



philippinenbüro im Asienhaus e.V

Diakonie 

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While the Philippines are state party to most of the important UN human rights conventions and treaties, their implementation is not a policy priority. Human rights violations continue to be grave and widespread: Alleged state security forces are involved in extrajudicial killings and the Gloria Macapagal-Arroyo administration fails to hold alleged perpetrators accountable. The numbers of politically motivated executions and enforced disappearances remain high and even increased during the last months of 2009. A tendency that is expected to continue against the background of the coming general elections in May 2010.

Political Situation

Despite numerous questions from the opposition, President Gloria Macapagal-Arroyo could repel political challenges to her presidency in 2009. In November 2009 a Senate investigating panel unsuccessfully sought the impeachment of President Arroyo based on a number of severe irregularities in the government. Facing constant opposition and threats of public uprising and military coups, the Arroyo government has resorted to subterfuge and obfuscation, as well as taking control by infringing on civil liberties and by forming alliances with the military. There are now more than two dozen high ranking civil servants and government officials with a former military or police background in various government institutions.

One of the main obstacles in the fulfilment of basic rights in the Philippines is corruption. For the second consecutive year the Philippines flunked the Millennium Challenge Corporation (MCC) corruption test. US Secretary Clinton, head of the MCC board, warned against the “very unfortunate impact” of corruption on the people.¹ According to the US think tank Freedom House, corruption is extensive throughout the entire state apparatus and bribes seem to be a regular element of the complex connections among politicians, civil servants, the public and the private sector.² Part of the reasons why Arroyo seeks a Congress seat in May 2010 elections is widely perceived to be her interest to retain immunity from potential corruption charges.

Harassment charges are widespread and also used as a means of repression against land reform or political activists. Often, the victims lack access and means to justice and are victimized by the law. A general erosion of respect for the law and the failure of the state to identify, bring to trial and sentence human rights violators continues to determine the human rights situation. Over recent years this climate of impunity has been well documented by investigations of local NGOs, such as the Philippine Alliance of Human Rights Advocates (PAHRA), Karapatan, Partnership for Agrarian Reform and Rural Development Services, Inc. (PARRDS), Citizen's Council for Human Rights (CCHR), international organisations such as Amnesty International, Human Rights Watch as well as the UN Special

¹ GMA News, Clinton urges youth to fight corruption through social media, 13 November 2009

² Freedom House, Country Report Philippines, 2009 Edition

Rappoteurs on Extrajudicial, Summary or Arbitrary Executions, Prof. Philip Alston, as well as Prof. Rodolfo Stavenhagen, former UN Special Rapporteur on Indigenous Peoples.

Extrajudicial Executions

The number of extrajudicial executions had dropped in previous years, but started to increase again in late 2009. The main single act of brutal murder was the massacre that took place in the town of Ampatuan, Maguindanao province on last November 23. Among the 57 victims were female family members of Esmael Mangudadatu, vice mayor of Buluan town. They were on the way to file a certificate of candidacy for Mangudadatu who was going to challenge Datu Unsay mayor Andal Ampatuan Jr., son of the incumbