die Operation Phönix – sprich: „die Vietcong-Infrastrukturen zu neutralisieren“.

Ad 2:

Im Gegensatz zu seinen Vorgängern zeichnete sich das Regime Ferdinand E. Marcos' durch eine Konzentration und Zentralisierung staatlicher Machtapparate aus, was vor allem das Militär beträchtlich aufwertete. In Verbindung mit den Polizeistreitkräften, der wegen massiver Menschenrechtsverletzungen im In- wie Ausland heftig kritisierten Constabulary/Integrated National Police (PC/INP), sollten mit allen Mitteln „nationale Sicherheit und Entwicklung“ gewährleistet werden. Definierte sich Sicherheit durch die Ausschaltung „interner Subversion“, so war Entwicklung gleichbedeutend mit einer Wirtschaftsstrategie exportorientierten Typs samt aller damit verbundenen Anreize für ausländisches Kapital.

Während des Kriegsrechts (September 1972 bis Januar 1981) wuchs das Militär von vormals 62.000 auf zirka 415.000 Mann an – inklusive paramilitärischer Einheiten und bewaffneter Sekten. Es galt die Militärgerichtsbarkeit, selbst wirtschaftliche Planungs- und Infrastrukturmaßnahmen wurden zunehmend Militärs überantwortet. Zu Beginn der 1980er Jahre stellten sie über die Hälfte aller mit Regionalentwicklung betrauten Präsidialbeamten (PROD). Zur Wahrung „nationaler Sicherheit und Entwicklung“ sollten mittels Oplan Katatagan (Operationsplan Stabilität) „Hirne und Herzen der Bevölkerung“ gewonnen werden. Priorität hatte diesmal die Vernichtung der Infrastruktur und Logistik der MNLF und NPA.

Ebenso wenig, wie sich Zahnpasta zurück in die Tube pressen lässt, ließ sich in den zwei Dekaden nach dem Sturz des Diktators der unter seiner Ägide gewonnene Einfluss des Militärs und des Militärischen in der Politik eindämmen. Pikanterweise war es einer der Ko-Architekten des Kriegsrechts und Chef der PC/INP, General Fidel V. Ramos, der sein Gewicht in die Waagschale von Marcos-Nachfolgerin Corazon C. Aquino warf, um von 1992 bis 1998 selbst als Präsident zu amtieren. Weder enthielten bis dahin die zahlreichen Opfer des Kriegsrechtsregimes eine Entschädigung, noch wurden die während der Ära Marcos begangenen

Menschenrechtsverletzungen seitens staatlicher Sicherheitskräfte rechtlich geahndet.

Ad 3:

Um den anhaltenden – auch bewaffneten Widerstand – seitens der Moros und der NPA ein für allemal zu brechen, propagierten die beiden Nachfolgeregierungen unter Joseph E. Estrada und Gloria Macapagal-Arroyo das Konzept des „totalen Krieges“. Während Estrada im Frühjahr 2000 die „Pulverisierung“ des muslimischen Widerstands ankündigte, will Frau Arroyo bis zum Ende ihrer Amtszeit 2010 die NPA „ausgemerzt“ wissen. Am 23. Juni 2006 erklärte sie in ihrer Eigenschaft als Oberkommandierende der Streitkräfte vor Offizieren der philippinischen Militärakademie in Baguio City, dieses Ziel – so wörtlich – „ist der Kitt, der uns alle eint“.

Um dieses Ziel zu erreichen und von Wahlmanipulationen und zahlreichen Korruptionsfällen abzulenken, schuf die Präsidentin eine umfassende juristische Infrastruktur, um ihre Macht zu wahren und legitimen Dissens zu kriminalisieren. In diesem Sinne sind „OBL II“ („Operationsplan Freiheitswacht“) als aktuelle Variante der Counterinsurgency sowie der Mitte Juli 2007 in Kraft getretene „Human Security Act of 2007“ die beiden Seiten einer Medaille. Nämlich: den Streitkräften (AFP) dauerhaft die zentrale Rolle im „Krieg gegen den Terror“ zuzuweisen und Gegner dieser Politik – notfalls durch außergerichtliche Hinrichtungen – „auszuschalten“.

Eine solche Strategie hatte bislang aus zweierlei Gründen Erfolg. Erstens: Frau Arroyo genießt – zumindest noch – Rückendeckung seitens der manisch-repressiven Militärhierarchie, wie sie im Gegenzug denn alles tat, um deren Interessen und Forderungen nach Aufrüstung und verbesserten Waffensystemen zu entsprechen. Außerdem genießt sie – ebenfalls noch – die volle Unterstützung aus Washington. Dort hatte man bereits Anfang 2002 die Philippinen nach Afghanistan offiziell zur „zweiten Front im Kampf gegen den weltweiten Terrorismus“ erklärt und seitdem eine ständig fluktuierende, zahlenmäßig nicht genau bekannte Zahl von US-Spezialeinheiten auf Mindanao und in Sulu stationiert. Wer nach 9/11 auf diesen Kurs einschwenkte, wie Frau Arroyo als erste Regierungschefin in Südostasien das offen und unmissverständlich tat, genießt das zweifelhafte Privileg, im Falle – auch massiver – Menschen-

und Bürgerrechtsverletzungen von einer Kultur der Straffreiheit zu profitieren. Zumindest ist dann kein kritisches Signal seitens einer weitaus mächtigeren Regierung zu vernehmen, die ihrerseits eine „Guantanamo-Justiz“ und Folter duldet und u.a. durch den Einsatz von Streubomben vielfach erst jene „Terroristen“ erzeugt, die sie zu bekämpfen vorgibt.

Dennoch mangelte es in den vergangenen Monaten nicht an Kritik. Nachdem Phillip Alston, UN SR für Hinrichtungen ohne Gerichtsverfahren und willkürliche Exekutionen, sowie Martin Scheinin, UN SR zur Förderung und zum Schutz der Menschenrechte und Grundfreiheiten, im Rahmen der Terrorismusbekämpfung Mitte Februar beziehungsweise Mitte März 2007 die philippinische Regierung aufforderten, die Straffreiheit der meist (para-)militärischen Täter aufzuheben und angemessenen Zeugenschutz zu garantieren, hat Manila nichts dergleichen unternommen. Die Regierung reklamiert für sich das Recht, jederzeit gegen „Terroristen“ vorzugehen, und sieht sich damit Schulter an Schulter mit der Bush-Administration. Nicht nur diese Politik kritisierte das Europäische Parlament in seiner einstimmigen Entschließung vom 26. April 2007. Es verurteilte überdies scharf die Ermordung von Frau Bustamante-Gandinao, einer Menschenrechtlerin, die nur wenige Tage nach ihrer Zeugenaussage gegenüber Professor Alston ermordet wurde. Außerdem forderte das Europäische Parlament in seiner Entschließung Manila auf, „die Sicherheit derjenigen zu gewährleisten, die im Rahmen des Programms für eine umfassende Agrarreform (CARP) eine Neuordnung von Grund und Boden beantragen, und die Umsetzung des Landreformprogramms zu beschleunigen, um eine der wesentlichen Ursachen der politischen Gewalt einzudämmen.“

Ausblick

Ergo: Was tun? Bedeutsam scheinen mir vier Aspekte zu sein; (a) beharrliche Kritik der Menschenrechtsverletzungen auf internationaler Ebene, um die jeweiligen Regierungen zu bewegen, Sanktionsmaßnahmen zu erwägen; (b) engere sozialpolitische Vernetzung zwischen den unterschiedlichen Segmenten der Zivilgesellschaften hier wie dort; (c) eine Internationalisierung des sogenannten Moro-Konflikts, um eine potenzielle neuerliche Gewalteskalation einzudämmen, wie das z.B. das International Monitoring Team (IMT) vermochte und (d) ein Engagement internationaler Entwicklungszusammenarbeit im Sinne einer Land-/Agrarreform – im Jahr 20 des Comprehensive Agrarian Reform Program bzw. Law (CARP/CARL).

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Comments on the history of structural violence in the Philippines

Summary of the Presentation by Dr Rainer Werning, political scientist and publicist.

There are three main factors with regards to the history of structural violence in the country since the Philippine Republic was declared independent on July 4, 1946.

- 1. The unbroken collaboration of the political elites with the former colonial power USA and the conservation of feudal landholdings through systematic "pacification".*
- 2. Politicisation of the military during the Marcos era (1966-1986) and the militarization of politics ever since.*
- 3. Armed social conflict and the non-implementation of land-/ agrarian reform, the so-called Moro-conflict in the south of the archipelago and the overall context of the "international war on terror".*

Elaborating on these factors Dr Rainer Werning later describes the current strategy of the Arroyo government to wipe out the armed resistance by 2010: The security forces (AFP) are given a central role in the "war on terror" and the military strategy seeks to eliminate opponents of this policy – should it be necessary by extra-judicial killings.

The success of this concept is based on the military hierarchy as fostered throughout the past decades and on the support from Washington which -already by 2002-

had declared the Philippines as the second front (after Afghanistan) in the "war on terror".

According to Dr Werning the calls voiced by the two UN Special Rapporteurs Philip Alston (on extrajudicial, summary or arbitrary executions) and Martin Scheinin (on the Protection and Promotion of Human Rights and Fundamental Freedoms while Countering Terrorism) to end impunity and to provide adequate protection for witnesses have yet to be addressed by the Philippine government. He stresses the statement released by the European Parliament in April 2007 which demanded greater security for CARP (Comprehensive Agrarian Reform Program) beneficiaries and accelerated implementation of the land-/ agrarian reform programme.

In his conclusion Dr Werning calls for persistent national and international criticism of the human rights situation, closer socio-political networking of civil society actors, the internationalisation of the Moro-conflict to prevent further escalation and finally a commitment by international development agencies with regards to a land-/ agrarian reform program and law.

Politische Gewalt am Beispiel der Wahlen 2007

Von Philipp Bück*

* Philipp Bück ist Geschäftsführer des **philippinenbüro** e.V. im Asienhaus in Essen und Koordinator des Aktionsbündnis Menschenrechte - Philippinen

Ich werde nun einen Blick auf die Beziehungen zwischen dem Wahlsystem und politischer Gewalt in den Philippinen werfen.

Im Mai letzten Jahres war ich Teil der internationalen zivilgesellschaftlichen Wahlbeobachtungsmission „COMPACT for Peaceful Elections“¹. Bei diesen synchronisierten Wahlen wurden in einem Wahlgang nicht nur 12 Senatoren/innen und 250 Kongressabgeordnete, sondern auch 17000 lokale Abgeordnete, Bürgermeister/innen, Gouverneure auf Provinz-, Orts- und Gemeindeebene gewählt.

Jeder Wähler konnte auf einem einzigen Wahlzettel nicht weniger als zwölf Senatoren, eine Parteiliste, eine/n Kongressabgeordnete/n, eine/n Bürgermeister/in, eine/n Vize-Bürgermeister/in und bis zu zwölf Abgeordnete für den Stadtrat wählen, das heißt bis zu 26 Namen, die handschriftlich auf dem Wahlzettel eingetragen werden.

Als Wahllokale dienen Schulen, deren Lehrpersonal den Wahlgang organisatorisch vorbereitet, begleitet und schließlich die Stimmen manuell auszählen muss – die Lehrer/innen tragen also von sechs Uhr früh bis tief in die Nacht die Hauptverantwortung für das Gelingen der Wahlen.

¹ For more information on the mission: http://ipd.org.ph/main/index.php?option=com_content&task=blogsection&id=11&Itemid=59 (30.05.08)

Neben den vielen Wahlbeobachter/innen der verschiedenen Kandidaten/innen und Parteien in etwa 230.000 Wahllokalen mobilisiert die kirchlich geführte Wahlbeobachtungsinitiative Parish Pastoral Council for Responsible Voting (PPCRV) etwa 500.000 Wahlbeobachter/innen, dazu kommen tausende Journalisten/innen, Polizei- und Armeeeinheiten, das Personal der Wahlbehörde COMELEC, sowie viele hunderttausend Aktivisten/innen der Parteien und Kandidaten während der Wahlkampfperiode. Die aktive Beteiligung der Bevölkerung am demokratischen Prozess ist tief beeindruckend. Ein weit größerer Teil der Gesellschaft nimmt in den Philippinen aktiv und über die Stimmabgabe hinaus am demokratischen Prozess teil, als das in Deutschland der Fall ist.

Das aus der amerikanischen Kolonialzeit geerbte Wahlsystem hat sich jedoch über Jahrzehnte kaum verändert. So erscheint die manuelle Stimmauszählung auf den ersten Blick wie ein Anachronismus. Es ist jedoch ein Paradebeispiel für den Teil der politischen Kultur in den Philippinen, in dem Demokratisierungsbestrebungen in Spannungsverhältnissen mit Partikularinteressen auf nationaler und lokaler Ebene stehen. Während der Wahlen werden die Karten neu gemischt, und ein teils raubtierhaftes Verhältnis politischer Eliten oder verschiedener Gewaltakteure zu den mit dem Wahlsieg verbundenen Ressourcen kommt zum Tragen. So kommt es zu einer massiven Mobilisierung auf verschiedenen Ebenen, die auch als „sieben Ms“ bezeichnet werden²:

Die ersten sechs lauten „Money“ (d.h. Geld), „Machine“ (d.h. die Kontrolle über ein umfangreiches Netzwerk von politischen Allianzen), „Marriage“ (z.B. eine Hochzeit mit einer bekannten und vom Volk geliebten Persönlichkeit), „Media/Movies“ (d.h. eine vorangehende Karriere als Filmschauspieler oder TV-Moderator), Myth (d.h. ein kräftiger Mythos, z.B. über das Kriegsheldentum eines bedeutenden Familienmitglieds, kann sogar eine ganze politische Familie jahrzehntelang begleiten) oder Mergers (d.h. Verbindungen zwischen verschiedenen Kandidaten, politischen Klans, Unternehmern etc.). Die Mobilisierung über diese Faktoren kann darüber hinaus eng verbunden sein mit hochkomplexen Wahlfälschungssystemen, die hier jedoch nicht näher erläutert werden können.

Denn es interessiert uns hier insbesondere das letzte M – „Murder/Mayhem“, d.h. die politische Strategie des gezielten Mords oder Chaos.

Während der synchronisierten Wahlen im letzten Jahr wurden nach Polizeiangaben 126 Personen ermordet. 2004 waren es 186, 2001 111³. Regierung, Polizei und Wahlbehörde sprachen von „relativ friedlichen Wahlen.“ Dabei ist die Zahl der Gewaltfälle mit Schusswaffengebrauch seit 1995 von 26 auf 128 im letzten Jahr stetig gestiegen.

Wahlbezogene Morde werden meist nicht oder nur zum Teil in die Zählungen von „außergerichtlichen Hinrichtungen“ oder „politischen Morden“ mit einbezogen. So konzentrieren sich zivilgesellschaftliche Zählungen meist auf die Zählung von Morden an NGO Mitarbeiter/innen, Pfarrern oder Journalisten oder zählen Morde an Personen außerhalb ihres eigenen politischen Umfelds nicht mit. Aber auch die zur Untersuchung der sogenannten „politischen Morde“ eingerichtete Polizeieinheit Task Force Usig und die Philippinische Menschenrechtskommission scheint aufgrund der deutlich geringeren Anzahl dokumentierter Fälle wahlbezogene Fälle nicht oder nur teilweise zu zählen.

Dabei treten während der Wahlen die strukturellen Hintergründe, insbesondere im Hinblick auf das Klima der Rechtlosigkeit, deutlich zu Tage. In einem „Election Hot-Spot“, d.h. einem Ort der aufgrund der politischen Konstellationen und Personen als gewaltgefährdet angesehen wird, kann die Gewalt verschiedene Stadien durchlaufen. Auf der untersten Ebene werden z.B. auf subtile Weise Angstgefühle erzeugt. Verbreitet ist hier z.B. Panikmache vor kommunistischen Rebellen oder extremistischen Terroristen/innen. Auf einer weiteren Ebene kommt es zu Einschüchterungsmaßnahmen, wie bewaffneter Stimmenkauf, das Errichten von Sperren, Störung des Verkehrs etc. Weiterhin finden krudere Methoden, wie das „no vote, gabut“, d.h. die Androhung der Vertreibung von Haus und Land eines sich zur Wahl stellenden Großgrundbesitzers, falls dessen Kandidat/in nicht gewinnt. Ebenfalls werden bewaffnete Gruppen, Privatarmeen, bis hin zu Einheiten staatlicher

² Coronel, Sheila S., „The Seven Ms of Dynasty Building“, <http://www.pcij.org/i-report/2007/dynasty-building.html> (01.05.2008)

³ PDI - Poll-related violence on the rise -- police data, http://newsinfo.inquirer.net/topstories/topstories/view_article.php?article_id=66063 (4.5.2008)

Sicherheitskräfte von lokal einflussreichen Personen in ihre Gewaltstrategien mit einbezogen.

In den meisten Fällen findet die Gewalt auf der lokalen Ebene statt. Hieran zeigt sich die Bedeutung der direkten Kontrolle über Wählerstimmen – nicht nur für die lokalen Kämpfe, sondern auch für die verbündeten nationalen Kandidaten/innen. Ich will hier nur ein Beispiel nennen. Während des Wahlkampfes zwischen zwei Bürgermeisterkandidaten kam es in La Castellana auf der Insel Negros zu mehreren Morden. Der Wahlkampf der beiden Kandidaten verlief entlang der nationalen politischen Bruchlinien innerhalb der politischen Elite, d.h. der herausfordernde Kandidat, Herr Nasaria, hatte eine Allianz mit dem Lager um den mittlerweile oppositionellen ehem. Kongresssprecher Jose de Venecia, während Bürgermeister Garcia, dessen Tochter zur Wiederwahl der Familie kandidierte, mit dem Kongressabgeordneten und Schwager von Präsidentin Gloria Macapagal-Arroyo verbündet war. In der Nacht vor unserer Ankunft war es zu zwei Morden an Mitarbeitern Herrn Nasarias Lagers gekommen, scheinbar in Antwort auf einen vorangegangenen Mord an einem Mitarbeiter des Bürgermeisters. Auf unsere Nachfrage in Bezug auf den Hintergrund der Morde gab Herr Garcia zunächst Unkenntnis vor, um dann auf Nachfrage lakonisch zu antworten: „You know, killings happen...“. Er bestritt jede Verantwortung und hatte keine Untersuchung eingeleitet.

Gleichzeitig wurde deutlich, dass der Broterwerb der gesamten Familie vom Bürgermeisteramt abhing. Die Gradwanderung zwischen ökonomischem Auskommen und Deprivation entschied sich an der Wahl. Darüber hinaus war der Grad der Einschüchterung der lokalen Bevölkerung massiv: Der lokale Pfarrer und Ansprechpartner der Wahlbeobachtungsinitiative PPCRV war zutiefst eingeschüchtert und aus Angst nicht bereit zu einer Aussage uns gegenüber. Meiner Kenntnis nach gab es bis heute keine abschließende Untersuchung der Mordfälle.

Die Wahlbeobachtungsmission COMPACT kam zu folgenden Empfehlungen in Bezug auf das politische System, sowie das Wahlsystem, um Gewalt in Zukunft zu verhindern⁴:

- Gesetze gegen die Macht politischer Familien und Dynastien, sowie Gesetze zur Förderung starker politischer Parteien mit internen demokratischen Strukturen
- Verschiedenen Ebenen von Wahl zeitlich voneinander trennen, d.h. keine synchronisierten Wahlen durchführen
- Umsetzung der bereits im Januar 2007 vom Kongress beschlossenen Automatisierung der Stimmauszählung bis Mai 2009 um ein funktionsfähiges und unbestechliches Auszählungssystem bis zur Präsidentschaftswahl 2010 zu entwickeln
- Richtlinien, die für Transparenz in Bezug auf Wahlkampfausgaben sorgen
- Wahllokale müssen frei von Bedrohung, Einschüchterungsversuchen oder Gewalt durch staatliche oder private Sicherheitskräfte sein
- Insbesondere von der Armee wurde Unparteilichkeit und Begleitung durch strenge Richtlinien bei ihren Schutzmaßnahmen während der Wahlen gefordert.
- Weitere Empfehlungen richten sich insbesondere an die Wahlbehörde COMELEC, deren Funktionen in Vergangenheit von Partikularinteressen politischer Kandidaten/innen massiv in Dienst genommen wurden und der Wahlfälschung Vorschub geleistet haben.

Die Wahlen deuten auf massive strukturelle Probleme des politischen Systems in den Philippinen hin. Eine Art „Privatisierung von Politik“ macht Wahlergebnisse, politische Entscheidungen oder die Zuarbeit öffentlicher Organisationen käuflich. Während die Presse, sowie zivilgesellschaftliche und kirchliche Wahlbeobachtung versucht ein Gegengewicht zu schaffen, können in dem bestehenden System nicht alle der über 17.000 Wahlkämpfe gleichzeitig beobachtet oder Öffentlichkeitskampagnen gegen alle Gewaltakteure angestrengt werden, denn beides beinhaltet oft große persönliche Risiken für Leib und Leben. Das trotzdem viele hunderttausend Mitbürger immerwieder die langwierige Stimmauszählung beobachten um ihre Stimme zu schützen ist Anlass zur Hoffnung – solange endlich die notwendigen strukturellen Reformen des Wahlsystems durchgeführt werden.

⁴ Compact 2007 International Observers Mission Group Recommendations, in: KASAMA Vol. 21 No. 2 / April-May-June 2007 / Solidarity Philippines Australia Network. <http://cpcabrisbane.org/Kasama/2007/V21n2/IOM-RecommendedReforms.htm> (01.06.2008)

The democratic process and political violence (Election violence)

Summary of the Presentation by Philipp Bück, *philippinenbüro e.V. in Asia House, Germany*

Philipp Bück participated in an international observers mission named COMPACT for Peaceful Elections during the synchronized election in 2007. In this electoral exercise 12 Senators, 250 congressmen and women as well as 17 000 local representatives, mayors and governors on the provincial, city and municipality level were elected. Up to 26 names had to be written on the ballot. In 250.000 ballot stations located in schools the process was observed by teachers. Moreover, many hundreds of thousands civil observers, journalists, observers of candidates and parties participated actively in the election, i.e. there is a very lively democratic culture in the Philippines.

The electoral system has been inherited from the former US colonial power. It is a prime example for the tension between democratization processes and vested political interests on national as well as local level. The elections further demonstrate struggles between political elites and/or other actors of violence. During the elections, political mobilization happens on different levels, which can be summarized as the so-called seven Ms:

1. Money
2. Machinery (political machinery)
3. Marriage (e.g. to a famed beauty)
4. Media/movies (e.g. film star politicians)
5. Myth (e.g. war heroes)
6. Mergers (e.g. connections between political clans)
7. Murder (e.g. politically motivated killings)

During the 2007 elections there have been 126 cases of extrajudicial killings. These killings are generally not included in statistics on political and extrajudicial killings, but counted separately as "election related killings". Whereas the government, the commission on election or COMELEC and the police have described the elections as relatively peaceful (Killings during the elections 2004: 186 and 111 killings in 2001) killings are only the tip of the iceberg of a general climate of impunity: So-called "Election Hot-Spots" show different intensities of violence, connected mostly to local politics. Armed groups, private armies and units of state security forces are often used by influential local politicians to create votes by spreading fear, intimidation and threats to residents of particular communities.

Furthermore, elections often decide not only about political power but also the livelihood of a local political family or dynasty.

To improve the political as well as electoral system and prevent future electoral violence COMPACT has made several recommendations:

1. Laws in regulation of powerful political families and dynasties and the promotion of strong political parties with internal democratic structures.
2. The different levels of election should be separated.
3. Automation of the ballot system.
4. Establishment of guidelines for transparency.
5. Assurance of secured ballot stations.
6. Establishment of strong guidelines to secure the impartiality of the military and to improve the effectiveness and credibility of security measures
7. Various measures with regards to transparency and corruption within the COMELEC.

The observations during the election point not only to fundamental structural problems in the Philippine political system but show an increasing "privatization of politics" breeding venality of election results, political decisions and legwork by public institutions.

The impressive participation of the population in the democratic process may be reason for hope if reforms will be implemented.

IPON - International Peace Observers Network

Vortrag von Janina Dannenberg, International Peace Observers Network (IPON), Hamburg*

* Mitbegründerin des International Peace Observers Network, Hamburg

Über die generelle kritische Menschenrechtssituation in den Philippinen ist in dem Beitrag vor mir bereits berichtet worden. Nun möchte ich von der Halbinsel Bondoc (Provinz Quezon) erzählen, wo IPON seit Herbst 2006 durch Freiwillige aus Deutschland ständig präsent ist.

Die Implikationen politischer Gewalt auf der Mikroebene

Innerhalb der Gruppe von Menschenrechtsverteidigern/innen, die wir auf Bondoc begleiten, gab es bereits fünf Morde. Trotzdem stehen diese nicht unbedingt auf der Tagesordnung, sondern die Gewaltsituation ist wesentlich vielseitiger und Menschenrechtsverteidiger haben einen minimalen Handlungsspielraum. Das schafft, wie an anderen Orten in den Philippinen, überhaupt erst die Grundlage für politische Morde.

Entwicklung und politische Gewalt

Die Konflikte auf Bondoc sind eng verbunden mit entwicklungsbezogenen Auseinandersetzungen um Land, Landbesitz und Agrarreform auf der einen und Demokratisierungsprozessen, bzw. Forderungen nach der Umsetzung nationaler Gesetzgebung anstelle des sogenannten Hacienda-Gesetzes auf der anderen Seite. Besonders das Auslaufen eines Projektes der Deutschen Entwicklungszusammenarbeit¹ hat 2002 zu einer Intensivierung des Konflikts geführt.

Instrumente der Menschenrechtsbeobachtung

Ich möchte das Instrument der Menschenrechtsbeobachtung nicht lange erklären, sondern nur einige Aspekte gezielt problematisieren. Aufzeigen möchte ich, welche Perspektiven sich für IPON ergeben, um die Menschenrechtssituation in den Philippinen, insbesondere im Hinblick auf die Arbeit von Menschenrechtsbeobachtern, nachhaltig zu verbessern.

Und ich möchte auch über die Gewaltsituation auf der Bondoc-Halbinsel berichten. Diese Mikroebene dieses Konfliktes zeigt gleichzeitig Möglichkeiten und Grenzen unserer Instrumente auf.²

Die Kunst der Menschenrechtsbeobachtung: zwischen Intervention und Neutralität

Menschenrechtsbeobachtung stellt sich uns insofern als Kunst dar, als dass sie ein Spannungsverhältnis zwischen den lokalen Bauerngruppen und den staatlichen Akteuren impliziert, mit dem wir uns bei unserer Arbeit ständig konfrontiert sehen.

Während uns auf der einen Seite die Bauerngruppen in der Funktion als Sprachrohr und Unterstützung in ihrem eigenen Konflikt wahrnehmen, sehen wir unsere Aufgabe gleichzeitig darin, staatliche Akteure an ihre menschenrechtlichen Aufgaben zu erinnern, ohne wiederum als reine Ankläger aufzutreten.

Legalistischer Menschenrechtsbegriff

Viele Akteure in den Philippinen nutzen das Wort „Menschenrechte“ geradezu inflationär, es liegt im Trend der Zeit. Moralisch mag der Begriff Menschenrechtsverletzung in vielerlei Hinsicht eine Rechtfertigung haben, wobei sich IPON jedoch auf einen legalistischen Menschenrechtsbegriff beruft. Im Völkerrecht, und dieses ist der Bezugsrahmen für uns als Ausländer, ist es der philippinische Staat, der Verträge unterzeichnet hat und somit als alleiniger Akteur vor der internationalen Gemeinschaft in der Verantwortung steht.

Verantwortungsvoller Staat

¹ Program der GTZ: „Bondoc Development Program.“

² Detailinformationen zu den genannten Fälle können bei IPON angefordert werden.

Die Arbeit als Menschenrechtsbeobachter impliziert also automatisch, dass wir den Staat und seine Gewalten als rechtmäßige Instanzen, die Menschenrechte zu garantieren, anerkennen- und stärken möchten.

Schutz von Menschenrechtsverteidigern

In unserer Menschenrechtsbeobachtung konzentrieren wir uns auf den Schutz von Menschenrechtsverteidigern, sowie auf Menschenrechtsverletzungen, die diese aufgrund ihrer Arbeit erleiden. Gerade als Menschenrechtsverteidiger sind sie diejenigen, welche die Menschenrechtssituation im Land langfristig sichern. Gestützt werden wir hierbei durch eine entsprechende UN- Erklärung.³

Nichteinmischung in Konflikt

Von zentraler Bedeutung ist es für uns, dass wir uns nicht in den eigentlichen Konflikt einmischen. Die von uns begleitete Bauernorganisation setzt sich u.a. für ihr Menschenrecht auf Nahrung ein, das sie durch die Umsetzung des Landreformprogramms CARP zu sichern hoffen. Wir unterstützen sie nicht in ihrer Forderung, sondern versuchen, den Rahmen zu schaffen, in dem sie sich für ihre Forderungen einsetzen können, ohne Opfer von Menschenrechtsverletzungen zu werden.

Dialogkomponente: Staatliche Akteure in den Philippinen

Hierbei ist der stetige Dialog mit staatlichen Akteuren relevant. Wir machen ihnen keine Menschenrechtsverletzungen zum Vorwurf, sondern vergewissern uns, dass sie an der Verbesserung der Menschenrechtssituation arbeiten. Dieses fordern wir auch ein.

Informationskomponente: Unterstützergruppen

Diese Strategie mag erst einmal sehr zahnlos klingen. Für die Teilnehmenden hier und heute sollte jedoch wichtig sein, dass IPON aktuelle und direkt verifizierte Informationen zur Menschenrechtssituation auf Bondoc liefert, mit denen dann Solidaritätsgruppen gezielt arbeiten können. Wir liefern Fakten, die Bewertung und Verarbeitung dieser überlassen wir Ihnen.

³ UN-Erklärung zum Schutz von Menschenrechtsverteidigern (Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms)

Wirkungsmechanismen und jüngere Entwicklungen auf der Halbinsel Bondoc

1. Physische Übergriffe

Ursprünglicher Ausgangspunkt unserer Arbeit waren physische Übergriffe verschiedenster Art. Hier wirkt unser Instrument. Letzte Woche auf einer Konferenz mit der lokalen Organisation haben wir den direkten Auftrag bekommen, regelmäßig Präsenz zu zeigen, um die bewaffneten Männer des Landlords aus dem Dorf fern zu halten. Im gleichen Dorf gibt es aber nach wie vor eine Absperrung, die verhindert das Dorf von der öffentlichen Straße aus barrierefrei zu betreten. Bis zur Bürgermeisterwahl 2007 wurde durch den ehemaligen Bürgermeister außerdem die Verhaftung eines wegen versuchten Mordes an einem Bauernführer verdächtigten Mannes, herausgezögert. Der Haftbefehl wurde IPON bereits vor über einem Jahr vorgelegt und nach Deutschland gefaxt. Dieser Fall zeigt, dass es Defizite in der Menschenrechtssituation vor Ort gibt, denen nicht so einfach von außen entgegengewirkt werden kann. Hier ist der politische Wille auf nationaler Ebene gefragt, Gebiete wie Bondoc nicht als Zonen eines Rechtspluralismus zugunsten selbsternannter Feudalherren zu akzeptieren.

2. Juristische Schikanen

In den letzten Monaten hat es auf Bondoc, von Seiten der Großgrundbesitzer eine Verschiebung hin zu juristischen Schikanen gegeben. Aufgrund von Klagen nur zweier Landbesitzer, Reyes und Matias, kam es zu Haftbefehlen gegen 56 Bauern mit einer Kautionssumme von fast drei Millionen Peso. Die Anzeigen, die gegen die Bauern erhoben wurden, reichen von Diebstahl über Brandstiftung bis hin zum versuchten Mord. Durch diese stetige Kriminalisierung werden die Bauern eingeschüchtert und verlieren ihr Vertrauen in die Rechtsstaatlichkeit. Anreisewege zu den Verfahren sind lang und die Zeiten im Gefängnis zermürbend, während von den sie unterstützenden Gruppen finanzielle und personelle Ressourcen gebunden werden.

Obwohl es sich um Fälle handelt, die eigentlich einem Schiedsgericht im Department of Agrarian Reform (DAR) unterliegen müssten, wird der Klageflut sehr häufig durch die Staatsanwaltschaft stattgegeben.

Die Praxis bei den Verhaftungen ist derweil problematisch. Während einige Bauern nachts von der Polizei ohne vorherige Ankündigungen überrascht wurden, kamen die Männer des

Landbesitzers in anderen Fällen direkt mit dem Haftbefehl zu den Bauern.

Die Prozesse die den Menschenrechtsverteidigern gemacht werden, werden permanent von IPON-Beobachtern begleitet. Vertagungen und Verschleppungen sind jedoch häufig.

Erste Konsultationen mit dem Supreme Court haben dazu führen können, dass ein Richter uns bereits eine interne Untersuchung zugesagt hat. Für qualitativ hochwertige Prozessbeobachtung ist langfristig jedoch spezieller geschultes Personal nötig, insbesondere auch im Hinblick darauf, dass wir vermeiden möchten, Kompetenzen des Gerichtes in Frage zu stellen. Für die nächste Zeit sind Gespräche mit Staatsanwälten und ihrer übergeordneten Behörde, dem Department of Justice (DoJ) geplant.

In der Kommunikation mit staatlichen Akteuren wird häufig darauf gedrängt, über die Schuld oder Unschuld im Einzelfall zu diskutieren. Die Statistik der Anzeigen ist jedoch das Brisante an diesem Thema. Eine spezielle Gruppe von Leuten, nämlich Menschenrechtsverteidiger, werden urplötzlich mit mehr als 100 Anzeigen konfrontiert.

Der Umgang mit juristischen Schikanen ist für internationale Menschenrechtsbeobachtung relatives Neuland, wir sehen jedoch Perspektiven, dass das Instrument auch hier erfolgreich angewendet werden kann.

3. Guerilla-Landlord-Allianzen

Abschließend möchte ich auf den schlimmsten Vorfall, seit IPON auf Bondoc tätig ist zu sprechen kommen. Im März diesen Jahres wurde bereits der fünfte Bauernführer in San Vincente auf den Ländereien der Großgrundbesitzerfamilie Uy getötet. Der mutmaßliche Täter ist ein Mitglied der NPA.

Bereits bei den vorangegangenen Fällen wurde deutlich, dass der Landbesitzer sich der NPA bediente um diese Morde zu begehen. Aufgrund dieser Allianz sind weder Landbesitzer noch NPA einfach in die Verantwortung zu nehmen. Es würde den Rahmen sprengen, diesen Konflikt hier im Detail zu erörtern. Ich erwähne ihn jedoch, da zu Menschenrechtsbeobachtung in Konflikten, wo Guerillagruppen involviert sind, kaum Erfahrungen vorliegen.

Für IPON stellt es eine Herausforderung dar, sich in diesem Konflikt zu verorten. Erst einmal konzentrieren wir uns hier auf die Rolle staatlicher Akteure, die in der Pflicht stehen, mögliche Opfer vor solchen Gewalttaten zu schützen. Der Sohn des Opfers, der aus Sicherheitsgründen die Halbinsel verlassen musste, innerhalb der Organisation aber die Position des Vaters übernommen hat, fordert, wenn er jetzt in seine Heimat zurückkehren muss, außerdem eine persönliche ständige Begleitung durch IPON-Beobachter an, der wir nachkommen werden.

Menschenrechtsbeobachtung ist für uns eine gute Option, politische Gewalt in den Philippinen zu verhindern und gleichzeitig die Arbeit von Menschenrechtsverteidigern zu ermöglichen. Immer arbeiten wir auf dem schmalen Grad zwischen Neutralität und Intervention, während die Dynamik vor Ort eine ständige Anpassung von Arbeitsweisen und Strategien erfordert. Deshalb benutzte ich das Wort Kunst.

Morgen wird es hier um den Schutz von Menschenrechtsverteidigern gehen. IPON kann hierfür in den Philippinen den ersten Schritt darstellen.

IPON - International Peace Observers Network

Summary of the Presentation by Janina Dannenberg, IPON, Hamburg

The International Peace Observers Network (IPON) was founded in 2006. IPON conducts human rights observation and implements programs for the protection of local HRDs who are accompanied by German volunteers in the Philippines. The instrument of human rights observation aims to reduce the number of human rights violations on the ground.

Implication of political violence on the micro level of conflict

The farmers group accompanied by IPON's observers has been victimised by five extrajudicial killings. The situation is informed by the broader context of violence in which

local HRDs are left with minimal room for action in the Philippines.

Development and political violence

IPON's Philippine base is on the Bondoc Peninsula, Luzon. The local conflicts are rooted in disputes over land, land ownership and the agrarian reform program (CARP/CARL). Local groups demand for the application of the national law instead of the Hacienda law ruled by local landlords.

Human Rights Observation as Art: Between Neutrality and intervention

IPON's observers constantly face the conflict between local farmer's groups and state actors. Whereas the local farmers seek IPON's support in their struggle for land, IPON aims to foster dialogue with state actors, reminding them of their human rights obligations. IPON therefore avoids to be perceived as a mere accuser.

IPON relies on the framework of International Humanitarian Law, which addresses the state as the main and responsible actor in the protection of human rights. Only the state has the authority to sign and ratify international treaties and is therefore accountable to the international community. Through dialogue IPON aims to strengthen the state as the legitimate power to guarantee human rights and to lobby for implementation of human rights legislation.

Protection of HRDs

IPON's work concentrates on the protection of HRDs who work to secure the rights of others and become victims themselves. Central to the role of the observers is the non-interference in the conflict. The aim is rather to secure the space for locals to present their grievances without becoming victims of human rights violation.

IPON provides timely and directly verified information about the human rights situation on the Bondoc Peninsula. This can then be evaluated and used by other human rights and development organisations.

The Instrument and Recent Developments on the Bondoc Peninsula

1. Physical attacks

To prevent physical attacks IPON's observers offer constant company to local HRDs in their work.

2. Legal harassment

Changing their approach from physical violence to harassment by legal means landlords have increasingly fabricated legal charges against local HRDs and activists. This attempt to criminalize the defence of human rights and to delay legal processes through arbitrary practices of local authorities pose a serious challenge to the instrument of human rights observation. IPON is optimistic to find ways to resolve this situation, for instance through dialogue with the Supreme Court.

3. Guerrilla- Landlord- Alliance

There is limited experience with human rights observation in dealing with conflicts including guerrilla forces involved in strategic alliances with local landlords. On the Bondoc Peninsula alliances between the NPA and local landlords have nevertheless been observed and allegations have been nurtured that extrajudicial killings in Bondoc were perpetrated by the NPA on the order of the local landlord Uy. This conflict will continue to challenge IPON to locate itself in the political context of the Philippines.



Foto: Harrassment of CARP beneficiaries in Bondoc Peninsula.

Discussion

On Elitism and Authoritarianism

Dr. Theodor Ratgeber (human rights observer for Forum Menschenrechte at the UNHRC in Geneva) asks Dr. Rainer Werning whether it is possible to overcome elitism and authoritarianism and if emancipatory political ideas existed in the past?

Dr. Rainer Werning answered, that in the first ten years after independence in 1946 a continuous process translated colonial power into neo-colonialism, whereas the US continuously claimed a leading political and military role. It was only at the end of the 1950s and 1960s respectively, that a new development evolved and emancipatory political ideas emerged. This was additionally encouraged by the rise of the Non-Aligned Movement (NAM) on the international level and the internal call for “Filipino Muna” or Filipino first.

From the colonial era up to today counter-insurgency has always been central to Philippine politics and US authorities have been gradually replaced.

Lea Biason observed, that there were several political initiatives in congress to address and end long-term conflicts in the country, such as the repeal of the anti-subversion law with the resulting decrease in the number of extrajudicial killings in the early 1990s. In recent years, these steps have however been challenged by the administration of Gloria Macapagal-Arroyo in the light of the counter-insurgency strategy against the NPA. Despite their importance, reforms have not been reaching far enough under the Arroyo administration and impunity is rampant. Perpetrators of human rights abuses within the security forces must be taken to account if authoritarianism and elitism are to be overcome.

The Role of the Philippine Civil Society

Dr. Jochen Motte (UEM) asks, which advice could be given with regards to a promotion of socio-political networking between CSOs.

According to **Dr. Werning** Philippines’ civil society does not fit to black and white schemes but has many thousands shades of grey. During the 1970s the so-called basic Christian communities were created and Churches began to talk about the “theology of struggle”. During the Marcos dictatorship People’s Organizations (POs) were formed to fight

against the Marcos regime. Later, numerous NGOs were formed based on the experiences of the Churches and the POs. The evolving civil society became a model for many similar movements outside the Philippines.

From the outset civil society could have had more effect, but it split into those reaffirming the Maoist approach to social change of the CPP and those rejecting a unitary ideological perspective. This conflict destroyed the unified left movement in the late 1980s and 1990s. Nevertheless, up to today strong and progressive left wing movements persist and the recent EDSA demonstration gave reasons for hope that the internal struggles of the left will be overcome by a new generation of activists that is willing to work together on the ground of common issues.

European Involvement and Civil Society’s Reaction

Andy Whitmore (PIPLinks, UK) comments, that development aggression is a central threat to indigenous people’s rights. Europe-based transnational corporations (TNCs) are deeply involved in the Philippine mining industry. Addressing the plenary and the European organizations present in the conference Whitmore asks, which actions could be taken in order to lobby TNCs here in Europe with regards to human rights issues?

Philipp Bück supports Andy Whitmore’s comment that development aggression especially in the area of mining is a very important issue linked to political killings. Together with the issues of land reform and the promotion of bio-fuels, mining in the Philippines is very often connected to conflicts over land. Mining projects have been opposed by local communities across the Philippines. It is part of the responsibility of Europeans to monitor and build awareness about the activities of European companies in the global south. Also, strategies by European governments to source raw materials should be looked at in the Philippine context. Networks focussing to work on these issues need to be formed to address complex and transnational structures of particularly harmful companies in a joint and international civil society effort. Yet more research is needed in order to cope with

the complexity of these questions in the particular context of the Philippines.

Lea Biason further notes, that mining has been a flagship project of Gloria Macapagal-Arroyo. Arroyo has opened up the country for foreign mining investments. At the same time “development aggression” is a central concern of the communist insurgency. The NPA has launched offences against mining operations in the past. In turn, private security forces or paramilitary forces trained by the AFP have been employed to guard mining operations.

According to Lea Biason, dealing with development aggression poses the following questions:

1. How have indigenous people’s rights been affected by mining operations?
2. How far has the Indigenous People’s Rights Act (IPRA) and the free, prior and informed consent provisions been enforced and respected?
3. How does the Philippine government understand the accountability of international companies?
4. What are the investment guidelines to ensure the accountability of corporations?

She notes, that Amnesty International is planning a project on extractive industries in relation to indigenous people’s rights. The concern for development aggression and mining in particular is a rather new focus for Amnesty and the idea is still in an early stage.

For IPON **Janina Dannenberg** explains, that the IPON network is aware of the interrelation between the mining industry and human rights violations. In April, a visit to a PO in Sultan Kudarat facing mining issues resulted in the consideration of a feasibility study on a project there.

Advocacy for a Holistic Human Rights Approach

Bobby Garcia: The credibility of human rights work relies on the holistic approach civil society and organisations are going to take. It is therefore necessary to not just exert pressure on the government, but on all actors committing human rights violations, i.e. including non-state armed groups such as private armies as well as guerrilla forces.

Responses

Philipp Bück: It is important to do more research on non-state actors and to get more and better independent documentation regarding their human rights violations. However, it is also important not to push certain groups further into militarization – the NPA should be therefore taken off the EU terrorist list, to strengthen their political branch and support peace negotiations. Also, nothing will bear fruit as long as legitimate grievances of armed non-state actors are not properly addressed.

Janina Dannenberg: It is difficult for IPON to take a stance on particular non-state actors since that could harm the principle of impartiality of IPON.

IPON does not aim to advice the state on its counter insurgency policy but to get the government to fulfil its duty to protect its citizens and guaranty the assertion of human rights. Nevertheless, if for example the recent murder of a human rights activist in Bondoc peninsula proves to have been committed by members of the NPA, IPON will have to position itself.

Lea Biason: Non-state actors should be held accountable for their human rights violations. Both the government and the CPP/NPA should abide by their commitment to CARHRIHL, which has not been sufficiently operational yet. There is a clear need to resume the peace talks between the CPP/NPA and the government.

Impunity and the Rule of Law: Power and Political Will

Conference on Political Killings and the Rule of Law

First Day, 8 May 2008, Second Session

Impunity and the Rule of Law: A view from a civil society human rights formation

By Max M. de Mesa*

* Chairperson of the Philippine Alliance of Human Rights Advocates

Introduction: Unknown Extent of Impunity

The extent of impunity in relation to the human rights situation in the Philippines, particularly in extrajudicial executions, enforced disappearances and torture, at the moment, can never be completely known. In fact, it is hidden from us because it may be bigger than what meets the eye. Allow me to illustrate this fact through a brief case presentation of the Manalo brothers, Raymond and Reynaldo¹.

- On 14 February 2006, armed men snatched them from their homes; the armed men were looking for another brother, Bestre, believed to be a member of the NPA; as Bestre was not around, the armed men took them instead;
- For the first three and a half months of their captivity, their captors tortured them almost daily;
- Their captors kept transferring them from one military camp or facility to another;
- The writ of habeas corpus were presented twice to the military, but the latter denied holding any or both of the brothers;
- General Jovito Palparan of the AFP talked to them during their captivity; they recognized General Palparan as they had seen him on television prior to their captivity;
- During their captivity, they saw and talked to other victims who had suffered the same fate of torture and enforced disappearance; they even



witnessed other victims being extrajudicially killed; and

- After about a year and a half of captivity, they succeeded in escaping.

No less than the Philippine Supreme Court believed the brothers' account of human rights violations against their persons, over government and military denials. The Supreme Court granted the brothers' Petition for a Writ of Amparo. The enforced disappearance and torture of the brothers confirm the poor implementation of civil and political rights in the Philippines.

But what is particularly alarming in the brothers' sworn account is that they saw

- Other victims of torture and enforced disappearance, and
- Other victims being extra judicially killed.

¹ Sunga III, Ricardo A. "Written Submission Under the UPR: On Torture, Enforced Disappearances and Extrajudicial Killings". Free Legal Assistance Group, November 2007.

Consequently, this glimpse that the brothers' escape gave us into the phenomenon of impunity² gives us a staggering, if not horrifying, possibility, of a much bigger number than whatever quantity of documentary evidence could be presented in this or any conference. Furthermore, the extent to which the perpetrators of these acts would go so as to suppress any evidence can only be called ruthless. They burn the bodies of victims. Concomitantly, the climate of fear and the culture of impunity generated by these heinous acts are much more extensive and intensive than what meets the eye.

The Philippines is a state party to many human rights treaties. The Philippines has a Bill of Rights in its 1987 constitution that says: "*The State values human dignity and guarantees full respect for human rights.*" This is spelled out more in the different sections of Article III, for example, among others: the right not to be deprived of life, liberty or property without due process of law; the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures; the right to be free from torture, force, violence, threat, intimidation, and the right of the people to information on matters of public concern.

Obstacles to the Right to Know: Lack of Transparency and Accountability

Elaborating a bit more on the people's right to information, it is interesting to note that in a United Nations document,³ the first four principles that need to be realized to combat impunity are clustered under "the right to know", i.e., (1) The inalienable right to the truth; (2) The duty to remember; (3) The victims' right to know; (4) Guarantees to give effect to the right to know.

Ms. Gloria Arroyo, as both Chief Executive of the Republic of the Philippines and Commander-in-Chief of the AFP had thrown obstacles in the people's way to access information that are vital to the latter's societal and personal lives. These obstacles, among others, are exemplified in Executive Order

464⁴, Memorandum 108⁵, the use of executive privilege⁶, and an Administrative Order 197⁷. These legal measures supplement and exacerbate an already existing coercive environment and climate of fear among the people. The stonewalling to truth allows impunity to dig deeper into the ground because of the State's unwillingness to give in to demands of transparency and accountability. These actions run counter to subsequent principles in combating impunity.⁸

"Principle 14. Measures for Facilitating Access to Archives: Access to archives shall be facilitated in order to enable victims and persons related to claim their rights.

Access should also be facilitated, as necessary, for persons implicated, who request it for their defence.

When access is requested in the interest of historical research, authorization formalities shall normally be intended only to monitor access and may not be used for purposes of censorship."

Principle 15 states that: "Considerations of national security may not be invoked to prevent access."

2 United Nations. "Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity". Under "Definitions", it states: " 'Impunity' means the impossibility, de iure or de facto, of bringing the perpetrators of human rights violations to account – whether in criminal, civil, administrative or disciplinary proceedings – since they are not subject to any inquiry that might lead to their being accused, arrested, tried and, if found guilty, sentenced to appropriate penalties, and to making reparations to their victims."

3 Ibid.

4 This Executive Order bars any government official of the Executive branch to testify before any legislative inquiry without the permission of the Chief Executive. In the meantime, this E.O. has been substantially nullified by a Supreme Court decision. Pangalangan, Raul C. "Be careful what you wish for", Philippine Daily Inquirer (PDI), March 7, 2008, p. A14.

5 Ibid.

6 After the Supreme Court struck down significantly E.O. 464, the same SC made a "dangerously crippling decision" regarding executive privilege. Bernas, Joaquin G., S.J. "A dangerously crippling decision". PDI, March 11, 2008, p. A15

7 Administrative Order 197 issued by Ms. Gloria M. Arroyo on September 25, 2008. Note specifically provision no. 2: "The DND/AFP shall draft legislation in consultation with the Presidential Legislative Liason Office and Congress allies for safeguards against disclosure of military secrets and undue interference to military operations inimical to national security."

8 United Nations, "Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity". [Question of the impunity of perpetrators of human rights violations (civil and political). Revised final report prepared by Mr. Joinet pursuant to Sub-Commission decision 1996/119. E/CN.4/Sub.2/1997/20/Rev.1. 2 October 1997, Original: English; this report is also known as the "Joinet Report".]

The recent presentation⁹ of the Philippine human rights situation in the United Nations' Universal Periodic Review (UPR) had a glaring gap¹⁰ on what was the real status of extrajudicial killings and enforced disappearances and torture. It merely pointed to the fact that the report of Melo Commission and the Alston report did not mention that such violations were part of State policy. It conveniently and cleverly skipped the fact that both reports pinpointed the military's involvement. Frequently, due diligence was lacking in seeking and apprehending the perpetrators. The Melo Commission and Prof. Alston squarely blamed the AFP and the PNP as mainly responsible for many of the killings and disappearances. The vilification campaign¹¹ against people's organizations as "enemies of the State" with consequent harassment and intimidation of the members, the use of the "order of battle or OB" listings and the killings and disappearances of those named and /or alluded to in the OB's reveal a pattern that can only come from a State policy.

Aside from Prof. Alston's independent find of an "order of battle" list during his official visit as U.N. Special Rapporteur on Extrajudicial Killings, the Report of the EU Needs Assessment Mission to the Philippines, has this to say:

"...in Region 3, the brigade level Order of Battle lists 300 individuals. It was reported to the mission in that region that Orders of Bat-

tle are amended and updated from time to time."¹²

Officials in the military headquarters in Manila questioned the authenticity of the document. In the same EU report, an earlier paragraph of the same section on the AFP can give a chilling effect on people's organizations and even cause-oriented individuals.

"The overall counter-insurgency strategy, including military involvement in civil affairs, blurs the differentiation between combatants and non-combatants, thus contributing to the extrajudicial killing and forced disappearances. On more than one occasion, AFP personnel confirmed that civilians who supported the counter-insurgency through political affiliation, financial support, or legal representation were legitimate military targets."¹³

Members of socio-political organizations and movements, such as *Sanlakas* (One/United Force)¹⁴ and *Kilusan para sa Pambansang Demokrasya* (Movement for National Democracy)¹⁵ belonging to the umbrella organization, *Laban ng Masa* (Struggle of the Masses), besides that of *Bayan* (Country) and *Bayan Muna* (Country First) and their member organizations, have indeed become targets of extrajudicial executions, enforced disappearances and torture perpe-

⁹ U.N. Human Rights Council, "Draft Report of the Working Group on the Universal Periodic Review: Philippines". This report was adopted by the same Working Group in its session last April 15, 2008, in Geneva. Please see original submission of the Philippine government, "Philippine National Report to the Human Rights Council for the Universal Periodic Review", 2008.

¹⁰ Casiple, Mon. Mon Casiple blog site: "A tale of two human rights reports". All civil society submissions to the Philippines' UPR "were one in acknowledging the Philippine government's incomplete implementation of international human rights agreements. The Philippines is not a party to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT) and the Rome Statute on the International Criminal Court, and that it has not recognized the provision in the CAT on individual complaints. The Philippines has also not ratified the Convention for the Protection of All Persons from Enforced Disappearance."

¹¹ Free Legal Assistance Group: "In other cases, soldiers conduct 'public meetings' where they present a version of the power point presentation 'Knowing the Enemy' and read aloud the names of 'wanted persons' listed in the 'Military Order of Battle;" See: <http://www.hurights.or.jp/asia-pacific/048/05.html> (01.07.2008)

¹² European Commission, External Relations Directorate General. "EU Needs Assessment Mission Philippines, 18-28 June 2007. Report", p.35

¹³ European Commission, External Relations Directorate General. "EU Needs Assessment Mission Philippines, 18-28 June 2007. Report", p.35

¹⁴ Task Force Detainees of the Philippines (TFDP) Fact Sheet, September, 2006: "Torture and Harrassment of Garcia family in Malolos City, Bulacan. The family members were victims of an explosion of an unknown source near the home. When investigated by the police and army personnel, the family members were victims twice-over when they were accused as the perpetrators of the explosion. The family, including mother and daughter, were subjected to torture, cruelty and grave threats by certain military officers, Julius Cruz and MSgt. Farinas. KPD reported in the first quarter of 2008 that teachers belonging to the organization, ASSERT, were being harassed and intimidated because of union work in Marikina, a city adjacent to Quezon City.

¹⁵ Cases of Cathy Alcantara and Audie Lucero and others. See article: de Mesa, Max M. "Investigations and Fact-Finding Missions: Asserting Our Common Humanity, Searching for a Breakthrough against Impunity", PhilRights Forum, 2006.

trated with impunity. Yet, the state of denial persists.

The People's Struggles to Break Impunity: Government and Military Responses

The campaigns to expose grave human rights violations have been made and sustained by concerned groups both in the national and international arenas. Part of the campaigns are human rights education and para-legal trainings to enable communities especially in difficult and/or militarized areas to assert their human rights whether to State or non-State actors. Efforts are also continuously made to organize formations of HRDs and to dialogue with appropriate government officials and bodies towards obtaining a breakthrough against impunity. People's diverse actions, on their own and/or in solidarity with others, towards the common goal of breaking impunity elicited different responses from the three branches of the Philippine government.

The Chief Executive and Commander-in-Chief of the AFP, for example, praised the work and record of then General Jovito Palparan, Jr.¹⁶ who was suspected as responsible for the extrajudicial killings done in the areas of his different assignments.

This is the same General Jovito Palparan, Jr., who warned his audiences in Central Luzon about the acronym "IDD" (no, it does not stand for International Direct Dialing). Translated from Filipino, Gen. Palparan's rhetoric would somehow go this way: *"Remember this well. I-D-D. If we are suspicious of you, we will be I - Invite you. If you continue to do what we warned you about, you will be D - Detained. If you still persist, you will be D - Disappeared."*¹⁷ Gen. Palparan's public threats went unreprimed and uninvestigated even when extrajudicial killings and enforced disappearances happened in the areas covered by troops under his command responsibility. From where HRDs and civil society stand, this event reveals that between the executive and the military there is a complicity in impunity.

Until now, determined efforts are made to make justiciable many human rights treaties that the Philippine government has already signed and ratified. That bills formulated to this end have not been certified urgent by the Chief Executive shows the rank of importance Ms. Arroyo's administration gives to the justiciability of human rights.

There is, for example, an absence of laws criminalizing torture and enforced disappearances. This situation is contrary to the international commitments of the Republic of the Philippines under Article 7 of the ICCPR. The Philippines is a State Party to the Convention Against Torture (CAT). And yet, the FIDH mission in 2007 stated that "...in zones of armed conflict, acts of torture accompany every military operation".¹⁸ While human rights formations welcome the signing of the Optional Protocol to the Convention Against Torture (OPCAT), its full effectiveness can only be felt when a law is passed criminalizing torture. At the moment, most if not all HRDs do not think one could certainly make a "presumption of regularity" of respect for human rights, especially against torture, when arrests or abductions are made by the military or the police of people perceived to be "enemies of the State".

Impunity thus could persist due to the absence of laws that translate ratified international human rights instruments into national laws. Impunity could also thrive through laws that masquerade to protect human rights, such as the new anti-terrorism law, the Human Security Act of 2007, which uses "a misleading semantic"¹⁹.

In fairness, there are now bills on criminalizing torture and on enforced disappearances which closely follow definitions and provisions in the related international conventions. Their passage into laws could help in realizing justice for peo-

16 Gen. Palparan was chief of the 7th Infantry Division (ID), which includes command responsibility over troops deployed in Central Luzon. Charges of robbery, grave coercion and serious illegal detention were filed against him and 13 others, mostly Army soldiers recently for taking over a mine site in Masinloc, Zambales. Please see Guinto, Joel. INQUIRER.net - "Army probing troops with Palparan in Zambales port takeover".

17 De Mesa, Max M. "The National Human Rights Institution Effectiveness: Rooted in the Broad Formations of HRDs and a Strong Human Rights Movement". Unpublished paper presented to the Asean People's Assembly, 2008

18 FIDH. "Report: International Fact-finding Mission in cooperation with the Philippine Alliance of Human Rights Advocates (PAHRA) and the International Rehabilitation Council for Torture Victims (IRCT), April, 2008, p.28. "[Torture] may be usual in the process of abduction by the military, the police or their civilian auxiliaries.", p.30

19 Ibid., pp.25-26. There are no specific references to international human rights law. It must be remembered too that while there is mention of a general "safeguard" and "respect for human rights", for one there is still no domestic legislation against torture which makes implementation problematic.

ple on the ground coupled with favourable circumstances.

In the meantime, the laws leading to the resolutions of cases of extrajudicial killings and enforced disappearances have been found wanting. Victims and relatives of victims who pursued justice through the legal system have been frequently frustrated by persons and processes meant to assist them to obtain redress. For example, FIDH keenly observed that:

Article 7 of the ICCPR and article 15 of the CAT [to both of which the Philippines is a State party], Section 25 of the 2007 anti-terrorism law, RA 9372, also prohibited the admissibility of evidence obtained through torture or duress.

However, the actual case of the Supreme Court in this domain threatens the effectiveness of this principle. Indeed, the Supreme Court considers that “the confessant bears the burden of proof that his confession is tainted with duress, compulsion or coercion by substantiating his claim with independent evidence other than his own self-serving claims that the admissions in his *affidavit* are untrue and unwillingly executed. Bare assertions will certainly not suffice to overturn the presumption.”²⁰

It is in this context that the judicial activism of the Supreme Court led by Chief Justice Puno resulting to the issuance of the Writ of Amparo and the Writ of Habeas Data must be seen.

The two writs created hope that they would decrease occurrence of extrajudicial killings and enforced disappearances. In fact, initial successes have been obtained. Some people who were abducted were surfaced.²¹ But then, for fear of retaliation and of the possibility of undergoing another round of harassment and intimidation or even worst, that of being extrajudicially killed, the victims and/or relatives do not pursue the filing of charges against, among others, abduction, torture and/or illegal detention. In fact, there are some who were surfaced, who expressed gratitude to the military for “keeping them safe”. Some even returned with the military to the latter’s camp. Others who have been brought back home by the military after almost a year of enforced disappearance are even too afraid to even just officially acknowledge that they have been surfaced and are alive.

There is at least one case wherein a Writ of Amparo was filed against the human rights organization Karapatan. The military made use of the family of a youth who was in the protection program of the said organization. This showed that the military are learning how to make use of both law and intimidation to further entrench impunity against the people.

According to the EU Needs Assessment Mission: “The legal framework, including standard operating procedures, for investigating extrajudicial killing is in place, but seems not to be implemented or applied.”²² Furthermore, [a] main obstacle to successful investigation of extrajudicial killings, given by officials within the Philippine authorities concerned, is the unwillingness of witnesses to come forward.”²³ FLAG had enumerated the weaknesses of the government’s Witness Protection Program in its report to the Special Rapporteur on Extrajudicial Killings.²⁴

From investigations to court hearings to protecting witnesses, the Philippine criminal justice system needs to win back the trust and confidence of the general public.

As for the AFP, it is not seen as politically neutral entity in terms of its constitutional mandate. The current degree of involvement of the AFP in civil affairs is counterproductive in developing democracy, especially among the grass-roots communities, as well as the democratic processes and institutions. It is hoped that the new human rights office of the AFP, so as not to end up as a mere window-dressing, would provide not only the education and training to officers and soldiers up to the local level on human rights and international humanitarian law but would also monitor their obligations of conduct and of result regarding human rights practices especially in difficult areas.

The posturing of the top officers the AFP and the PNP last February 25 headed by the Chief of Staff, Hermogenes Esperon confirmed themselves as a partisan force for the incumbent political power but apart from the people. It is doubly alarming because as mentioned earlier,

20 FIDH, op.cit., p.33. For instance, Supreme Court of the Philippines. People of Philippines vs. Dindo “Bebot” Mojillo G.R. No. 145566, March 9, 2004.

21 Ruel Munasque, a youth leader, taken by the military in Mindanao, was released on November 7, 2007.

22 EU, op.cit., p.15

23 Ibid.

24 Free Legal Assistance Group. “Extrajudicial, Summary or Arbitrary Executions in the Philippines, 2001- 2006” submitted to Prof. Philip Alston in February 2007

the military has still the general mind-set of the Cold War.

It is thus not surprising that Prof. Alston stated at the end of his initial report:

“But I would stress that these recommendations will make little difference unless there is a fundamental change of heart on the part of the military or the emergence of civilian resolve to compel the military to change its ways. Then, and only then, will it be possible to make real progress in ending the killings.”

Working for the Emergence of Civilian Resolve

Building formations of HRDs at the grass-roots level is an imperative and not an option when the rule of law is weakened, and a culture of impunity pervades Philippine society. Furthermore, impunity persists not because it is formidable, but because civil society, and even HRDs are fragmented.²⁵

Considering, for example, that the initiative to investigate in the first instance belongs to the State and in circumstances where public powers do not undertake it, that initiative should be taken by the victims, the members of their families and human rights organizations. A human rights perspective enhances the peoples' analysis of issues and events. Organizing such formations ensures a sensitized citizenry with appropriate skills and an engaged civil society. Aware of their dignity as expressed in their human rights, the affected people would exact accountability from all actors²⁶, whether state or

non-state yet without confusing that the state is the primary duty-holder.

Barangay constituencies had earlier been drawn to a signature campaign to change the form of government without total disclosure of the issues involved. The Supreme Court later ruled against it.²⁷ It was a massive fraud of the Filipino people. The necessity and urgency of establishing formations of HRDs at the barangay/village level had also been highlighted by a full page ad of the *Liga ng mga Barangay* (League of Barangay's) calling a week before the Barangay elections for the passage of a bi-lateral treaty between the Philippines and Japan (JPEPA).²⁸

Fighting impunity should not just be in the realm of civil and political rights, but much more now in the arena of economic, social and cultural rights²⁹. The rights to food, water, electricity and other basic services in this present crisis should be link to the loss of people's money due to corruption such as in the case of the NBN-ZTE deal with China. The concomitant violations in the economic, social and cultural spheres in the government's fight against terrorism must also be noted and denounced. Civilian resolve should not just break impunity,

²⁵ EU Needs Assessment Report, op.cit., p.44. “Though widespread and vibrant, civil society in the Philippines is fractured. [...] The consequences of this split are still reflected in civil society activity today.”

²⁶ Examples of documenting and demanding accountability from perpetrators of human rights violations: Task Force Detainees of the Philippines (TFDP). Mindanao, Case of Bacar and Carmen Japalali, killed allegedly by members of the 404th Infantry Battalion of the Philippine Army, 8 September 2004. Partnership of Agrarian Reform and Rural Development and Services (PARRDS) et al. “Statistical Findings on Human Rights Violations”, “Distribution of Cases and Victims of Human Rights Violations per Subject Area”. February, 2005. These papers, covering the period from August 1997–September 2004, present well-documented cases wherein the human rights of farmers are violated by state agents and state-backed militia, as well as abused by non-state actors, not only by landlords and private armed goons, but also by members of the NPA of the Communist Party of the Philippines. Other cases come from areas where people, especially indigenous peoples, are dislocated and harmed and their sources of subsistence are taken over or destroyed by mining and logging companies.

²⁷ Philippine Daily Inquirer, October 26, 2006, p. A6. The Supreme Court voted to dismiss the petition for a people's initiative to amend the constitution and “primarily assailed the supposed irregularities in the 6,327,952 signatures that *Sigaw/Ulap* claimed to have gathered”.

²⁸ Philippine Sunday Inquirer, Oct. 21, 2007, p.A13. Japan-Philippines Economic Partnership Agreement (JPEPA). One of the most controversial points in the whole agreement is the importation from Japan to the Philippines of medical waste and its disposal. Many fear that such an agreement would compromise the people's right to health. See also Atty. Tanya Lat, IDEALS, “Japan-Philippines Economic Partnership Agreement: A Toxic Treaty”. Information in the paper were presented to the Senate hearing.

²⁹ Cfr. Infocus: a semestral human rights situationer, issue no.5. Quezon City: Philippine Human Rights Information Center (Philrights), 2007. This issue presents the tackling of issues of education, food, health, the overseas Filipino workers and housing from a human rights perspective or from a rights-based approach. Dealing with the impunity of a non-state actor, a multinational company, in relation to aerial spraying of pesticides and its adverse impact on people's health is an urgent concern of communities in Davao City belonging to the organization *Mamamayan Ayaw sa Aerial Spray* (MAAS) or People Against Aerial Spray. Phil. Democracy Assessment: Economic and Social Rights

but to reclaim back one's own and the people's dignity and obtain justice for us all.

All CSOs concerned with extrajudicial killings should consider converging into one non-partisan network to become one in voice and involvement in campaigning to bring the killings to an end.

Recommendations for the International Community

1. **Support the efforts towards the emergence of a strong civilian resolve** to halt extrajudicial executions and enforced disappearances, such as, formations and sustained professional development of HRDs from the barangay (village) levels to the national level.
2. Support the interim efforts of CSO to ensure the security and sustenance of victims and witnesses to extrajudicial executions and other grave human rights violations as well as their families as part of sustaining their courage to break through impunity by providing protection measures, financial and psychological support and access to justice.
3. Support the development and sustainability of the community as the fifth pillar of the Philippine criminal justice system through the systematic and formal training of HRDs as trainers in paralegal work, and possibly be designated as community monitors of the human rights implementation.
4. Support the "establishment of a transparent monitoring mechanism to oversee the investigation of extrajudicial killings and the prosecution of perpetrators". This mechanism is to be independent of government and to be comprised of constituents from Philippine society, including members of civil society.
5. Consider to act as an intermediary between the government and civil society in halting and resolving cases of extrajudicial executions and enforced disappearances and torture.
6. Support the funding of a database of missing persons.
7. Facilitate the implementation of the EU Guidelines on HRDs, including the security of Philippine HRDs.
8. Provide financial assistance to enhance cooperation of international CSOs with locally based counterparts. Foreign CSOs can offer an international perspective and their presence can provide a measure of protection for local HRDs and

a deterrent to State agencies that are sensitive to international opinion.

9. Provide technical and financial assistance to lawyers who take up cases in relation to human rights violations, particularly extrajudicial killings, enforced disappearances and torture.
10. **Persuade or pressure the Philippine authorities**
 - to free immediately all persons arbitrarily detained in the framework of the fight against terrorism, or to bring charges against them and produce them before a court of law;
 - to stop using civilian auxiliaries of the AFP in the fight against so called "terrorism", and as a minimum and immediate step, to ensure that these auxiliaries are properly trained in the field of human rights and prevention of torture;
 - to criminalise torture in domestic legislation in accordance with Article 4 of CAT;
 - to ratify the International Criminal Court so as to broaden the avenues of redress for victims of gross human rights violations;
 - to investigate, as pursuant to the Melo Commission's recommendations, the allegations of human rights violations of former Gen. Jovito Palparan, Jr., starting with the decision on the case of the Manalo brothers;
 - to investigate human rights violations by non-State actors and to prosecute them in full respect of the fair trial guarantees;
 - to extend a permanent invitation to the UN special procedures, and invite in particular the UN Special Rapporteur on Torture, the UN Special Rapporteur on the Promotion and Protection of Human Rights while Countering Terrorism, the UN Working Group on Enforced and Involuntary Disappearances, as well as the UN Working Group on Arbitrary Detention.
11. **Call on non-State actors** to cease and to desist further perpetration of human rights

12. **Provide the national and international media** regular and sustained information of the state of fundamental freedoms, democracy and human rights in the Philippines given through the CSOs.
13. **Call attention of appropriate international bodies** regarding the human rights implementa-

tion of the Philippine government of its State obligations in the spirit of concern for our common humanity and towards realizing, according to the theme of the 60th anniversary of the Universal Declaration on Human Rights, dignity and justice for all of us.

Perspektiven aus der zivilgesellschaftlichen Menschenrechtsarbeit

Zusammenfassung der Präsentation von Max M. de Mesa, Vorsitzender der Menschenrechtsorganisation PAHRA

Das Ausmaß der Straflosigkeit in den Philippinen läßt sich kaum überblicken und Fallbeispiele wie der Fall der Man-lao Brüder sind nur die Spitze des Eisbergs.

Die beiden Brüder galten für 18 Monate als vermisst. Nach ihrer Flucht im August 2007 berichteten sie von ständigen Folterungen am eigenen Leib sowie über Folterungen und außergerichtlichen Tötungen anderer Inhaftierten. Die Schilderungen der beiden Brüder lassen das tatsächliche Ausmaß gravierender Menschenrechtsverletzungen insbesondere von außergerichtlichen Tötungen, willkürlichen Verschwindenlassen und Folter erahnen.

Die Philippinen sind Unterzeichner vieler internationaler Menschenrechtsabkommen und deren Prinzipien lassen sich auch in der Verfassung von 1987 wiederfinden. Dennoch stehen bis heute der Umsetzung wichtiger Grundrechte zahlreiche Hindernisse entgegen. So ist z.B. das Recht auf Information, unterteilt in das a) Recht auf Wahrheit, b) Pflicht zur Erinnerung, c) Recht auf Information des Opfers und d) Garantien zur Ausführung dieser Rechte. Diese Grundrechte werden jedoch durch Exekutivorder und Gesetze der Arroyo Administration behindert (Max de Mesa

nennt hier unter anderen die E.O. 464, Memorandum 108 und die A.O. 197).

Der Länderbericht während der UPR der Philippinen vor dem UN Menschenrechtsrat in Genf verwies auf die Berichte des UN SR Philip Alston und der Melo Kommission, mit dem Ziel deutlich zu machen, dass den außergerichtlichen Tötungen keine staatlich geduldete Strategie zu Grunde lege. Nicht genannt

wurde hingegen, dass sowohl Philip Alston als auch die Melo Kommission dem Militär Mittäterschaft in vielen der Fälle von außergeordentlichen Tötungen und Verschwundenen vorwarfen. Verleumdungskampagnen von regionalen Militäreinheiten brandmarken

zivilgesellschaftliche Gruppen und Organisationen als "Staatsfeinde" und führen in sogenannten "Order of Battle" Namen politischer Gegner, deren "Neutralisierung" befohlen wird. Dies deutet auf eine klare politische Strategie hin, der Mitglieder verschiedener gesellschaftspolitisch engagierter Organisationen und Personen schon zahlreich zum Opfer gefallen sind.



Bisher fehlt der politische Wille, unterzeichnete und bereits ratifizierte Abkommen umzusetzen.

Hermogenes Esperon, damaliger Oberbefehlshaber der AFP, sagte noch im Februar 2008, dass die AFP die Gewalt, die für die amtierende politische Macht gegenüber dem Volk Partei ergreift. Dies betonte noch einmal die Rolle des Militärs in der derzeitigen Menschenrechtssituation, so de Mesa.

Auch nach dem Besuch des UN SR Philip Alston ist ein Fortschritt im Kampf gegen außergerichtliche Tötungen in hohem Maße von grundlegenden Reformen und der Depolitisierung des Militärs abhängig.

Max de Mesa nennt daran anschließend einige Strategien und Herausforderungen, die sich zivilgesellschaftlichen Organisationen währenddessen nicht nur im Bezug auf politische und bürgerliche Rechte, sondern insbesondere auch hinsichtlich wirtschaftlicher, sozialer und kultureller Rechte stellen. Unter seinen Empfehlungen an die internationale Gemeinschaft finden sich Forderungen nach der Unterstützung zivilgesellschaftlicher Arbeit in professioneller, technischer und finanzieller Hinsicht, insbesondere durch Förderung von lokalen Gemeinden, Anwälten und zivilgesellschaftlicher Dokumentation vermisster Personen, die Förderung der Unterstützung von Zusammenarbeit internationaler und lokaler Menschenrechtsorganisationen, sowie die Etablierung unabhängiger Beobachtungsinstrumente. Ebenfalls könnte die Vermittlung durch staatliche europäische Akteure die Aufklärung von Fällen gravierender Menschenrechtsverletzungen zwischen der philippinischen Regierung einerseits und zivilgesellschaftlichen Organisationen andererseits erleichtern.

Desweiteren sollte Druck auf die philippinische Regierung darauf hinwirken, die Freilassung aller willkürlich Inhaftierten zu bewirken und die Abschaffung paramilitärischer Einheiten zu erreichen. Ebenfalls sollte Druck ausgeübt werden um die Kriminalisierung der Folter durchzusetzen, die Regierung zur Ratifizierung des Internationalen Strafgerichtshofes zu bewegen, Untersuchungen gegen den berüchtigten Gen. Jovito Palparan einzuleiten, sowie verschiedenen UN Sonderberichterstatteern eine Einladung auszusprechen. Darüberhinaus müssen auch nichtstaatliche Gewaltakteure zur Verantwortung für Menschenrechtsverletzungen gezogen werden.

Extrajudicial Executions and Enforced Disappearances - A challenge to the constitutional Jurisdiction of the Philippine Judiciary

By Consuelo Ynares-Santiago*

* Associate Justice of the Supreme Court of the Philippines

At the outset, let me thank the Germany-based *Action Network Human Rights – Philippines* for two important reasons: first, for inviting the Philippine Supreme Court to this conference on *Political Killings and the Rule of Law – the Philippine Example*, the first of its kind in continental Europe, which gives us an opportunity to present the initiatives the Philippine High Court has taken to protect and defend human rights, and thereby also to find out if there are still other steps we can take towards this direction; and second, for taking an interest in the deteriorating human rights situation in our country and for searching for solutions to abate it.

The Judiciary has always been looked upon as the last bulwark of constitutional rights and liberties.¹ However, traditionally it has also been the most passive of the three branches of government, acting only on cases and controversies brought before it for adjudication. It therefore came as a surprise to many observers, both national and international, that the Philippine Supreme Court has taken an active (or, as some would say, activist) role in addressing the alarming rise of extralegal killings and enforced disappearances of political activists, journalists, and judges in the Philippines.

Our judiciary must be understood in the light of its role in our constitutional scheme and democracy. The very first section of the article on the judiciary of the 1987 Constitution, Article VIII, provides –

Section 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on



the part of any branch or instrumentality of the government.

“Judicial power” has been defined as “the right to determine actual controversies arising between adverse litigants, duly instituted in courts of proper jurisdiction.”² Thus, courts can only exercise its judicial power when real parties come to court to litigate their adverse claims. It is only in those instances when courts “speak” through its written decisions. The principal function thus of the Philippine courts, composed of, among others, the Supreme Court, the Court of Appeals, and the lower trial courts, is to decide actual controversies or cases brought before them by adverse litigants. This is also the traditional duty of courts in democratic countries all over the world.

Our 1987 Constitution, however, also gave our Supreme Court the extra power to promulgate rules to protect the constitutional rights of our

¹ Bernas, Joaquin G., S.J.; *The 1987 Constitution of the Republic of the Philippines: A Commentary*, 2003 ed., p. 915.

² *Muskrat v. United States*, 219 U.S. 346 (1911).

people. This rule-making power, unique to the present Constitution, is the result of our experience under the dark years of the martial law regime during the 1970s and the 1980s, and was brought to force to complement the awesome power of Congress to make laws. Herefore, the protection of constitutional rights was principally lodged with Congress through the enactment of laws and their implementing rules and regulations. Historically, it is the parliament which protects the rights of the people through its lawmaking power. The 1987 Constitution however allowed the Supreme Court to share in the exercise of this. Thus, under Section 5, Article VIII, the Supreme Court was accorded the power to “[p]romulgate rules concerning the protection and enforcement of constitutional rights.”

In addition, under Section 6 of the same Article, “[t]he Supreme Court shall have administrative supervision over all courts and personnel thereof.”

Interventions of the Philippine Supreme Court

Administrative Order No. 25-2007:

“Designation of Special Courts to Hear, Try, and Decide Cases Involving Killings of Political Activists and Members of Media”

In the wake of a disturbing wave of unexplained killings of civilian activists and media personnel, and to put an end to these, which have been stalking our legal landscape, our Supreme Court issued on 1 March 2007 Administrative Order No. 25-2007, designating 99 regional trial courts across the country to “specially and preferentially” hear, try, and decide cases involving extralegal killings and enforced disappearances. 23 RTCs have been designated in the National Capital Judicial Region or in the metropolis, while 76 in the remaining 12 Judicial Regions or the suburbs. These special courts were ordered to conduct mandatory continuous trial for at most 60 days, after which judgment should be rendered within 30 days.

For two months, these special courts were waiting but hardly any petitions were filed. A look at the numbers of the human rights groups would put the incidents of extralegal killings and enforced disappearances close to 900, while the tally of the Department of National Defense, the AFP, and PNP would be close to 200. Still, monitored cases actually filed in our courts nationwide would only sum up to 45. Many reasons were given: lack of witnesses, failure to investigate, loss of trust and confidence in the court system, etc. All told, our judges cannot

actively prosecute cases. Our courts can only provide for the venue for the redress of grievances.

Summit on Extrajudicial Killings and Enforced Disappearances – Searching for Solutions

Philippine Chief Justice Reynato S. Puno first broached of the idea of reexamining Philippine legal procedures and strengthening the role of the judiciary in solving the worsening problem of killings during a talk with journalists in Hong Kong on 7 June 2007, on the sidelines of the 12th Conference of Chief Justices of Asia and the Pacific. He has taken an active stance in combating extrajudicial killings and enforced disappearances because they are “an affront to the judicial system” and the most basic of our rights -- the right to life, liberty and security.

Thus, a month later, the Supreme Court hosted the *National Consultative Summit on Extrajudicial Killings and Enforced Disappearances – Searching for Solutions*. Around 400 delegates representing the three branches of government, including nearly every high-ranking government bureaucrat and official, human rights organizations, the military and the police, civil society, the media, the academe, the religious sector and the international community, attended the two-day event. During the event, the Philippine Chief Justice declared that –

“If there are compelling reasons for this summit, one of them is to prevent losing eye contact with these killings and disappearances, revive our righteous indignation, and spur our united search for the elusive solution to this pestering problem.”

The Rule on the Writ of Amparo

One of the proposals gathered in the *Summit* was the adoption by the High Court of the *Writ of Amparo*. Equipped with the power to promulgate rules to protect and enforce rights guaranteed by the fundamental law, which power lay in deep hibernation for two decades, the Supreme Court *en banc*, in just two months, promulgated and approved on 25 September 2007 the Rule on the Writ of Amparo which took effect on 24 October 2007. Chief Justice Puno believes that so far, “the Writ of Amparo is the greatest legal weapon to protect the constitutional rights of our people,” and thus is

“the judiciary’s humble offering to the altar of human rights in the Philippines.”

During the dark days of martial law, the favorite remedy of those detained was the petition for the *writ of habeas corpus*. No less than the 1987 Constitution has acknowledged this then great *writ* by citing it in no less than three instances. Unfortunately, two decades after the ratification of the 1987 Constitution, the *writ of habeas corpus* has proven to be insufficient in not a few instances. All the respondent has to do is simply deny knowledge, if not actual custody, of the missing person, and the petition, more often than not is dismissed.

On the other hand, the *Writ of Amparo* denies to the authorities the defense of simple denial and holds them to a high standard of official conduct, failing which they shall be held accountable.

The petition for a *Writ of Amparo* which originated in Mexico is a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity.³ To avail of this extraordinary remedy, the petitioner is exempted from paying docket fees.⁴

Aware of the urgency of the situation and the necessity to act with dispatch, the Supreme Court directed the court, justice or judge to whom the case is raffled or assigned to docket the petition and act upon it immediately.⁵ The petition may be filed at any day and at any time⁶ with any of the 800 RTCs across the country, the *Sandiganbayan*, the Court of Appeals with stations in Manila, Cebu and Cagayan de Oro, and the Supreme Court, or any judge or justice of such courts,⁷ and the *writ* shall be enforceable anywhere in the Philippines.⁸ Consequently, the designation of the 99 special courts to resolve extrajudicial killings was already withdrawn,⁹ as now more than 800 courts have jurisdiction.

The Rule on the Writ of Habeas Data

³ Section 1, Rule on the Writ of Amparo

⁴ Section 4, Rule on the Writ of Amparo

⁵ Ibid.

⁶ Section 3, Rule on the Writ of Amparo

⁷ Ibid.

⁸ Ibid.

⁹ Administrative Order No. 150-2007, 4 October 2007.

Just recently, on 22 January 2008, the Supreme Court promulgated the Rule on *Habeas Data*.¹⁰ It is the latest legal mechanism implemented both as an independent remedy to enforce the right to informational privacy and the complementary “right to truth” as well as an additional remedy to protect the right to life, liberty, or security of a person. Section 1 of the Rule provides that the Writ of Habeas Data is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting or storing of data or information regarding the person, family, home and correspondence of the aggrieved party.

Tracing its roots to the Council of Europe’s 108th Convention on Data Protection of 1981, which was convened to develop safeguards to secure the privacy of the individual by way of regulating the processing of personal information or data, the *Writ of Habeas Data* has been described as “a procedure designed to safeguard individual freedom from abuse in the information age.”¹¹ It compels government and military officials to allow families of victims of enforced disappearances access to official documents by invoking “the right to truth.” It has been used in solving the problem of extralegal killings and enforced disappearances in Latin American countries under military dictatorships and has become “an excellent human rights tool mostly in the countries that are recovering from military dictatorships.”¹²

Seminar-Workshops, Lectures, Trainings, and Other Forms of Information Dissemination

To ensure that the public is aware of the new initiatives, the High Court, on its own, and through the Philippine Judicial Academy, has intensified its efforts to equip judges with the necessary knowledge and skills to properly address the issue of extrajudicial killings and

¹⁰ A.M. No. 08-1-16-SC.

¹¹ Falcon, E., *Habeas Data: Concepto y Procedimiento* 23 (1996) (translation provided).

¹² Guadamuz, A., *Habeas Data and the European Data Protection Directive*, *The Journal of Information, Law and Technology* (2001), n.43.

enforced disappearances by continuously conducting seminar-workshops, including videoconferences for judges outside the National Capital Judicial Region. The justices themselves have conducted lectures on the new rules. Chief Justice Puno has given a series of lectures for judges, court personnel, trial lawyers, police and other stakeholders in various venues across the country. Lectures were also held for the officers and personnel of the Department of National Defense, AFP, the PNP, and the Commission on Human Rights. Human rights organizations likewise provided venues for the *writs of amparo* and *habeas data*.

Presently, the Philippine Judicial Academy, in partnership with the Philippine Commission on Human Rights and the Australian Agency for International Development, is conducting a series of *Multi-Sectoral and Skills Building Seminar Workshop on Extrajudicial Killings and Enforced Disappearances*. The seminar-workshop is designed "to address the need of judges and other stakeholders in the criminal justice system in identified hotspot areas to properly address the spate of extrajudicial killings and enforced disappearances."

Implementation of the New Remedies and Challenges Thereon

We have identified some of the problems: lack of competent investigators, deficient evidence-gathering techniques and equipment, insufficient prosecutors and lawyers of the Public Attorney's Office, reluctance of families of the victims and witnesses to report the commission of a crime and testify in court, failure of some courts to conduct continuous trial, limitations of the Rules of Court, difficult balance between due process and expeditious justice, lack of funding and incomplete implementation of the Witness Protection Program, if not the deficiencies of the Program itself, and the sheer poverty of the victims in some cases.

The justices and judges who have decided cases involving the *Writ of Amparo* have also encountered a number of challenges. Since cases involving the *Writ of Amparo* should be decided in the course of 10 days, justices are hard-pressed for time. And since it is a new remedy in our jurisdiction, there is no precedent or jurisprudence which may be cited in deciding the cases speedily. Moreover, some petitioners file a case for the writ even if it is not the proper remedy which adds to the workload of the judges.

But while the institutional and systemic problems remain, the results are still quite encouraging, to say the least. On 7 November 2007, just two weeks after it took effect on 24 October 2007, the *Writ of Amparo* fulfilled its promise with the release of a youth and religious leader taken by the military on the very day the rule on the *Writ of Amparo* took effect. Ruel Muñasque, 33 years old, a leader of the Christian Youth Fellowship of the United Church of Christ in the Philippines (UCCP) and a member of a nationalist organization *Bayan Muna*, was released and reunited with his family upon the order of the Regional Trial Court of Pagadian City, Zamboanga del Sur, Br. 18. This is the first known successful *amparo* petition.

Then, on the very day that Ruel was released, the family of one Luisito Bustamante filed a petition for *amparo* before the Regional Trial Court of Davao City for the release of Luisito who was accosted by the military and held at its checkpoint on suspicion that he was a communist rebel. His release, the second successful incident of the *writ*, was ordered by the trial court last 14 November 2007.

As of 15 April 2008, a total of 31 petitions for the *Writ of Amparo* have been filed. Out of the 31 petitions, 14 have been decided: 5 were granted, while 9 were either dismissed or withdrawn.

A few more cases figure prominently. In *Robinos v. Macapagal-Arroyo*,¹³ the Court of Appeals on 29 November 2007 ordered the respondents to desist or refrain from communicating or committing any act which would violate the right to life of petitioners. Further, the appellate court ordered the inspection of military camps and the production of relevant documents.

In *Manalo v. Secretary of National Defense*,¹⁴ where the Manalo brothers escaped from the military custody after more than a year and a half in captivity, the Court of Appeals on 26 December 2007 ordered the Defense Secretary and AFP Chief of Staff to furnish relevant documents as well as pinpoint the location where the Manalo brothers were detained.

¹³ CA-G.R. WRA. No. 00004, 29 November 2007.

¹⁴ CA-G.R. No. 00001, 26 December 2007

And, in *Tagitis v. Lt. Gen. Yano*,¹⁵ the Court on 7 March 2008, ordered the respondents to exert extraordinary diligence and efforts, not only to protect the life, liberty and security of the petitioner's subject, but also to extend the privileges of the *Writ of Amparo* to his family, and to submit a monthly report of their actions to the Court.

On the other hand, the nine dismissed cases appear to have been terminated for justifiable reasons. In two cases,¹⁶ the subjects themselves denied enforced disappearances and the existence of a threat or torture to their persons. In another case,¹⁷ the petition was withdrawn on motion of the petitioner on the ground that the subject was facing charges before the lower court and the only obstacle to his being transferred to the proper authorities to stand trial was the pendency of the petition. And in six cases,¹⁸ the court found that the petition for the issuance of the *Writ of Amparo* was not the appropriate remedy. However, the dismissal of these cases does not mean that the subjects' rights were not protected.

In the case of *Malapote v. Lt. Col. Tello*¹⁹ which the Court of Appeals decided on 29 November 2007, petitioner Malapote was released from Camp General Santos, Calauag, Quezon even before the case was submitted for decision. Hence, the petition was declared moot and academic. Though the proceedings were terminated, Malapote's right to life and liberty was effectively upheld.

Also in *Ortiz v. Lt. Col. Tello*²⁰, the Court of Appeals declared the petition moot and academic and terminated the proceedings on 23 November 2007. Despite the termination of the case, Lt. Col. Tello publicly disclosed that the petitioners were not detained against their will but were actually the ones who sought the protective custody of the military. He further said that he had no objection at all to the release of the petitioners to their parents.

With regard the petition for *habeas data*, three petitions have so far been recorded and are still pending before our courts.

These numbers show us two things: first is the people's increased awareness and understanding of the remedies that have been made available to them; second is their restored faith in our judicial institution and the justice system as a whole.

Less quantifiable, but an equally important sequel is the heightened consciousness of our people on the sanctity of human rights, particularly on the part of our law enforcers and state agents. I understand that there have been marked changes in the way our field commanders conduct their operations, now with extra keenness on the observance of human rights.

In fine, just last February, the European Union (EU), during the two-day 2008 Philippine Development Forum in Clark Field, Pampanga, lauded the "significant decrease" in the cases of unexplained killings and enforced disappearances in the Philippines in recent months.

Other Recommendations from the Summit

The summit, in the words of Chief Justice Puno, "has resulted in a bountiful harvest of recommendations."²¹ Recommendation given by both Filipino and foreign speakers are the passage of a law punishing superior officers for the acts of subordinate members or other persons subject to their control under the principle of command responsibility. Thus, shortly after the summit, a Philippine Senator introduced a bill entitled the Command Responsibility Act of 2007.²² The bill adopts section 28 of the Rome Statute of the International Criminal Court, which articulates the doctrine of command responsibility. In addition, the bill enumerates circumstances in which a presumption of knowledge arises against a government official or superior for crimes committed by his or her subordinates.

¹⁵ CA-G.R. No. 00009, 7 March 2008

¹⁶ *Ortiz v. Lt. Col. Tello*, 27 November 2007; *Malapote v. Lt. Col. Tello*, 29 November 2007

¹⁷ *Pernia v. Maj. Gen. Bangit*, 18 March 2008

¹⁸ *Rev. Fr. Cadiz v. Gadduang*, 5 March 2008; *Judge Floro, Jr. v. Judge Pinero-Cruz*, 4 March 2008; *Funcion, Sr. v. Judge Bacilig*, 18 February 2008; *Leong v. DOJ*, 12 March 2008; *McCord v. DOJ*, 17 March 2008; *Rev. Fr. Reyes v. Gonzales*, 4 February 2008.

¹⁹ CA-G.R. WRA-00006, 29 November 2007.

²⁰ CA-G.R. SP-00005, 27 November 2007.

²¹ Message from Chief Justice Reynato S. Puno, *A Conspiracy of Hope. Report on the National Consultative Summit on the Extra-Judicial Killings and Enforced Disappearances-Searching for Solutions*, page i

²² Senate bill No. 1427, Command Responsibility Act of 2007, Sec. 7

There are many other recommendations that were given during the Summit. For the executive it was suggested, among others, that first the government should resume the peace process and have a ceasefire for three years; and second, the President should certify for the Philippine Senate to ratify a number of international agreements, including the Rome Statute and Protocol to the Convention Against Enforced Disappearance.²³

Aside from a law enforcing the doctrine of command responsibility, there were also recommendations for the legislature to give more teeth to the CHRP by a law giving it the power to investigate and prosecute cases involving extralegal killings and enforced disappearances, and for the offense of torture to be recognized in conjunction with the International Convention against Torture.²⁴

As for civil society, there were recommendations for the conduct of safety, security, and ethics training for the media. There was also a recommendation for the establishment of a credible, multi-sectoral group to monitor cases of, and to serve as a forum for, extralegal killings and enforced disappearances.²⁵

Epilogue

The efforts of the Philippine Judiciary have not gone unnoticed. Former Senator Wigberto Tañada, a leading defender of human rights has observed that

²³ A Conspiracy of Hope: Report on the National Consultative Summit on Extrajudicial Killings and Enforced Disappearances 18 (2007)

²⁴ *Id.*, at 20.

²⁵ *Id.*

“[t]he Supreme Court has recently been viewed as the staunchest advocate for human rights in our country among the three branches of government.” On 11 April 2008, during the Universal Periodic Review by the United Nations Human Rights Council in Geneva, Switzerland, the Supreme Court was lauded as the *Writ of Amparo* was considered “a very important development.” Just recently, on 18 April 2008, Mr. Deepak Obhrai, Parliamentary Secretary to the Minister of Foreign Affairs, in a statement in the Canadian House of Commons commended “the laudable role of the Supreme Court in the preservation of human rights and in the pursuit of justice.”

These successes, however, are but initial steps. Justice remains the best deterrent: only when the liable are made to account for their actions can we say that we have genuinely posted a solution to this plague. And this goal of punishing the guilty requires even more efforts, and from all sectors in the criminal justice system.

And as long as we continue to hear or read reports of summary executions and abductions, we in the justice sector- the police and the military, the prosecution, the courts, and the penal institutions – together with the victims, their families, and human rights advocates should continue to coordinate and cooperate with each other, for only through our collective efforts will we see the light in our quest for justice and peace.

Außergerichtliche Tötungen und Verschwindenlassen: Eine Herausforderung an die Gerichtsbarkeit der philippinischen Justiz

Zusammenfassung der Präsentation von Consuelo Ynares-Santiago, Richterin am Obersten Gerichtshofes der Philippinen.

Richterin Consuelo Ynares-Santiago stellte zunächst Schritte vor, die vom Obersten Gerichtshof im Hinblick auf die Menschenrechtssituation in den Philippinen unternommen worden sind. Anschließend ging sie auf weitere Herausforderungen und Empfehlungen ein.

Das philippinische Justizwesen galt lange Zeit als die passivste der drei Staatsgewalten, deren Rolle in der demokratischen Struktur der Verfassung von 1987 definiert wurde. Die Funktion ist der, in anderen demokratischen Staaten rund um den Globus sehr ähnlich. Die zentrale Aufgabe des Justizwesens und insbesondere des Ober-

sten Gerichtshofes ist es, über Fälle zu entscheiden, Gesetzesinitiativen einzuleiten und bestehende Gesetze öffentlich zu machen.

Unter den Interventionen des Obersten Gerichtshofes in Bezug auf die Welle unerklärter Morde ist unter anderem der Verwaltungsbeschluss A.O. No. 25 zu finden. Hiernach wurden im März 2007 99 Gerichte erster Instanz als sogenannte „spezielle Gerichtshöfe“ dazu bestimmt, Fälle von außergerichtlichen Tötungen und Verschwindenlassen anzuhören, zu verhandeln und zu entscheiden.

Während unterschiedliche Zählungen von insgesamt 200 bis fast 900 Opfern außergerichtlicher Tötungen ausgehen, wurden landesweit nur insgesamt 45 Fälle vor Gericht gebracht..

Gründe für diese geringe Zahl seien unter anderem fehlende Zeugen, Versagen der Untersuchungen und mangelndes Vertrauen in das Justizwesen. Während der Oberste Gerichtshof einen Raum zur Anklage schaffen kann, so bleibt es ihm versagt eigenständig Fälle aktiv zu verfolgen.

Ein weiterer vom Obersten Gerichtshof unternommene Schritt war der vom Vorsitzenden Richter Reynato S. Puno 2007 einberufene „National Consultive Summit on Extrajudicial Killings and Enforced Disappearances“. An diesem Gipfeltreffen nahmen sowohl Repräsentanten der Regierung, des Militär und der Polizei als auch VertreterInnen der Zivilgesellschaft, Medien, Wissenschaft, der verschiedenen Religionsgemeinschaften und der internationalen Gemeinschaft Teil. Es diente der Beratung über die außergerichtlichen Tötungen und Verschwindenlassen.

Ein Resultat des Gipfeltreffens war der „Writ of Amparo“, der am 24. Oktober 2007 in Kraft trat. Dieser Schutzerlass wird von dem Präsident des Obersten Gerichtshofes, Reynato Puno als die stärkste rechtliche Waffe zum Schutz von Grundrechten bezeichnet.

Anders als der „Writ of Habeas Corpus“ verpflichtet der Writ of Amparo die Behörden zur Auskunft und kann sie gegebenenfalls zur Rechenschaft ziehen. Der Schutzerlass fordert damit die Gerichte zu umgehendem Handeln und Sicherheitskräfte zur Rechenschaft über den Verbleib der benannten Personen, auf.

Ein zusätzliches rechtliches Mittel, der „Writ of Habeas Data“ wurde am 22. Januar 2008 eingeführt. Dieser Schutzerlass soll zwei weitere Funktionen erfüllen:

1. Durchsetzung des Rechts auf Privatsphäre und des Rechts auf Wahrheit.
2. Schutz für das Recht auf Leben, Freiheit und Sicherheit.

Somit sollen Regierungs- und Militärbeamte dazu gezwungen werden, Familien von Verschwundenen Zugang zu offiziellen Dokumenten zu ermöglichen.

Zusätzlich sollen Anwälte und Richter sowie Militärs und Polizei durch vom Obersten Gerichtshofes eingeleitete Trainings und Seminare mit neuen und vorhandenen Gesetzen vertraut gemacht und zur Umsetzung angeleitet werden.

Trotz dieser einzelnen Schritte und Initiativen bleiben Herausforderungen. Die Sammlung von Beweisen, das Widerstreben von Opferfamilien und Zeugen vor Gericht auszusagen, die mangelhafte Durchführung und der Abbruch von Gerichtsverfahren nannte Ynares-Santiago an

dieser Stelle. Auch sei es schwierig, die Balance zwischen ordentlichem Gerichtsverfahren und umgehender Rechtsprechung zu finden, finanzielle Mittel seien oft unzureichend, das Zeugenschutzprogramm nur mangelhaft umgesetzt und in vielen Fällen stünde den Opfern ihre schiere Armut im Wege.

Institutionelle und systematische Probleme schmälern jedoch nicht die ersten Erfolge des Writ of Amparo. So konnte im November 2007 die Freiheit zweier junger Männer nach ihrer Entführung durch das Militär erzwungen werden.

Bis zum 15. April 2008 erreichten die Gerichte 31 Petitionen für den Writ of Amparo. 14 seien bisher entschieden, d.h. in fünf Fällen wurde der Schutz gewährt und in neun abgelehnt oder zurückgezogene. Unter dem Writ of Habeas Corpus bleiben hingegen bisher alle drei bis dato verzeichneten Petitionen anhängig.

Im Allgemeinen wiesen diese Zahlen auf ein erhöhtes Bewusstsein und Verständnis für die bestehenden Rechtsmittel, sowie auf gewachsenes Vertrauen in das rechtstaatliche System hin.

Weiter bestehe jedoch Handlungsbedarf, die

1. Kommandoverantwortung zu institutionalisieren,
2. die Friedensverhandlungen zwischen der NDF/CPP und der Regierung wiederaufzunehmen,
3. ausstehende internationale Abkommen, wie z.B. das Römische Statut des Internationalen Strafgerichtshofes (ICC) sowie das „Internationale Übereinkommen über den Schutz aller Personen gegen das Verschwindenlassen“ zu ratifizieren und
4. die staatliche Menschenrechtskommission mit einem erweiterten Mandat zur Untersuchung und Verfolgungen von Menschenrechtsverletzungen zu stärken.

Die hier aufgezeigten Initiativen des Obersten Gerichtshofes bleiben erste Schritte, die im weiteren Verlauf daran zu messen sind, ob Verantwortliche für Menschenrechtsverletzungen zur Rechenschaft gezogen werden. Gemeinsame Bemühungen sind notwendig, um Fortschritte für Gerechtigkeit und Frieden zu erzielen.

Straflosigkeit im rechtsstaatlichen Raum: Macht und politischer Wille

Von Günter Nooke*

* Beauftragter der Bundesregierung für Menschenrechtspolitik und Humanitäre Hilfe

Kein anderer Staat Südostasiens teilt unsere Grundwerte in so hohem Maß wie die Philippinen. Demokratie, Parlamentarismus und bürgerliche Rechte wie Meinungs- und Pressefreiheit sind im Allgemeinen in den Philippinen weiter entwickelt als in anderen ASEAN-Mitgliedsstaaten. Auch die Abschaffung der Todesstrafe 2006 ist ausdrücklich zu begrüßen.

Ebenso erfreulich ist, dass die Philippinen auch regional innerhalb der ASEAN-Staatengemeinschaft eine Vorreiterrolle für Menschenrechte einnehmen. Dies zeigt auch das Engagement der Philippinen für die Schaffung eines ASEAN-Menschenrechtsmechanismus. Die Bundesregierung erkennt diese positive Rolle ausdrücklich an.

In scharfem und beklemmendem Widerspruch zu dieser Vorreiterrolle steht jedoch die große Zahl unaufgeklärter, politisch motivierter Morde. Insbesondere Medienvertreter und politische Aktivisten wurden Opfer dieser Morde, die auch als „extrajudicial killings“ („extralegale Tötungen“) bezeichnet werden.

Ein kardinales Problem stellt unverändert der Umstand dar, dass sich bis heute keine Täter oder Drahtzieher extralegaler Tötungen vor Gericht verantworten mussten, geschweige denn verurteilt worden wären. Vor allem der Bericht des VN-Sonderberichterstatters Alston hat die „Kultur der Straflosigkeit“ in den philippinischen Sicherheitsorganen scharf kritisiert.

Bei meiner Reise in die Philippinen im Februar dieses Jahres waren die extralegalen Tötungen deshalb auch zentrales Gesprächsthema. Ich habe dem zuständigen Staatssekretär im Außenministerium nach der Reise eine Liste mit uns zugetragenen Fällen schriftlich übermittelt.

Positiv ist: Die philippinische Regierung scheint das Problem erkannt zu haben und unternimmt seit einiger Zeit Anstrengungen, um des Problems Herr zu werden. So wurden seit 2006 verschiedene Sonderinstitutionen eingerichtet und ein fundierter Bericht, der sogenannte Melo-Bericht, vorgelegt. Auch dieser Bericht macht die philippinischen Streitkräfte für viele Morde zumindest



mitverantwortlich. Dazu kann sicherlich Bischof Juan de Dios Pueblos als ehemaliges Mitglied der Melo-Kommission mehr berichten.

Eine wichtige Verbesserung war die am 24. Oktober 2007 in Kraft getretene Verordnung zum „Writ of Amparo“ („Schutzverfügung“), die der Oberste Gerichtshof der Philippinen als außerordentlichen Rechtsbehelf in Ergänzung des Philippine Habeas Corpus erlassen hat. Diese Verfügung erlegt den staatlichen Organen eine aktive Nachweispflicht auf, wenn Verdachtsmomente vorliegen, dass Sie eine verschwundene Person in ihrem Gewahrsam haben. Das Zeugnisverweigerungsrecht der Behörden, von dem bisher vor allem die Streitkräfte extensiven Gebrauch gemacht haben, wird so ausdrücklich ausgeschlossen. In Anwesenheit von Frau Richterin Consuelo Ynares-Santiago möchte ich meine Wertschätzung für diese, die Grundrechte der Bürgerinnen und Bürger schützende Rechtsprechung des philippinischen Verfassungsgerichts ausdrücken.

Sehr erfreulich aus Perspektive der Bundesregierung auch, dass die Fälle von „extrajudicial killings“ in den letzten Monaten zurückgegangen sind. Hierzu haben die erhöhte Aufmerksamkeit

sowohl der Internationalen Gemeinschaft als auch innerhalb der Philippinen sicherlich entscheidend beigetragen. Gleichzeitig bestärkt es uns, diese zentrale Problematik mit unverminderter Aufmerksamkeit weiterzuverfolgen und in unseren Kontakten zu thematisieren.

Allerdings darf nicht übersehen werden, dass sich weiterhin kein Täter vor Gericht verantworten musste. Dies aber wäre wichtig, um Gerechtigkeit zu schaffen und präventive Wirkung für die Zukunft zu entfalten. Deshalb möchten wir die Bemühungen der philippinischen Regierung in diesem Bereich unterstützen.

Einen wichtigen Beitrag hierzu soll die „EU Needs Assessment Mission“ leisten. Zu diesem Zweck reisten im vergangenen Juni Spezialisten aus der EU in die Philippinen, darunter auch ein Angehöriger des Auswärtigen Amts.

Das Team griff insbesondere die Schwächen des Justizsystems auf, darunter die weit verbreitete Straffreiheit in den Rängen des Militärs sowie das Fehlen eines leistungsfähigen Zeugenschutzprogramms, und machten umfangreiche Vorschläge für Unterstützungsmaßnahmen durch die EU.

Ich freue mich, dass der im Oktober 2007 vorgelegte Bericht nun am 4. April 2008 in einer gemeinsamen Pressekonferenz in Manila vorgestellt werden konnte. Der nächste Schritt in diesem Prozess wird die Entsendung einer Vorabmission sein, die noch in diesem Monat aufbrechen soll.

Auf Grundlage der Ergebnisse dieser Mission sollen ab September Trainingsmaßnahmen für die philippinischen Justizbehörden, insbesondere Richter und Staatsanwälte, durchgeführt werden. Dieses Maßnahmenpaket wird unter dem Begriff European Union Justice Assistance Mission for the Philippines – kurz: EUJAMP – zusammengefasst und ist auf etwa eineinhalb Jahre angelegt. Die EU-Kommission wird diese Maßnahme mit Mitteln in Höhe von 3 Millionen Euro unterstützen. Wir werden uns bemühen, dass auch ein deutscher Rechtsexperte an der Mission mitwirkt.

Auch im Menschenrechtsrat der Vereinten Nationen wurde die philippinische Menschenrechtssituation kürzlich im Rahmen des ersten Runde der „Universal Periodic Review“ (UPR) diskutiert. Als zugelostes Mitglied der berichterstattenden Troika erlebte Deutschland den Dialog mit den Philippinen in diesem Verfahren als offen und kooperativ. Positiv empfand ich während meiner Reise, dass das Bewusstsein für das Instrument

des UPR in der philippinischen Zivilgesellschaft weit verbreitet war.

Während der Anhörung übernahm die philippinische Regierung vier Verpflichtungen in folgenden Bereichen: Kinder und Frauen, Morde an Menschenrechtsverteidigern und Journalisten sowie Wohlfahrt für Arme. Zudem unterzeichnete die philippinische Präsidentin am 22.4.2008 das Zusatzprotokoll zur Anti-Folter-Konvention der VN. Diese Fortschritte sind zu begrüßen (red. Anmerkung s. Fußnote 1).

Im Rahmen der UPR richteten einzelne Staatenvertreter 17 Empfehlungen an die Philippinen. Zu diesen werden sich die Philippinen bis zur Sitzung des Menschenrechtsrates im Juni 2008 schriftlich äußern - ergänzend zu den bereits während der Sitzung eingegangenen Verpflichtungen. Wir hoffen, dass sich die Philippinische Regierung von diesen Empfehlungen möglichst viele zu eigen macht. Die Philippinen könnten als einer der ersten ASEAN Staaten im UPR damit auch hier eine Vorreiterrolle übernehmen.

Der weitgehend positive Verlauf des UPR sollte von den Philippinen als Ermutigung betrachtet werden, allein wie auch in Zusammenarbeit mit Partnern die Menschenrechtslage zu verbessern. Weitere Anstrengungen sind notwendig, um beispielsweise die Empfehlungen des Alston-Berichts umzusetzen und so dem Problem der extralegalen Tötungen Herr zu werden.

Deutschland wird dieses Ziel in einem partnerschaftlichen Dialog mit den Philippinen verfolgen. Wir unterstützen ausdrücklich die Rolle der Vereinten Nationen und werden gleichzeitig die Problematik weiter in unseren bilateralen Kontakten thematisieren. Und wir streben ein sichtbares gemeinsames Auftreten der EU-Mitgliedsstaaten an. Wir werden deshalb die EU-Unterstützungsmission EUJAMP tatkräftig unterstützen.

Dies ist umso dringlicher, als extralegale Tötungen auch die positive Rolle der Philippinen in anderen Bereich gefährden, was angesichts des Welttags der Pressefreiheit am letzten Samstag besonders deutlich wird: Ohne Freiheit der Presse ist Demokratie nicht denkbar. Eine der schlimmsten Formen der Einschränkung der Pressefreiheit ist jedoch die Ermordung oder Bedrohung von Journalisten. In einem Klima der Angst und einer Kultur der Straflosigkeit kann freie Berichterstattung nicht möglich sein. Es gilt sicherzustellen, dass politische Morde im rechtstaatlichen Raum nicht ungestraft bleiben.

Impunity and the Rule of Law

Summary of the presentation by Günter Nooke, Federal Government Commissioner for Human Rights Policy and Humanitarian Aid

Perception by the International Community

No other state in Southeast Asia shares European values to such an extent as the Philippines do. Democracy, parliamentarianism and civil rights such as freedom of expression and press freedom are generally more developed in the Philippines than in other ASEAN member states. The abolishment of the death penalty in 2006 was another step forward.

It is therefore positive to see that the Philippines are taking the lead for human rights among ASEAN member states. This shows its commitment to the development of an ASEAN human rights mechanism. The German federal government recognizes the positive role that the Philippines play in this context.

This pioneering task is, however, contradicted by the high number of unexplained, political motivated killings. Especially journalists, media people and political activists have become victims of extrajudicial killings.

Up to this day none of the perpetrators or masterminds of extrajudicial killings have been held accountable.

Thus, extrajudicial killings were a central issue during Nooke's visit to the Philippines last February.

Steps taken

Nooke noted positively that the Philippine government has already taken several steps to address extrajudicial killings. He particularly expressed his appreciation of the initiatives of the Supreme Court in protection of the basic rights. The German Federal Government is pleased to observe a decline in the number of cases of extrajudicial killings during the past months.

The heightened attention by the international community as well as in the Philippines was certainly able to decisively contribute to this development. At the same time, however, it encourages us to continuously monitor and address this problem in our bilateral relations.

In June 2007 European specialist, including one representative from the German ministry for foreign affairs, under the „EU Needs Assessment Mission“ visited the Philippines. The team concentrated on weaknesses in the judiciary with a special focus on impunity as well as on the lack of a functioning witness protection program. Based on its findings, the team came up with a number of comprehensive recommendations for the EU assistance.

Nooke expressed his appreciation, that the report had been presented in a joint press conference in Manila on 4th April 2008. The next step in this process was the development of a preliminary mission leaving in May 2008.

In September trainings for the Philippine judiciary, especially judges and state prosecutors, are set to begin. The package of measures of the European Union Justice Assistance Mission for the Philippines (EUJAM) is planned for the period of one and a half years. The German government on its side plans to send experts to participate in the mission.

UN-Human Rights Council

In the course of the first UPR, the Philippine human rights situation was discussed in the UN Human Rights Council.

As a member of the reporting troika Germany perceived the dialogue with the Philippines as open and cooperative.

In the hearing of the UPR, the Philippine government obliged to address the issues of children's and women's rights, killings of human rights defenders and journalists and poverty. On 22nd April 2008 Gloria Macapagal-Arroyo additionally signed the Optional Protocol of the UN Convention Against Torture (CAT). These developments are welcome, Nooke noted.¹

Nooke hoped that the Philippine government will adopt the recommendations from the UPR and take a leading role as one of the first ASEAN countries attending to the UPR procedures.

The mostly positive tenor of the UPR should serve as an encouragement to the Philippine government to continuously work on the improvement of the human rights situation, alone and with partners. Additional efforts are necessary to implement the recommendations of the Alston report and to respond to the problem of extrajudicial killings. In its dialogue with the Philippines the German government will pursue this goal.

Role of the German Government

Germany explicitly supports the role of the United Nations and at the same time will address these issues in its bilateral relations as well as on the EU level, e.g. through support for EUJAM.

¹ Editorial note: As of the end of May the status of the OPCAT ratification remained unclear, since rumours spread that the Philippine Department of Foreign Affairs has asked the Senate Foreign Relations Committee to freeze the OPCAT ratification.

In the light of the recent World Day for Press Freedom Nooke stated, that without press freedom democracy is impossible and that one of the worst forms of restricting press freedom is the killing of journalists. In a climate of

fear and a culture of impunity independent journalism is restricted. In order to end impunity it is therefore necessary to effectively enforce the rule of law.

Rechtlosigkeit – eine Einführung (Zusammenfassung)

Vortrag von Barbara Lochbihler*

*Generalsekretärin der Deutschen Sektion von Amnesty International

Auf eine Einladung der Frauenorganisation *Gabriella* hin, reiste Barbara Lochbihler schon in den 1980er Jahren in die Philippinen. Der lange Kampf philippinischer Aktivisten und Aktivistinnen sowie die starken organisatorischen Strukturen haben bis heute einen tiefen Eindruck hinterlassen. Barbara Lochbihler erklärt, dass Aktivisten und Aktivistinnen von damals bis heute auf schwarzen Listen der Regierung stehen.

Um den fortwährenden Menschenrechtsverletzungen, insbesondere den außergerichtlichen Tötungen und dem „Verschwindenlassen“ entgegenzuwirken, bietet die Konferenz eine Informationsmöglichkeit und Möglichkeit zur Strategiebildung. Sie bedauert, dass die philippinische Botschaft die Einladung als Referenten/innen auf der Konferenz vertreten zu sein, abgelehnt habe und das die Konferenz als bloßer Versuch der Schuldzuweisung wahrgenommen wurde.

Wie auch in anderen Ländern, in denen die Bevölkerung mit massiven Menschenrechtsverletzungen konfrontiert ist, ist die Straflosigkeit ein grundsätzliches Hauptproblem. Fehlender politischer Wille und die Unfähigkeit des Staates die Täter strafrechtlich zu verfolgen, verwehrt den Opfern und den Angehörigen das Recht auf Wahrheit, das Recht auf Rechtsprechung und das Recht auf Entschädigung.

Tatsächlich sind aber gerade diese drei Rechte notwendig damit eine Gesellschaft zur Ruhe kommen kann.

In Deutschland hat die Aufarbeitung Nationalsozialismus gezeigt, wie lange dieser gesellschaftliche Verarbeitungsprozess dauert. Neben moralischer Rehabilitation müssen die begangenen Verbrechen auch als solche behandelt werden und die Opfer Entschädigungen erhalten.

Entschädigungen besitzen hier allerdings vielmehr einen symbolischen Charakter und können nur in einem begrenzten und kurzfristigen Maße eine Antwort auf die finanzielle Not der Betroffenen darstellen. Seelische Schäden und – wie häufig bei außergerichtlichen Tötungen – das Wegfallen eines

Einkommens durch Verlust eines Angehörigen oder physische Nachfolgeschäden, machen Opfer und Angehörige oft abhängig von finanzieller Unterstützung.

Der Kampf gegen Straflosigkeit bleibt daher wichtig und bedarf der Unterstützung sowie des Drucks durch nachhaltigen und lauten Protest. Substantielle Veränderungen können nur durch ernsthaften politischen Willen Rechtsstaatlichkeit umzusetzen und zu befolgen eingeleitet werden.

Die Abschaffung der Todesstrafe durch die philippinische Regierung steht daher im Widerspruch zu der öffentlichen Erklärung der Präsidentin, die linke Opposition auslöschen zu wollen!

Dies deutet weder auf eine verantwortungsbewusste Regierungsführung noch auf einen starken politischen Willen zur Umsetzung der Rechtsstaatlichkeit hin.

Impunity – an Introduction

Summary of Presentation by Barbara Lochbihler, General Secretary of Amnesty International Germany

Barbara Lochbihler starts her presentation with personal comments based on her encounter with the women's rights party Gabriella during the 1980s. Lochbihler was impressed by the long-term struggle of progressive movements in the Philippines as well as the high level of organizing of the people she met. Yet, today as well as back then, there are still many political activists black-listed by the government.

In preliminary talks with the Philippine embassy, the embassy turned down the speaking invitation of the conference organisers, because the conference was perceived as the mere attempt to scapegoat them. The wide range of speakers makes it however clear that the conference's intention is to gather information, raise awareness and identify strategies to put an end to ongoing gross human rights violations, particularly political killings and disappearances in the Philippines.

Impunity is one of the crucial issues in many countries facing gross human rights violations. The lacking will or incapacity to punish perpetrators of human rights violations denies victims and relatives three basic rights: The right to truth, the right to adjudication and the right to compensation.

As long as redress is not given, the society remains unable to come to terms with its grievances and to reconcile.

In Germany, justice and reconciliation took a long time to come after the Third Reich. Apart from moral rehabilitation, the state must ensure that a crime is a crime, i.e. that perpetrators are punished through due trial and that victims are entitled to compensation. Compensation is a symbolic act that addresses many victim's need for financial support. Money can also go a long way in terms of payment for treatment of victims and relatives suffering psychological problems.

The fight against impunity therefore remains on top of the agenda and needs the support and pressure of sustained and loud protest. Substantial progress will only be achieved with the political will of decision makers to implement and comply to the rule of law. It is therefore not enough to laud the Philippine government for the abolition of the death penalty when this is contradicted by the President's public statement that the leftwing opposition must be eliminated.

These conflicting policies are neither representative for good governance nor do they show strong political will to comply with the rule of law.

Discussion

Reactions from the panel

In reaction to the panel's presentations **Justice Ynares-Santiago** stresses that reliability, accountability and the collective efforts of all justice agencies are needed to achieve substantial changes.

Referring to the need for political will mentioned by Barbara Lochbihler, **Günter Nooke** mentions that much of the political power in the Philippines is local and there are various security threats to national political power from the local level.

According to Günter Nooke the Philippine oligarchy and connected interdependencies should be

born in mind in the analysis of the rule of law and the call for strong political will.

Truth Commissions and International Tribunals

Theodor Rathgeber from Forum Menschenrechte referred to a point raised by Barbara Lochbihler on the experience of Germany with its Nazi past and the case of El Salvador. These two examples, as well as other cases, are interesting examples for truth commissions and tribunals, possibly through the United Nations system or like the Russell Tribunal.

In response to the question, if similar models and mechanism can be applied in the Philippine case, **Barbara Lochbihler** notes that a type of

truth commission like the Russell Tribunal is good because it allows people to speak and create publicity.¹ Truth Commissions were of much importance in South Africa after the end of the Apartheid regime, but it is uncertain if the same mechanism can apply in the Philippine case, since the conflict is still ongoing and the establishment of a truth commission heavily depends on the state of the peace process. For restoring trust and credibility in the rule of law, it is vital to significantly improve prosecution on all sides of the conflict.

Supreme Court, International Law and Command Responsibility

Cecilia Jimenez, International Human Rights consultant Lawyer and Trainer asked what the supreme court is doing with regards to substantive law, e.g. how have Philippine laws brought in due diligence and command responsibility based on international law. Mrs Ynares- Santiago replied that there are provisions in the constitution for international law, treating it as part of the national law. Regarding command responsibility there is a pending bill proposed by a senator to define the term command responsibility. Yet, this has not been put into force.

Perspectives on Support and Development Cooperation

Karl Schönberg from the protestant Church Development Service (EED) responded to a comment on the activities of German development organisations in the Philippines and noted, that EED only cooperates with partner organisations and does not have its own institution in the Philippines. Support is given in many different ways but often very limited. In individual cases those who are threatened can be protected and brought out of the country. In many situations and especially when several employees of partner organisations were killed in 2005, EED felt helpless and the challenged beyond its capacity.

¹ The Permanent People's Tribunal (PPT) is based on the Russell Tribunal and held its second session on the Philippines in March 2007: http://philippinetribunal.org/index.php?option=com_content&task=view&id=301&Itemid=86

The Democratic system and Political Will

Elmer Noe from Misereor referred to Günter Nooke and four points in his speech: the lauding of the Philippine government for the abolition of the death penalty, the description of the Philippines as having a democratic system, the proactive role of the Philippines within the ASEAN² region and the political killings and disappearances as key challenges to the Philippine government. Noe stated, that although the abolition of the death penalty is welcome Nooke's presentation seemed to be biased towards political rights and the normative context, since grave human rights violations massively occur also in areas such as land rights, workers rights and indigenous rights, i.e. economic, social and cultural rights. The rather uncritical presentation of the UPR report by the Philippine government indicates a lack of political will for compliance and serious inconsistencies in the democratic system.

In response, Günter Nooke stated that though the Philippines are problematic with regards to the domestic situation, he perceived the government as a positive actor in the international arena in comparison to its neighbouring countries and their human rights policies.

Philipp Bück stated, that the cooperative approach of the Philippines during the UPR may be seen as a political strategy at damage limitation. The efforts taken by the GRP for its state report, the high number of members of the Philippine delegation (50) and the expenditure can be seen as an attempt to prevent further pressure and criticism. This should be taken into account by German foreign policy interacting with the Philippines.

In response, Günter Nooke stated that these efforts are perhaps part of a strategy. Even if the GRP's commitment to the UPR was without substance, he preferred their pretended openness to governments not cooperating within the UNHRC. Besides that Mr. Nooke saw a positive development in the Philippines that cannot be reduced to delusion. For the purpose of gaining minimal progress, the efforts taken by the Philippine government should be received positively.

² Association of Southeast Asian Nations (ASEAN), <http://www.aseansec.org/>

Climate of Violence

Peter Kreuzer from the Peace Research Institute Frankfurt pointed out, that there is a context of violence where death squads are not only used for the eliminations of political and human rights activists but also in the killing of suspected criminals. Local mayors publicly promote these death squads in Davao and Cebu City.

The “war on terrorism” and human rights

Dr. Jochen Motte from the JPIC³ desk of the United Evangelical Mission raised concern about the current anti-terrorism policy adapted by the Arroyo administration and its impact on the human rights situation. The anti-terrorism bill, euphemistically called Human Security Act (HSA), was legislated in August 2007. Many of its provisions pose a serious threat to the practise of civil and political rights as they attempt to hollow out rights such as the right to free assembly and due process. According to Barbara Lochbihler the very term “terrorism” has become a political term internationally. The problem of anti-terrorism policy is, that no clear definition of the term can be agreed upon, also not on the UN-level. The interpretation of “terrorists” and “terrorism” is based on the individual state’s and government’s interpretation.

A Comprehensive Approach to Human Rights Work and the Prosecution of Perpetrators

The connections between civil and political rights on the one hand and social, economic and cultural rights on the other hand were already discussed earlier. Max de Mesa stated, that the killings are rooted in a much broader struggle for basic social, economic and cultural rights. Addressing only extrajudicial executions therefore means simply treating symptoms: Those protesting about, say, land issues are also the ones being shot and though the number of killings might have decreased in the past months the grievances related to the struggle for land remain. The victims’ and families’ immediate need for food and basic services should therefore also be addressed. The Philippines will be reviewed by the UN⁴ Committee on Economic, Social and Cultural Rights in November 2008.

A witness, who testified before UN SR Philip Alston during his visit to the Philippines in February 2007 was killed a week later.⁵ Bishop Juan de Dios Pueblos narrates this incident to show the difficulty in prosecuting high officials like Gen. Jovito Palparan, since witnesses can be intimidated or eliminated with impunity.

Günter Nooke generally acknowledged the interrelation between civil and political as well as social, economic and cultural rights. Certain rights such as the freedom of expression, press freedom and the rule of law, are central for people to voice their demands.

Protection of Victims, Witnesses and Human Right Defenders

Bärbel Weber from ProMISPA narrated the killing of Rev. Jemias Tinambacan of the UCCP in Misamis Occidental in 2006. His wife, Rev. Marilou Tinambacan, survived the attack but remains under threat. The killing was allegedly perpetrated by military agents. Bärbel Schäfer described the difficulty of Mrs. Tinambacan’s situation, as she is dependent on help with regards to her family’s basic needs, legal procedures and protection. Until now she continues to live in fear and therefore declined an invitation to join this conference.

In response, Associate Justice Consuelo Ynares-Santiago generally noted that for any case the court can only respond if cases are filed. Thus, even if the people have marched to the Department of Justice (DoJ) to demonstrate, they also need to file their cases in court.

Max de Mesa mentioned legal loopholes with regards to the protection of victims. The Writ of Amparo includes a provision that allows the search of military camps, the military, however, does not allow searches if the exact location of the victim is not stated.

Barbara Lochbihler called upon the German embassy’s capacity and responsibility to protect human rights advocates. Through public events the German Embassy has the possibility to highlight human rights and could generate some pressure. Also, the victims themselves should find means to organise their own protection if none of the officials and authorities respond. Ex-

³ JPIC – Justice Peace and Integrity of Creation

⁴ For further information on the Committee on Economic, Social and Cultural Rights (CESCR): <http://www2.ohchr.org/english/bodies/cescr/index.htm>

⁵ See Asian Human Rights Commission, UA-088-2007: <http://www.ahrchk.net/ua/mainfile.php/2007/2278/>

isting networks can be of some help in this respect. Amnesty International's capacities and funds are limited and the organization can only get involved in individual cases. Though there have been protection programs for human rights activists in Spain and Latin America Lochbihler sees a lack of political will across all parties in the German government to engage in new approaches and means of assistance for HRDs.

In response to the case of Rev. Tinambacan Günter Nooke declared that he and his office can be contacted in individual cases and help will be made available since means are there. Whether assistance can be given or not depends on the individual case.

Günter Nooke further drew attention to the Hamburg Foundation for the Politically Persecuted⁶. It is financially supported by City of Hamburg. This foundation offers different kinds of assistance and funding.

The Philippine Embassy's Response

Making a statement from the floor, Mr. Leslie J. Baja of the Philippine embassy in Berlin appreciated that this conference put human right on its agenda. Following the preceding discussion Mr. Baja stated, that

1. Extrajudicial killings are not a state policy.
2. The Philippine Government is determined to stop the extrajudicial killings.
3. The government is undertaking measures to resolve the killings.

Again Mr. Baja expressed his appreciation for the support given by international community and voiced his concern to work together in addressing the human rights situation.

Final Remarks from the Panel

Max de Mesa assigned a vital role to the international community in addressing impunity and nurturing political will to stop extra-judicial killings.

Barbara Lochbihler raised concern about the deteriorating state of impunity and expressed the need for an improved flow of information. The possibility to lobby the Vatican for a reaction on the situation should be considered. Up to today the Catholic Church and especially the Catholic Bishop's Conference of the Philippines (CBCP) continue to play a

major role in Philippine society and politics as well. A statement by the Vatican may therefore be able to enhance the pressure on the Philippine government.

Günter Nooke agreed that impunity is a central issue and needs to be addressed. There should for example be elections where people are not killed. In the field of social rights long lasting improvements must be arrived at. The fight against corruption also needs more attention.

⁶ Hamburg Stiftung für politisch Verfolgte, website: http://www.hamburger-stiftung.de/index_eng.html

Protection of Human Rights Defenders

Conference on Political Killings and the Rule of Law

Second Day, 9 May 2008, First Session

Schutz von Menschenrechtsverteidigern/innen (Zusammenfassung)

Vortrag von Prof. Dr. Herta Däubler-Gmelin*

* Vorsitzende des Ausschusses für Menschenrechte und humanitäre Hilfe des Deutschen Bundestages und war von 1998 bis 2002 Bundesministerin der Justiz

Als Mitglied des Deutschen Bundestages und Vorsitzende des Ausschusses für Menschenrechte und Humanitäre Hilfe im Deutschen Bundestag führt Prof. Dr. Herta Däubler-Gmelin in das Thema des Schutzes von Menschenrechtsverteidigern/innen ein.

Durch die Arbeit mit der philippinischen Kinderrechts- und Fair Trade Organisation PREDA konnte sie bereits vor Ort viel über die lokale Menschenrechtssituation erfahren. Während ihres Besuchs in den Philippinen gewann sie dabei Einblicke in die Arbeit der Regierung, wie auch in die oppositioneller Kräfte.

Prof. Dr. Herta Däubler-Gmelin traf in der Regierung auf beeindruckende Persönlichkeiten, die sich der Problematiken bewusst sind und versuchen im Rahmen ihrer Verantwortlichkeiten und Möglichkeiten etwas zu verändern.

Der Menschenrechtsausschuss des Bundestages

Prof. Dr. Herta Däubler-Gmelin ermutigt die deutschen NRO und die Kirchen die Zusammenarbeit mit dem Ausschuss weiterzuführen um die Informations- und Lobbyarbeit durch den Ausschuss zu verstärken.

Auf europäischer Ebene, so Prof. Dr. Herta Däubler-Gmelin, sei es besonders wichtig die Menschenrechtsausschüsse der nationalen Parlamente mit dem Komitee des Europäischen Parlaments zu vernetzen. Aufgrund der Anstrengungen, die während der deutschen EU Präsidentschaft gemacht worden sind gibt es hier bereits eine Annäherung zwischen EU und nationaler Ebene, an der angesetzt werden kann. Sowohl die Menschenrechtsausschüsse als auch der Europarat sind auf NRO als Ansprechpartner für Informationen im Hinblick auf Men-



schenrechtsverletzungen in bestimmten Ländern angewiesen.

Dennoch bleibt die Frage, wie die EU besonders im Vergleich mit deutlich einflussreicheren Ländern wie den USA mit schweren Menschenrechtsverletzungen umgehen soll.

Auch der Europarat muss in dieser Hinsicht alle zur Verfügung stehenden Möglichkeiten ausnutzen, um Menschenrechtsverletzungen konsequent anzusprechen, wie dies z.B. im Falle der US Geheimgefängnisse und sogenannten Renditionsflüge Terrorverdächtigter Personen der Fall war.

Zusammenarbeit mit dem UN Menschenrechtsrat

Im Verlauf der UPR waren die Philippinen das zehnte Land, das sich diesem Sonderverfahren unterziehen lassen musste. Dem Bericht der philippinischen Regierung zur Folge dürfte es keine schweren menschenrechtliche Probleme in den Philippinen geben.

Bei der UPR handelt es sich um ein Verfahren, bei dem der untersuchte Staat, akkreditierte NRO, sowie die UN-Sonderberichterstatter und UN-Organen Berichte einreichen können. Schon

allein der begrenzte Berichtsumfangs (max. 10 Seiten) bedarf einer Zusammenarbeit von NRO in diesem Prozess. Gerade wenn sich die Berichte der verschiedenen Parteien stark voneinander unterscheiden, ergibt sich ein erhöhter Klärungsbedarf. Es stellt sich die Frage, ob europäische Vertreter/innen in dieser Hinsicht die Rolle der NRO im Plenum des Menschenrechtsrates übernehmen könnten.

Der Deutsche Bundestag

Prof. Dr. Herta Däubler-Gmelin erwähnte die Existenz der Interparlamentarische Union (IU), an der auch philippinische Parlamentarier beteiligt sind. Die IU kann auf Informationen und Berichten von NRO und Auswärtigen Ämtern hin zum Schutz von Menschenrechtsverteidiger/innen aktiv werden,

übt jedoch einen eher geringen Einfluss aus und kann nicht als ergänzende Polizeikraft agieren.¹

Der Menschenrechtsausschuss des Deutschen Bundestages besitzt die Funktion Politiker/innen, die in von massiven Menschenrechtsverletzungen betroffene Länder reisen, Informationen zur Verfügung zu stellen, sodass die Menschenrechtssituation bei Besuchen gezielt angesprochen werden.

Eine weitere Handlungsmöglichkeit des Ausschusses besteht im Verfassen von Briefen, die in konkreten Fällen an die jeweiligen Ministerien und das Staatsoberhaupt verschickt werden können.

¹ For further information see: Inter-Paliamentary Union (IPU) website: <http://www.ipu.org/english/home.htm>

Protection of HRDs

Summary of the presentation by Prof. Dr. Herta Däubler-Gmelin – Chairwoman of the Committee on Human Rights and Humanitarian Aid of the German Parliament and former Federal Minister of Justice of the German Government

Personal Experiences

Prof. Dr. Herta Däubler-Gmelin introduces the issue of protecting HRDs from the German Parliament Committee's point of view. Her presentation focuses on the work of the committee, the instruments at its disposal as well as recommendations to human rights NGOs.

Prof. Dr. Herta Däubler-Gmelin has had the opportunity to get to know some of the human rights issues in the Philippines through a visit to the PREDA Foundation in the Philippines.¹ She was impressed with the commitment of civil society activists to make changes. During that time Prof. Dr. Herta Däubler-Gmelin not only gained insight into the governmental side and perspective on human rights, but also met with the opposition. On both sides she met impressive personalities who are aware of the problems and who try to make a change within their particular frameworks, responsibilities and possibilities.

The German Parliament Committee on Human Rights and Humanitarian Aid

Prof. Dr. Herta Däubler-Gmelin encourages NGO and church organisations to continue working with the Parliament's Committee to raise further awareness and pressure with regards to the case of the Philippines. On the European level it is important that the national human rights committees are being connected to relevant committee under the EU Parliament, in order to channel and coordinate information as well as the political pressure on governments such as the Philippines. National human rights committees, the EU parliament's committees as well as the European Council are in need of contacts to NGOs to gain information and to build awareness with regards to particular countries. Still, the question is how the EU can deal with human rights abuses in conjunction with other countries. The European Council has considerable potential to address human rights violations in other countries, as it recently exemplified with regards to the issues of rendition flights and secret CIA prisons.²

Cooperation with the UN Human Rights Council

¹ People's Recovery, Empowerment Development Assistance Foundation: <http://www.preda.org/index.htm>
Auf Deutsch: <http://www.preda.org/german/>

² For further information see Council of Europe website: <http://www.coe.int/T/E/Com/Files/Events/2006-cia/>

Until 2010 the Philippines are a member of the UNHRC³. In the course of the UPR in April 2008, the Philippines was the 10th country reviewed so far. If one reads the report presented by the Philippine government and its representatives respectively, there should not be serious human rights issues in the Philippines today.

The procedures of the UPR are clear: The country reviewed under the UPR has to submit a report about the country's compliance with ratified international human rights conventions and treaties. Additionally, NGOs can submit a report as well. In order to comply with the limited scope of these reports (max. 10 pages), the collaboration between NGOs is necessary. Discrepancies between the government reports on the one hand and the NGO reports on the other trigger questions for the UNHRC plenary. The official work of the NGOs however ends with the submission of their reports. Questions then need to be asked by government representatives of other countries. Prof. Dr. Herta Däubler-Gmelin therefore recommends that the EU representatives assume the role of the questioners as-

sociated with the NGOs to lead the discussion in the Council's plenary.

With regards to the UNHRC's special procedures it is the report of Prof. Philip Alston 2007 that is still considered as a benchmark. According to Prof. Dr. Herta Däubler-Gmelin this report is very clear in its presentation of extrajudicial executions in relation to the role of the AFP, agrarian reform, involuntary disappearances, poverty, the role of death squads and the rule of law.

The German Parliament

Prof. Dr. Herta Däubler-Gmelin notes the existence of the Inter-Parliamentary Union (IPU). Philippine parliamentarians in the IPU act upon information and reports from NGOs, Foreign Offices and other political stakeholders. However, the IPU has limited influence and cannot act as a complementary police force.

Though it is not possible to free certain human rights advocates from prison, it is the committee's responsibility to provide information to German politicians travelling to particular countries, in order to ensure that human rights issues will be addressed. Another instrument at the committee's disposal are letters written and sent to Philippine ministers as well as the President.

³ Further information to the United Nations Human Rights Council: <http://www2.ohchr.org/english/bodies/hrcouncil/>

Extrajudicial Killings and the Role of the European Commission

by Mr. Philippe van Amersfoort*

* Deputy Head of South-East Asia Unit, Directorate General for External Relations, European Commission. To view the EU commission's external relation

I would like to thank the organisers of this meeting because international attention is important when it comes to ensuring that a culture of impunity does not prevail in the Philippines as in other countries. In that respect, this is an important meeting.

I would also like to commend the personal commitment and courage of the HRDs from the Philippines we heard yesterday. They deserve our respect and support.

How and why did the EU get involved in trying to help address extrajudicial killings in the Philippines?

1. The EU is committed to promote human rights worldwide. This is very much part of our identity.



Human rights are a very important aspect of the way we interact with all partners on the international scene. The EU takes the view that human rights are a legitimate concern of the international

community and we accept scrutiny from other partners. The EU has been championing the cause of the fight against impunity worldwide, which has been for instance reflected in our commitment to the International Criminal Court (ICC).

2. The EU is perceived, in the Philippines as in other parts of Asia, as a “neutral” and trustful big international partner with not too much historical or ideological baggage. It is a reliable partner, with significant international cooperation expertise, to cooperate in the field of human rights or criminal justice reform.

3. It is also important to stress that the EU and the Philippines do share common values. The EU and the Government of the Philippines have worked together as like-minded partners on a number of human rights challenges, such as human rights violations in Burma/Myanmar and the establishment of a human rights mechanism in ASEAN.

For these reasons, and in the context of the work of the Melo Commission and of the UN Special Rapporteur Philip Alston in early 2007, the Government of the Philippines expressed interest in technical assistance from the EU on extrajudicial killings. In June 2007, the EU Commission sent a team of experts to Manila on a Needs Assessment Mission. The EU experts produced a report outlining practical recommendations for cooperation in addressing extrajudicial killings. The Government of the Philippines recently agreed with the main conclusions of this report. EU specialists will thus travel to Manila on 19 May 2008 to work out the details of our cooperation programme, for which € 3 million have been earmarked for a period of up to 18 months. We hope that the implementation of this project will start as soon as possible in autumn.

I do not wish to get into the details of the programme at this point but I wish to stress that it is a positive sign of the goodwill on both sides that we have been able to agree on a number of key parameters for our future cooperation with the Philippines:

1. It is important that EU assistance is not exclusively made of academic training delivered in police or military academies but that it consists as much as possible of “on the job” training in a real work environment to facilitate and speed up investigations and prosecutions. We do not wish EU experts to take direct responsibility for investigations in the place of competent authorities but hope that their expertise will be used in support of actual investigations and prosecutions. In that

respect, we welcome the agreement of the Government of the Philippines that EU experts would be able to have access to personal data in personal case-files.

2. The EU has also proposed to support the establishment of a credible and effective national monitoring mechanism of extrajudicial killings, which would bring together all Philippine stakeholders to help track progress in addressing the issue. In order to put flesh on the bones of this proposal, we look forward to getting the views of officials and civil society actors. In our view, this mechanism should not just produce statistics on extrajudicial killings, but should be able to monitor progress in particular cases, from complaint to conviction. The EU is ready to support a national consultation process or stakeholders’ conference to think about the objectives and mandate of such a mechanism.

3. Last but not least, we believe that it is crucial that our support contributes to empowering civil society and strengthening the capacity of HRDs to act for the prevention, investigation and prosecution of extrajudicial killings. Several avenues can be explored, such as supporting legal assistance schemes, supporting witness protection programmes, and providing training.

In implementing its cooperation programme, the EU will need the contribution and expertise from individual EU member states, who should bring in judges, prosecutors, law enforcement officers, forensic experts, etc. We will also need support from national Parliaments and the European Parliament to maintain pressure and international attention to provide the necessary leverage for our assistance to be as efficient as possible.

Let me conclude by stressing that EU technical assistance to help address extrajudicial killings will be part of a broader set of instruments which are available in the EU policy toolbox:

First, the EU will continue to monitor the situation in the UN context. The EU - notably Germany, as Rapporteur of the UPR for the Philippines - played an important role in ensuring that extrajudicial killings figure high on the agenda of the UPR. We will continue to follow developments within the UNHRC. The EU also encourages the Philippines to invite as much UN Special Rapporteurs and Working Group representatives as possible to get “free” international advice in the fight against impunity;

The EU is committed to supporting the peace process in Mindanao, and has supported several

initiatives aimed at promoting peace and development in this part of the country. We look forward to progress in the peace process, which should be conducive to a decrease in the number of political killings;

Some NGO representatives expressed concern yesterday that extrajudicial killings may increase in the run-up to the 2010 Presidential elections in the Philippines. The EU would stand ready, as it does regularly in many countries around the globe, to consider sending, should the need arise and should it be invited to do so, an Election Ob-

servation Mission (EOM) to the Philippines during the 2010 presidential elections. Such EOMs have been an important contribution to help restore citizens' confidence in democratic processes.

The EU will continue to encourage the Government of the Philippines to take steps towards the ratification of the Rome Statute of the ICC, which would act as an important gesture in the fight against impunity.

Thank you for your attention. I am happy to take up any question.

Außergerichtliche Hinrichtungen in den Philippinen und die Rolle der Europäischen Kommission

Zusammenfassung: Präsentation von Philippe van Amersfoort, stellvertretender Abteilungsleiter der Asien-Direktion, Generaldirektion für auswärtige Beziehungen der Europäischen Union, Brüssel.

Philippe van Amersfoort beschreibt die Menschenrechte als ein zentrales Anliegen der Europäischen Union, die diese als Teil ihrer Identität versteht und den Kampf gegen Straflosigkeit weltweit verfolgt. In diesem Engagement wird die EU in den Philippinen, wie auch in anderen Teilen Asiens, als ein historisch „neutraler“ und verlässlicher Partner mit wichtiger Expertise in internationaler Zusammenarbeit wahrgenommen.

Angesichts der Berichte des UN Sonderberichterstaters Philip Alston sowie der Melo Kommission äußerte die philippinische Regierung im Frühjahr 2007 das Interesse an technischer Unterstützung durch die EU um den außergerichtlichen Morden entgegenwirken zu können. Daraufhin sendete die Europäische Kommission im Juni 2007 ein Team von Experten nach Manila. Die daraus hervorgegangene Bedarfsanalyse soll als Grundlage für ein im Herbst beginnendes 18-monatiges Kooperationsprogramm dienen. Es wurde mit einem Budget in Höhe von drei Mio. Euro. ausgestattet und soll die Regierung darin unterstützen außergerichtlichen Hinrichtungen entgegenzuwirken.

Positiv bewertet van Amersfoort die Einigung auf gemeinsame Parameter für die zukünftige Zusammenarbeit. Der Schwerpunkt der Zusammenarbeit soll nicht ausschließlich auf akademischer Ebene liegen, sondern vor allem in der praktischen Unterstützung von Untersuchungen und strafrechtlichen Prozessen. Des Weiteren hat die EU Aufbau eines landesweiten Beobachtungs- und Dokumentationsmechanismus für außergerichtliche Hinrichtungen angeregt und ist bereit

einen nationalen Konsultationsprozess unter Beteiligung aller Partner zu unterstützen.

Nicht zuletzt soll die Unterstützung der EU auf die Stärkung der Zivilgesellschaft und der Arbeit von Menschenrechtsverteidiger/innen hinwirken, sich für Prävention, Untersuchungen und strafrechtliche Prozesse in Bezug auf Menschenrechtsverletzungen einzusetzen.

Die hier dargelegte Zusammenarbeit ist jedoch nur ein Teil der zur Verfügung stehenden Instrumente der EU. Weiterhin wird die Situation im Rahmen der UN beobachtet werden und die philippinische Regierung dazu ermutigt, so viele UN Sonderberichterstatler und UN-Arbeitsgruppen wie möglich einzuladen, um zusätzliche internationale Kompetenz in den Kampf gegen die Straflosigkeit einzubeziehen. Weiterhin unterstützt die EU den Friedensprozess in Mindanao, dessen Fortschritt ebenfalls zu einer geringeren Anzahl politischer Morde führen sollte.

Die von Vorrednern/innen geäußerte Angst, die Morde würden mit den ankommenden Präsidentenwahlen 2010 einen erneuten Anstieg erleben, könnte die EU mit einer europäischen Wahlbeobachtungsmission begegnen, die, wie in anderen Fällen auch, auf Anfrage bereit stünde.

Abschließend fordert Philippe van Amersfoort die philippinische Regierung dazu auf, Schritte für die Ratifizierung des Römischen Statuts des Internationalen Strafgerichtshofes aufzunehmen. Dies würde eine bedeutende Geste im Kampf gegen Straflosigkeit darstellen.

Reactions from the Philippines

Marie Hilao-Enriquez from Karapatan¹ thanks the organizers of the conference for the invitation. This was the first time for Karapatan to be able to have a dialogue in Germany and with partners here. She further thanks Prof. Dr. Herta Däubler-Gmelin for educating on the German parliament and for mentioning the Inter-Parliamentary Union.

The Philippines parliamentary process is characterized by continues harassment and repression. Currently, there are several progressive party-list groups whose parliamentarians are expected to receive warrants of arrest for murder charges in the coming week. Marie Hilao-Enriquez therefore extends her thanks again to Prof. Dr. Herta Däubler-Gmelin for opening up the German parliament for lobby work in this respect.

Human rights groups from the Philippines have highlighted specific issues and are interested in intensified cooperation with the UN. The membership of the Philippine government in the UNHRC as well as the portrayal of the Philippines as the leading democratic state in southeast Asia seems ironic, as the current situation compares to the time of martial law during the Marcos dictatorship.

As Günter Nooke observed, a pretended openness of the Philippine government on the international level and the signing and ratification of many treaties allow the Arroyo administration to violate human rights more freely and with impunity.

In response to Philippe van Amersfoort, Hilao-Enriquez expresses her appreciation but notes that the approach to help the government is mistaken, as it strengthens the state in violation of human rights. Notwithstanding Karapatan already asked the UN for constant monitoring and to assign a UN SR to the Philippines that would work in close cooperation with the NGOs.

Mary-Aileen Diez Bacalso of the Asian Federation against Involuntary Disappeared (AFAD)² thanks both speakers for their efforts to understand and offer assistance to address concerns of human rights violations in the Philippines.

In contrast to the positive report submitted by the Philippine government to the UPR, Bacalso



wanted to explain why grave human rights violations still occur 22 years after Marcos was ousted.

She pointed towards the International Convention for the Protection of all forms of Enforced Disappearances adopted by the United Nations in December 2006³, yet ratified by merely four governments with Germany as a signatory only.⁴ For 13 years AFAD has already lobbied for the adoption, signing and ratification of this convention. Bacalso called on the German government to join the ratification and to campaign for its enactment into law.

When she assumed presidency, President Gloria Macapagal-Arroyo declared that there would be no enforced disappearances during her time of administration. Karapatan, however, has already recorded far more than 100 of such cases⁵.

Aileen Diez-Bacalso also encouraged European governments to ratify the convention and to not just monitor the number of cases but also to help the prosecution of perpetrators and the indemnification of the victims. There are many pending cases dating back to the Marcos dictatorship. A focus in the fight against impunity should be the change of attitudes through education.

³ the complete convention under:

<http://www2.ohchr.org/english/law/pdf/disappearance-convention.pdf>

⁴ Currently Albania, Argentina, Mexico and Honduras have ratified the Convention, while a total of 71 countries are signatories.

⁵ to view the latest quarterly report by Karapatan: http://www.karapatan.org/files/KarapatanMonitor_JanMarch08.pdf

¹ More about Karapatan: www.karapatan.org

² For more information see: www.afad-online.org

Prof. Dr. Herta Däubler-Gmelin asked to be sent more information by Philippine NGOs and thanked Bacalso for drawing attention to the International Convention for the Protection against all forms of Enforced Disappearances, on which she promised to act.

With regards to the UNHRC and the Philippine report to the UPR she added that many comments with regards to the presentation yet need to be brought to the public.

Philippe van Amersfoort stated that the existing monitoring bodies such as the Commission on Human Rights (CHR), the Task Force Usig and the Melo Commission have all been criticized at some point. In a further step to rebuild trust in the existing mechanisms, a forum jointly attended by the government and members of civil society

would be a possibility. While Amersfoort favored a home-grown, national approach to this process, he agreed that the UN has to play a role and needs to be part of this process.

He therefore supported the demand posed by Marie Hilao-Enriquez to employ a permanent Rapporteur to the Philippines under the Office of the UN High Commissioner for Human Rights (OHCHR). This could also be aided by the EU, as the EU already provided funds for activities under the OHCHR in the past. Regular meetings of all stakeholders to evaluate and update could help to progress with the documentation and monitoring instead of fighting over numbers. Finally, Philippe van Amersfoort was looking forward to a European mission to the Philippines in September 2008.

Threats against HRDs: Responses

By Marie Hilao-Enriquez*

* General Secretary of Karapatan – The Alliance for the Advancement of People's Rights Philippines

Founded in 1995, Karapatan is a national alliance of individuals, groups and organizations working for the promotion and protection of human rights in the Philippines. Its founders and members have been at the forefront of the human rights struggle in the Philippines since the time of the Marcos' martial law regime.¹

Karapatan currently operates from 14 regional offices throughout the Philippine archipelago, investigating, researching, documenting and exposing human rights violations, giving legal and paralegal assistance to the victims, conducting education and training, initiating campaigns and doing advocacy and lobby work as well as building networks and alliances.

After the martial law dictatorship in the Philippines, there has never been a more dangerous time for HRDs in the country than at present under the Arroyo regime.

Yesterday, the speakers described the political context under which human rights violations are being committed by state security forces. In brief, the present political context is very hostile to the work of HRDs.

Risks Faced by HRDs

On November 24, 2005, Emmylou Buni, a human rights worker of Karapatan in Cebu, Philippines, was shot by motorcycle-riding government soldiers. Ironically, she and her husband Brylle Cruz were on their way home from a human rights training in a village in Tuburan, Cebu. Criminal charges were filed against the soldiers who were positively identified as the couple's assailants but until this day, their assailants got off scot-free. The judge cannot even compel the soldiers to attend the court hearings.

Emmylou and Brylle are among the 350 documented victims of frustrated extrajudicial killings in the Philippines and among the many HRDs at risk in my country.

Other forms of violations experienced by human right defenders are the following:

Abductions, illegal arrest, detention and torture;

heavy surveillance of offices used by CSOs; some offices were broken into and files were carted away while another office was additionally vandalized, office supplies and files were sprayed with paint and strewn on the floor;

(frustrated) bombing of offices, hurting occupants at work as well as burning of offices;

¹ <http://www.karapatan.org/about>

fabricated cases are charged on some of the HRDs and leaders of civil society;

continues vilification campaign publicly threatening HRDs as well as civil society activists often facilitated by the military's radio airtime. Activists are then being lambasted and libelled as communist, fronts of the CPP and/ or as terrorist;

leaders of three CSOs are now the subject of the Writ of Amparo;

to date, 33 human rights leaders, workers and volunteers of Karapatan have fallen victim to extrajudicial killings. Among my known colleagues who were killed in the course of human rights work were Eden Marcellana and Benjaline Hernandez.

Eden was abducted by soldiers on April 21, 2003 right before her colleagues while on a fact-finding mission in Mindoro Occidental, an island south of Manila. She was found dead the following day together with peasant leader Eddie Gumanoy.

Benjaline Hernandez was following-up on a massacre case in Arakan Valley, North Cotabato in the Southern Philippines when she was shot point-blank by paramilitary forces under the command of the military.

There are a total of 903 documented victims who were extrajudicially killed for their active defence of the people's civil, political, social, economic and cultural rights.

In his report to the UN last year, Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions Prof. Philip Alston identified two underlying causes for the many extrajudicial executions and enforced disappearances:

The characterization of most groups on the left of the political spectrum as so-called 'front organizations' for armed groups, particularly the NPA (NPA);

the extent to which aspects of the government's counter-insurgency strategy encourage or facilitate extrajudicial killings of activists and other 'enemies'.

Human rights organizations and advocates have been tagged and vilified in AFP intelligence briefing materials as 'enemies of the state' that must be neutralized (read: physically eliminated). This strategy is part of OBL ("Operation Plan Freedom Watch"), a program that focuses on dismantling CSOs that are purported to be so-called fronts of underground rebel forces.

The President and Commander-In-Chief has allowed, abetted and acquiesced to these attacks against HRDs. Part of the government's political repression is the IALAG or the Inter-Agency Legal Action Group, created by the President and is under the supervision of National Security Adviser Norberto Gonzales. The IALAG have been fabricating criminal charges against HRDs.

Karapatan therefore poses the following demands:

The peace negotiations must resume and the Joint Monitoring Committee must be enabled to do its work of investigating human rights violations being charged to the Parties involved in the armed conflict. The Philippine government must be compelled to publicly identify all "orders of battles," "watch lists," and similar lists maintained by the AFP, PNP, or other elements of the national security system and rescind such lists that have become hit lists. The Philippine government must abolish the IALAG and refocus efforts on investigating and prosecuting those committing extrajudicial executions and other serious crimes rather than allegedly politically persecuting the so called State's enemies. The Congress must enact laws that will legislate the protection of HRDs whereas NGO's must always develop skilled personnel in order to carry out the work of a HRDs.

Schutz von Menschenrechtsverteidigern/innen: Herausforderungen

Zusammenfassung des Vortrages von Marie Hialo-Enriquez, Generalsekretärin von Karapatan

Karapatan ist ein landesweites Netzwerk von Individuen, Gruppen und Menschenrechtsorganisationen und wurde 1995 gegründet.

Karapatan unterhält derzeit 14 regionale Büros. Die Organisation sieht ihre Aufgabe unter anderem in der Untersuchung und Dokumentation von Menschenrechtsverletzungen, in der Bereitstellung von rechtlicher Unterstützung für Betroffene und ihre Ange-

hörigen, sowie in der Durchführung von Bildungs- und Weiterbildungsmaßnahmen, Kampagnen, Lobbyarbeit und der Bildung von Netzwerken und Allianzen mit anderen Organisationen.

Nie zuvor seit dem Fall des Marcos Regimes 1986 habe es eine gefährlichere Zeit für Menschenrechtsverteidiger/innen gegeben als gegenwärtig unter der Arroyo Regierung, so Hilao-Enriquez.

Bis zum heutige Tag zählte Karapatan insgesamt 903 Opfer außergerichtlicher Tötungen, wie z.B. Emmylou Brylle, eine Menschenrechtsaktivistin von Karapatan Cebu, die am 24. November 2005 von mutmaßlichen Soldaten staatlicher Sicherheitskräfte ermordet worden ist. Emmylou Brylle ist eine von 33 Mitarbeitern/innen von Karapatan, die seit 2001 umgebracht wurden.

Gefahr droht Menschenrechtsverteidiger/innen jedoch nicht nur durch die Exekutionen, sondern auch durch Entführungen, willkürliche und rechtswidrige Verhaftungen und Inhaftierungen, sowie durch Folter. Des Weiteren wird die Arbeit durch Überwachungen, Einbrüche, Diebstähle, Zerstörung der Büros durch Vandalismus, Brände und sogar Bomben immer wieder massiv bedroht. Von Seiten der Sicherheitskräfte wird durch Verleumdungskampagnen sowie haltlose Anklagen gegen Menschenrechtsaktivist/innen versucht, die Arbeit von Karapatan zu kriminalisieren.

Wie der UN Sonderberichtserstatter Philip Alston in seinem Bericht erläutert, liegen den außergerichtlichen Tötungen und Verschwindenlassen v.a. zwei Ursachen zugrunde: a) Die Charakterisierung der meisten linken

Gruppen als legale Fronten des bewaffnete Arm NPA der CPP zu fungieren und b) das Ausmaß, in dem die Aufstandsbekämpfung der Regierung außergerichtliche Hinrichtungen an Aktivist/innen ermutigt und fördert.

Haltlose Anklagen gegen Menschenrechtsverteidiger/innen wurden auch durch die von der Präsidentin eigens zur Bekämpfung von Straflosigkeit und außergerichtlichen Tötungen einberufene IALAG angestrengt.

Karapatan stellt daher folgende Forderungen: 1. die Wiederaufnahme der Friedensverhandlungen, 2. das Verbot von sog. „Orders of Battle“ und „Watch Lists“, 3. die Abschaffung der IALAG und stattdessen verstärkte Anstrengungen in der Untersuchung und strafrechtlichen Verfolgung von Menschenrechtsverletzungen und 4. das der Kongress Gesetze zum Schutz von Menschenrechtsverteidigern/innen erlasse und auf Seite der NRO Mitarbeiter/innen weiterbildet und unterstützt um professionelle Menschenrechtsarbeit sicherzustellen.

A Glimpse on HRDs in Asia

By Marie Aileen Diez-Bacalso*

* Secretary General of the Asian Federation Against Involuntary Disappearances (AFAD)

The Asian Federation Against Involuntary Disappearance or AFAD is a regional human rights federation of organisations of families of victims of involuntary disappearances from China, India, Indonesia, Pakistan, Philippines, Sri Lanka and Thailand.

Founded in 1998, the federation promotes solidarity, communication, networking and advocacy among its member-organisations and networks.

Enforced disappearances are widespread in Asia but not widely known due to strict government control over related information. Since its birth, AFAD, together with the Latin American Federation against Enforced Disappearances (FEDEFAM) and more recently with the newly established African Network Against Disappearances (RADIF) has been lobbying for the ratification of the United Nations Draft Convention for the Protection of All Persons from Enforced or Involuntary Disappearances.

Concept: HRDs

UN Declaration on HRDs defines HRDs as:

- Both individuals or collectives

- Acting to protect or promote the human rights of others
- Working on national and/or international levels
- With the Minimum standards of:
- Acceptance for the universality of human rights
- Acting peacefully with no use of violence

Some Trends in Asia on HRDs:

- Personal human rights violations – from threats and harassments, to torture, killings, disappearances, etc.
- Organisations are under threat, harassment, surveillance, funding control, etc.
- Families are also being violated

Perpetrators:

- State actors: military, police, paramilitary groups, etc.

- Non-state armed groups: rebel groups, religious fundamentalists, militants
- Non-state entities: corporations

Families of Disappeared: Victims or HRDs?

- Are they victims? Yes –
 - a. According to international case law (e.g. UN CAT; UN HRC)
 - b. According to the UN International Convention For the Protection of All Persons from Enforced or Involuntary Disappearances: “any individual who has suffered harm as the direct result of an enforced disappearance.”
- Are they HRDs? Yes, if they go beyond the mere identification of the victim
 - c. According to the UN Declaration on HRDs
 - d. According to the UN International Convention For the Protection of All Persons from Enforced or Involuntary Disappearances: “the right to form and participate freely in organisations” concerned with finding the disappeared.

Case of Munir, Chairperson of AFAD

Munir was poisoned by arsenic in a Garuda flight from Jakarta to Amsterdam via Singapore on September 7, 2004.

The cause of his death was not immediately known and the autopsy result was not immediately given to his wife, Suciwati. It was only given two months after his death, because it was leaked to the media.

Where is Somchai?

Atty. Somchai Neelaphaijit disappeared on March 12, 2004 in Bangkok, Thailand. He had been defending human rights and fighting for justice in the south of Thailand. He submitted petitions to many concerned organizations expressing his distress about the situation in the south of the country and tried to stop police impunity and to lift martial law. He was defending 5 Muslims who were accused of having stolen 300 guns from an army base. They claimed that they were tortured during detention. Atty. Neelaphaijit was preparing to press the torture case before senior authorities, when he disappeared. He was allegedly pulled from his car by five policemen. Evidence leaked to the media alleges that

senior persons in the government and/or police were behind the forced disappearance.

His wife, Angkhana Neelaphaijit courageously searches for her husband. While she leaves no stone unturned to search for the truth and demand for justice at the national level, Angkhana voices her search for Somchai in the United Nations in Geneva. In her continuing search for her husband, she herself is being subjected to harassment and intimidation and asks the support of the international community to ensure her safety.

Atty. Parvez Imroz: Patron of the Association of Parents of Disappeared Persons

Ludovic-Trarieux International Human Rights Prize 2006 awardee Parvez Imroz was visited by a government-sponsored gunman who came to his house at 5:30 a.m. of April 30, 2005 with the pretext of discussing a case with him. It was only one of the many incidents of intimidation against his person.

It has been four years and Mr. Imroz passport has never been renewed by the Indian government, immobilizing him and preventing him from doing his international work.

Aasia Jeelani: The Voice of the Unheard

Aasia Jeelani was a young human rights activist from Kashmir who was killed in a landmine blast en route to an election monitoring duty in Kupwara in North Kashmir on April 20, 2004. Her sudden demise was and continues to be a big loss not only to the human rights community in Kashmir. Her driver was killed in the same incident and two of her colleagues were severely wounded.

Struggling against Impunity for Disappearances

- Disappearances are a crime against humanity and one of the most extreme forms of human rights violations.
- There are certain mechanisms to protect the families of the disappeared: UN Declaration on HRDs and the EU Third Country Guidelines on HRDs, International Convention against Disappearances
- Prosecution of perpetrators
- Prevention of disappearance

Schutz von Menschenrechtsverteidiger/innen in Asien

Zusammenfassung des Vortrages von Marie Aileen Diez-Bacalso, Generalsekretärin von AFAD

Die Asiatischen Förderung gegen das Verschwindenlassen (AFAD) ist eine regionale Menschenrechtsorganisation, die sich aus Organisationen von Angehörigen von Verschwundenen aus China, Indien, Indonesien, Pakistan, Philippinen, Sri Lanka und Thailand zusammensetzt.

Die Förderung fördert Solidarität, Kommunikation, Vernetzung und den Beistand für Angehörige und Opfer von Verschwindenlassen und besteht seit 1998.

Es gibt viele Fälle des Verschwindenlassens in Asien, jedoch kontrollieren viele repressive Regierungen bisher zu großen Teilen erfolgreich Informationen über diese Fälle und entziehen sie der Öffentlichkeit.

Seit ihrer Gründung hat sich AFAD, gemeinsam mit lateinamerikanischen und afrikanischen Verbänden, darum bemüht, die Ratifizierung der UN Konvention zum Schutz aller Menschen vor dem Verschwindenlassen, voranzutreiben.

Die Erklärung zum Schutz von Menschenrechtsverteidigern¹ der Vereinten Nationen definiert Menschenrechtsverteidiger/Innen als Menschen, die sich individuell oder als Kollektiv für die Rechte anderer Menschen auf nationaler und/oder internationaler Ebene einsetzen, die allgemeine Erklärung der Menschenrechte anerkennen und gewaltfrei arbeiten. Sie sind durch die Erklärung zum Schutz von Menschenrechtsverteidigern der Vereinten Nationen geschützt.

Der Blick auf Asien zeigt, dass nicht nur Menschenrechtsverteidiger/Innen, sondern auch deren Organisationen und Familien selbst zu Opfern von Menschenrechtsverletzungen werden. Die Täter gehören in diesen Fällen sowohl zu staatlichen Einrichtungen, insbesondere zu staatlichen Sicherheitskräften als auch zu nicht-staatlichen Gewaltakteuren (z.B. Guerilla oder religiös fundamentalistische Gruppen) oder privaten Konzernen.

Aus den Erfahrungen von AFAD ergibt sich die Frage, ob die Familien der Verschwundenen als Opfer oder als Menschenrechtsverteidiger/Innen einzuordnen sind. Entsprechend Konvention gegen Folter der Vereinten Nationen sowie der Konvention zum Schutz aller Menschen vor dem Verschwindenlassen und der Erklärung zum Schutz von Menschenrechtsverteidigern, können Familien sowohl als Opfer, als auch als Menschenrechtsverteidiger/Innen gelten.

Das Verschwindenlassen von Personen stellt ein Verbrechen gegen die Menschheit dar. Die Straflosigkeit, in deren Kontext diese schweren Menschenrechtsverletzungen geduldet, ermutigt und gefördert werden, muss bekämpft werden.

Als Instrumente hierfür dienen auf internationaler Ebene die Konvention zum Schutz aller Menschen vor dem Verschwindenlassen der Vereinten Nationen, sowie die EU Erklärung und die EU Richtlinien zum Schutz von Menschenrechtsverteidigern. Das Verschwindenlassen muss verhindert werden. Bis dahin müssen die Familien von Verschwundenen geschützt und die Täter strafrechtlich verfolgt werden.

¹ Siehe :
[http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.RES.53.144.En](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.RES.53.144.En)

Discussion

Protection of HRDs by the German Government and the EU

Addressing Prof. Dr. Herta Däubler-Gmelin, **Dr. Jochen Motte** asked, how foreign HRDs can be given temporary asylum in Germany or Europe.

Prof. Dr. Herta Däubler-Gmelin mentioned, that well known human rights defenders from Chad were recently able to receive a visa for France. Means for protection, concerns regarding the issuance of visa and the status of residence need to be discussed not only at the national but also at the level of the EU. Human right defenders that are given asylum in European countries should receive a special status as the term “refugee” does not exactly apply here. Däubler-Gmelin pointed out that NGOs should be prepared for a meeting to further discuss possible steps in this direction.

Philippe van Amersfoort was hesitant in pursuing the protection of HRDs on the European level. He noted, that all issues on migration to the EU can be politically sensitive, it may therefore not be a good time to raise it as an EU issue. The EU is still far from a commonly agreed system for visa issues and though providing protection is possible in specific countries it is still difficult to work towards a common solution.

Violations by Non-State Actors

Bobby Garcia from PATH¹ appreciated the broad picture presented by the speakers, but emphasized that the killings are perpetrated by various groups ranging not only from state security forces to vigilante groups, but including also non-state actors, such as the MNLF, MILF and the NPA. While redress for victims of state violence has been the focal point of human rights organisations, legal redress for victims of non-state actors still lacks attention. The EU’s monitoring system should therefore cover non-state actors as well.

Philippe van Amersfoort responded, that comprehensive monitoring of all forms of extrajudicial killings is a question of resources and capacity of judiciary. He expressed hope to include all cases

of political killings but stressed that monitoring needs to be differentiated from justice.

So far foreign governments have been reluctant to deal with human rights violations committed by non-state actors fearing to be used by either the one or the other party to the conflict.

This deficit should be addressed by NGOs acting as a platform to openly and sincerely discuss information reporting of those violations **Dr. Theodor Rathgeber** from Forum Menschenrechte² adds. The ability of NGOs to influence policy may be limited but could institute an independent fact-oriented type of discourse.

In response, **Bobby Garcia** makes it clear that if pressure is exerted on the government it should also be exerted on armed groups, despite the political nature of the conflict involved.

² About Forum Menschenrechte: http://forum-menschenrechte.de/cms/front_content.php?idart=225

¹ About PATH- Peace Advocates for Truth, Healing and Justice: <http://path-philippines.blogspot.com/>

Implementation of Human Rights Protection

Conference on Political Killings and the Rule of Law

Second Day, 9 May 2008, Second Session

Discussions on the EU Guidelines on HRDs (Summary)

Presentation by Vincent Forest

*Head of EU Office, Frontline International, Brussels

Front Line International is a foundation for the protection of HRDs. Front Line was founded in Dublin in 2001 with the specific aim of protecting HRDs working at risk on any of the rights enshrined in the Universal Declaration of Human Rights. Front Line aims to address some of the needs identified by defenders themselves, including protection, networking, training and access to international bodies that can take action on their behalf.¹

Front Line is based in Dublin and Brussels with a staff of 15 people. The organization offers a 24 hours emergency response phone line and runs a small grant program for security needs not exceeding €6000.



Challenges for the Protection of HRDs for the EU

1. **Not a paper exercise:** The EU Guidelines² should be considered as a lively protection tool, to be implemented in a flexible, creative, proactive and multidimensional way, leading to measurable improvement of the security level for HRDs.
2. **Identification of HRDs (HRDs):** The EU needs to refer to the UN Declaration on HRDs, which does not focus only on civil and political rights defenders but also includes defenders of economic, social and cultural rights, and identifies HRDs on the basis of 'what they do' rather than 'who they are'.
3. **Role of EU missions,** as the primary interface between the EU and HRDs: The European Commission delegations should play a pivotal role in ensuring that the commitments contained in the EU guidelines are taken on board irrespectively of individual member states' foreign policy interests.
4. **Ambitious local strategies:** EU missions should avoid achieving only the outcome that would be the most common denominator. For the time being, the lack or absence of statements on certain countries seems to reflect a lack of consensus amongst member states. When concerted action is not possible, EU member states should consider taking action on an individual basis.
5. **Outreach and case monitoring** by EU missions are fundamental to develop appropriate contacts with independent and relevant HRDs working individually or in groups, especially those working in remote areas.
6. **Continuity, persistence and follow-up** can help ensure impact. It also allows the EU to develop more detailed knowledge of the issues and cases of HRDs and present more effective arguments to third country coun-

¹ More about Front Line International:
<http://www.frontlinedefenders.org/about/frontline>

² The complete EU Guidelines for the Protection of HRDs:
<http://ue.eu.int/uedocs/cmsUpload/GuidelinesDefenders.pdf>

terparts. The EC sometimes plays a key role in ensuring continuity because of its relatively large and stable human resource base, unlike the rotating EU Presidency.

7. **Giving HRDs visibility** may be crucial in situations where HRDs are construed as anti-state actors, linked to armed opposition groups or as terrorists. In any case, the issue of visibility must be discussed in advance with the HRDs concerned in order to avoid adding to their risk.
8. **Confidentiality vs publicity:** If confidentiality under 'quiet diplomacy' can be perceived as more effective, it should not be used as a way to hide inaction and should be assessed in terms of impact on third country action and the situation of HRDs. At least HRDs and organisations that support them should get feedback on individual cases and should be informed of any action taken on their behalf - even in an informal way.
9. **Involvement of HRDs** is also a key issue, when the EU intends to take action. HRDs should also be involved in the training of EU and member state diplomats, both centrally and in the field.
10. **Financial support** is not only a responsibility of the European Commission through the European Instrument for Democracy and Human Rights (EIDHR)³, but also of the member states. This may include support for capacity building, awareness campaigns as well as urgent and general protection measures.
11. **Last but not least, publicity of the Guidelines:** The level of awareness amongst EU missions, but also amongst policy makers in member states and local HRDs continues to vary greatly. Publicising the Guidelines should go beyond simple dissemination, for example through events, common publicity strategies, such as the dissemination of the Dutch Presidency Handbook to HRDs, etc.

Limitations and Ways of Improvement

³ To view the strategy paper for the EIDHR:
http://ec.europa.eu/europeaid/where/worldwide/eidhr/documents/eidhr-strategy-paper-2007_en.pdf

Limitations

Action is too often linked to the personal dedication of the Head of Mission or staff. Some are active, while others prioritise geo-strategic interests over human rights.

Member states of the EU pursue their own interests in their foreign policies. This often results in a lack of consensus among states and a rather weak common denominator.

Recommendations

A strategic and structured approach, on the basis of the burden-sharing principle, e.g. through trial monitoring, a shared track record of actions with feedback to HRDs, even if it happens informally.

Involvement of genuine and independent NGOs and individuals in activities, such as joint press conferences and in political dialogues.

Conducting systematic training of European Commission delegation staff on the EU Guidelines and their potential.

Facilitating access to funding for HRDs. A central fund is to be managed by the European Commission for the direct award of small grants to HRDs, in order to respond to urgent needs for protection.

Making the Guidelines a Success

It is important to know who are the independent HRDs/NGOs active in the country - not only in the capital. Also, a case-by-case approach should be used in support of HRDs and the use of strict criteria should be avoided.

Secure Communications

Vincent Forest concluded his presentation by stating that the protection of HRDs does not necessarily cost huge amounts of money. Small steps that do not cost anything can make a big difference. Frontline has produced a handbook on the protection of HRDs, which can be viewed and ordered over the homepage.⁴

⁴ See: <http://www.frontlinedefenders.org/manuals/protection>

Die EU Richtlinien zu Menschenrechtsverteidiger/innen

Zusammenfassung des Vortrages von Vincent Forest, Leiter des EU-Büros von Front Line International, Brüssel

Front Line ist eine internationale Stiftung für den Schutz von Menschenrechtsverteidiger/innen. Die Stiftung wurde 2001 in Dublin gegründet. Sie hat zum Ziel, gefährdete Menschenrechtsverteidiger/Innen, die sich gewaltfrei für in der Allgemeinen Erklärung der Menschenrechte niedergelegte Rechte einsetzen, zu schützen. Front Line hat 15 Angestellte.

Front Line bietet Hilfestellungen für von Menschenrechtsverteidiger/innen identifizierte Bedürfnisse, wie persönlicher Schutz, Netzwerkarbeit, Sicherheitstrainings sowie Zugang zu relevanten internationalen Organen. Auch ein 24-Stunden Notfall-Telefonservice sowie ein Budget für Projekte und Programme (Fördersumme bis 6000 Euro) werden durch Front Line zur Verfügung gestellt.

Vincent Forest machte Herausforderungen an die EU in Bezug auf den Schutz von Menschenrechtsverteidiger/innen deutlich. Benannt wurde z.B. die Umsetzung und der EU Richtlinien zum Schutz von Menschenrechtsverteidiger/innen¹; die Identifizierung von Menschenrechtsverteidiger/innen auf Basis dessen, „was diese tun und nicht wer sie sind“; die Rolle der EU und v.a. der EU Kommission dafür Sorge zu leisten, dass die EU Richtlinien verbreitet und ungehindert von nationalen Interessen der einzelner EU-Mitgliedsstaaten umgesetzt werden; die Kontinuität und Beharrlichkeit in der Überwachung von Schutzmaßnahmen und der Einhaltung der Richtlinien;

die Stärkung des Bewusstseins für und die Sicht auf den Schutz von Menschenrechtsverteidiger/Innen innerhalb der EU; dass die diplomatische Vertraulichkeit nicht als Deckmantel für Untätigkeit missbraucht werden sollte; die Notwendigkeit finanzielle Unterstützung für Menschenrechtsverteidiger/innen; sowie die Einbeziehung von Menschenrechtsaktivist/innen in Planungsprozesse.

Ein Grundproblem stellt dabei die mangelhafte Bekanntheit der EU Richtlinien unter Regierungsvertreter/innen und NRO dar.

Durch kontinuierlich durchgeführte Trainings und eine strategische und strukturierte Herangehensweise können diese Herausforderungen in Zusammenarbeit mit unabhängigen NRO konstruktiv angegangen werden.

Menschenrechtsverteidiger/innen können jedoch nur mit dem Wissen über ihre Existenz geschützt werden, insbesondere wenn sie im Hinterland und nicht in der Hauptstadt aktiv sind. Ebenfalls sollten die bereitstehenden Gelder genutzt werden um einen weiteren gefassten Schutz zu ermöglichen. Über einzelne Fälle sollte auch von Fall zu Fall entschieden werden, damit der Schutz nicht an strikten formalen Kriterien scheitert. Dies verdeutlicht ebenfalls die Bedeutung der Sicherung des Informationsflusses über bedrohte Menschenrechtsverteidiger/innen.

Abschließend ermutigte Vincent Forest, dass beim Schutz von Menschenrechtsverteidiger/innen bereits durch kleine kostenlose Schritte große Veränderungen für die Betroffenen erwirkt werden können.

¹ Die deutsche Version der Richtlinien findet sich unter: http://ec.europa.eu/external_relations/human_rights/guidelines/05_protect/guidelines_de.pdf

Discussion

Lobbying European Governments and Embassies

Dr. Jochen Motte underscored the need for lobby-work towards EU governments and embassies in order to familiarise them with the EU-Guidelines. Realizing the dependence of government officials on information provided by NGOs, Forum Menschenrechte changed its frequency of assessments and reports in order to provide a more regular flow of information to policy makers.

Andy Whitmore from PIPLinks¹ described difficulties when it comes to lobbying the British government. While the government blocks mechanisms for the protection of indigenous people's rights, British embassies have showed greater openness and have supported development projects in protection of human rights. Due to internal conflicts within the ranks of government officials, whereas higher ranking officials often deal with development and economic issues and lower ranking officials are tasked to face human rights issues, the power of the human rights discourse for changes is limited.

To view the economy and development to be on the one side and human rights on the other side nevertheless blurs the reality and a comprehensive understanding of human rights. In explanation Whitmore gave an example of a community affected by mining that peacefully protested against negative impacts from the project. During a barricade one of the protestors was shot and instead of prosecuting the perpetrator, the protestors are now charged by the corporation.

For EU embassies to take a role the Norwegian government may serve as an example. It recently presented a critical report on the Philippines, which could trigger further pressure if joint action and statements are given by several European governments at the same time.

The Role of the International Community and the Filipino people

Marie Hilao-Enriquez appreciated the international pressure on the Philippine government that helped to raise concern. International missions have significantly contributed to achieve a decrease in extrajudicial killings in 2007. To further enhance this

pressure it is important to lobby for an end to the climate of impunity. It is however the Filipino people that needs to find solutions in the first place, while the international community is crucial for support.

HRDs should not only be protected by granting them asylum abroad, but they also need to be strengthened in order to continue their struggle within the country.

Means for Pressure and Recommendations

She recommends that not just diplomatic but trade relation are used for exerting pressure on the Philippine government. The US Congress for instance decided to tie a part of the US military aid to the Philippines to a human rights conditionality. Hilao-Enriquez called on the European Council and the European Union to push for the implementation of the recommendations made by UN SR Philip Alston, such as the review of the OBL policy and the withdrawal of the IA-LAG in 2007. Additionally vilification campaigns against human rights NGOs and people's organisations should be stopped.

Max de Mesa adds his recommendations to the international community from his presentation (p. 36).

Addressing German NGOs

Marie Hilao-Enriquez asked the German NGOs to continue monitoring the Philippine compliance with human rights standards and recommends to write urgent actions and letters of concern on specific cases. For the UPR she stressed the importance of lobby work to the European governments in order to raise questions from the floor while reports are presented.

Need for Assistance in the Philippines

In the Philippines there is a strong need for NGOs and lawyers and paralegals to receive trainings on capacity building and for effective monitoring, which could be assisted by the EU commission.

Atty. Cecilia Jimenez added that the emphasis on trainings and education is fundamental especially for lower court judges, since they are the ones tasked to handle the cases. Meanwhile, the Supreme Court should recognise and emphasise

¹ More about PIPLinks: <http://www.piplinks.org/>

international law in order to promote the progressive evolution of the Philippine jurisprudence. Trainings should therefore be extended beyond mere knowledge dissemination, but should include strategic advice.

In the long run trainings on the grassroot-level are necessary to educate the people about their rights and how to assert them, **Marie Hilao-Enriquez** stated.

She further drew attention to the assistance needed for the protection of witnesses who do not have enough trust in the program witness protection programme of the Department of Justice. So far NGOs have neither enough financial resources nor sufficient workforce to provide sanctuary to victims and witnesses.

UNHRC Mechanics

Dr. Theodor Rathgeber contributed to the discussion by sharing his experiences from Geneva. On the international level cooperation on human rights issues cannot bring down governments but can challenge government policy on human rights. While the mandates of special procedures such as the Special Rapporteurs or the Working Group on Enforced Disappearances are still being worked out. Working groups usually consist of a group of five representatives from different countries working on a certain issue and they are even authorised to act on suspicion only. Means for pressure would be for instance to pose an ultimatum to the Philippine government to issue a statement on the matter concerned which can then be addressed to the media in a further step. Based on experiences from other cases the displeasing character of this ultimatum and the threat to the country's reputation usually turns out to be quite effective.

The fourth item on the HRC's agenda allows statements from the floor to address the human rights situations in the different countries. While this procedure is threatened to become a routine, it can draw attention to massive and constant human rights violations covering a period of time from three to four years and beyond.

All mechanism of the HRC as well as diplomatic bilateral relations should be fully exploited. Dr. Rathgeber also referred to the UPR which had been repeatedly mentioned by previous speakers. It is a new mechanism obliging every government to present a country report every four years. Some see it as a means to increase the willingness of governments for cooperation, demanding highest standards from the members of the HRC.

The UPR enables states, NGOs and UN bodies to provide documentation about a specific country's human rights compliance. These clear and brief reports provide the media with quick overviews about the country's situation. To exhaust the full length of the documentation and to draw a comprehensive picture, NGOs should try to work together and divide the priorities between them. The UPR procedure ends with an assessment by the HRC. For the UPR of the Philippines 2008 the assessment was completed in June². Finally recommendations are made by the HRC. Some of the recommendations will be welcomed and voluntarily accepted by the government while others may be ignored. The reports and recommendations nonetheless serve as a basis for close monitoring as well as future follow-ups and can be brought to international media to constantly generate public opinion and pressure.

Advancing Collective Efforts

These complex mechanisms offered by the UNHRC again stress the importance of continuity and the need to gradually advance existing networks **Dr. Jochen Motte** added to Dr. Rathgeber's account.

The role of the Philippine diaspora was pointed out by **Attorney Cecilia Jimenez**. Philippine migrant associations could help in coordinating the effort to further increase the pressure. For the UPR the strategic framework and joint efforts by Karapatan, PAHRA and other human rights groups were important. Such common platforms, where NGOs from all political spectrums meet, need to be strengthened.

Besides the UPR several other reviews on the Philippines' human rights compliance will take place in 2008 at the UNHRC. Monitoring occurs under the Convention for the Rights of a Child (CRC), the Committee on the Elimination of Racial Discrimination (CERD) and the Committee on Economic, Social and Cultural Rights (CESCR). To support these bodies, NGOs should coordinate activities and the timely flow of information, **Atty. Jimenez** concluded.

² <http://www.ohchr.org/EN/HRBodies/UPR/Pages/search.aspx>

A Balanced Insight

Arguing for a balanced insight into the human rights situation **Bishop Pueblos** recommended to also listen to human rights experts within the government ranks and encourages groups to lobby the Philippine government for the ratification of the Optional Protocol to the Convention Against Torture.

Resume Peace Talks

Bishop Pascua from the UCCP highlighted the need for the resumption of peace talks between the NDF and the Philippine Government. Many people are forced to either take side with one party of the conflict. To achieve progress, NGOs and the church have to consider different perspectives and points of view. The church needs to call for negotiations and an end to impunity. Prejudices and biases do not contribute in resolving the conflict, but simply further complicate the problem. Bishop Pascua therefore asked the present representatives and organisations to join the call for the resumption of peace talks.

Marie Aileen Diez Bacalso, as an official independent observer to the peace process, shared her frustration with the breakdown of peace talks. She called on the Philippine government and the NDF to resume negotiations and asks Germany and the EU to help in this call.

Networking

On the European level more joint efforts are necessary to work together as NGOs especially with respect to the HRC and the EU Guidelines, **Philipp Bück** comment. Compared to the US the European influence on the Philippines may be limited. It may therefore be necessary to co-operate and network with US based networks.

Andy Whitmore from the London based PIPLinks expressed interest in this call to lobby the European governments on issues of joint concern. He stressed that the Human Security Act (HSA) is one of the key concerns in particular against the background of the UK's own history with civil unrest in Northern Ireland. Reflecting on the conference, Whitmore stated that the protection of HRDs is an issue to be taken up once back in the UK.

Lobbying the Vatican

Sophie Lizares-Bodegon from UEM pointed out that six out of seven organisers of the conference are church based organisations. It could therefore be a challenge to engage with the Vatican as a major player in the catholic Philippines.

Final comments

Max de Mesa expressed his appreciation for the international concern and efforts which give inspiration and encouragement for the future.

Dr. Theodor Ratgeber recommended to also include the important work of Muslim groups in human rights strategies to counter Islamophobia.

He further mentioned the encouraging story of the mothers from the “Plaza de Mayo” in Argentine¹ who were a crucial factor in the evolution of the International Convention on Enforced Disappearances.

Anniversaries in 2008

Vincent Forest reminded of the 60th anniversary of the Universal Declaration on Human Rights, which correlates with the 10th anniversary of the UN Dec-

¹ For further information on the “Madres de Plaza de Mayo” see: <http://www.madresfundadoras.org.ar/>

laration on HRDs in 2008. Both should remind people of the issues, but also serve as an encouragement.

Katharina Stahlenbrecher submitted a message from Prof. Dr. Däubler-Gmelin who reminded of the German “RichterInnenbund,”² which also offers possibilities for cooperation.

Closing Words

Completing the conference **Dr. Jochen Motte** called to reach out, to stay in touch and collect the efforts. He thanked the participants, particularly the people from the Philippines for coming and participating.

² Germany’s largest professional associations of judges and public prosecutors. More about the German Richter/innenbund (homepage is only available in German): <http://www.drb.de/cms/index.php?id=29>

Further Reading

This reading list is just a selection of a large range of resources on extrajudicial executions in the Philippines.

- Action Network Human Rights – Philippines, various documents: www.menschenrechte-philippinen.de
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- Amnesty International, Philippines - Political Killings, Human Rights and the Peace Process, View the complete report in English: www.amnesty.org/en/library/asset/ASA35/006/2006/en/dom-ASA350062006en.pdf (01.05.2008)
- Amnesty International, Webseite der Koordinationsgruppe für die Philippinen, freenet-homepage.de/ai-philippinen/ (01.05.2008)
- Asian Federation Against Involuntary Disappearances (AFAD), website, view: www.afad-online.org/
- Asian Human Rights Commission, Philippines Country Site, view: philippines.ahrchk.net/
- Asian Human Rights Commission, Stop Extrajudicial Killings in the Philippines, website with links to various NGO reports, www.pinoyhr.net/ (01.05.2008)
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- Peace Advocates for Truth, Justice and Healing (PATH), website: <http://path-philippines.blogspot.com/> (01.05.2008)
- Philippine Alliance of Human Rights Advocates (PAHRA), website: www.philippinehumanrights.org/ (01.05.2008)
- Senate bill No. 1427, Command Responsibility Act of 2007
- Task Force Usig, website, view: www.pnp.gov.ph/about/content/offices/spl_units/tf_usigupdates/usig_sept/aboutusig.html (01.05.2008)
- United Nations Human Rights Council, Documents on the Universal Periodic Review of the Philippines, 1st Session 2008, view: www.ohchr.org/EN/HRBodies/UPR/Pages/search.aspx, select “Philippines”



Action Network Human Rights - Philippines

c/o **philippinenbüro** e.V. im Asienhaus
Bullmannau 11
D-45327 Essen

Phone 0049 [201] 830 38 28

Fax 0049 [201] 830 38 30

eMail philippinenbuero@asienhaus.de

Aktionsbündnis Menschenrechte -Philippinen

Das "Aktionsbündnis Menschenrechte - Philippinen" besteht seit dem 1.8.2007. Ziel des Projektes ist es, durch Öffentlichkeits- und Lobbyarbeit in Deutschland zur Verbesserung der Menschenrechtssituation in den Philippinen beizutragen. Das im **philippinenbüro** e.V. im Asienhaus angesiedelte Büro koordiniert Publikationen, Veranstaltungen und Lobbyaktivitäten. Zielgruppe ist die Presse, politische Entscheider, Menschenrechtsengagierte und Multiplikatoren/innen in Deutschland und Europa. Thematischer Schwerpunkt der Arbeit sind politische Morde und Entführungen. Trägerorganisationen des Bündnisses sind Brot für die Welt/Diakonie, der Evangelische Entwicklungsdienst (EED), Misereor, Missio, **philippinenbüro** e.V. im Asienhaus und die Vereinte Evangelische Mission (VEM). Weitere Informationen: menschenrechte-philippinen.de

Action Network Human Rights - Philippines

The „Action Network Human Rights – Philippines“ was formed on 1 August 2007. The project aims to contribute to the improvement of the human rights situation in the Philippines through information and lobby work in Germany. The office coordinates publications, activities and lobby work and is based at **philippinenbüro** e.V. in Asia House. Target groups are the media, political decision makers, human rights activists and multipliers in Germany and Europe. The network focuses on politically motivated killings and involuntary disappearances in the Philippines. Member organizations to the network are Bread for the World/Diakonie, Church Development Service (Evangelischer Entwicklungsdienst/ EED), Misereor, Missio, **philippinenbüro** e.V. in the Asiahouse, and United Evangelical Mission (UEM).

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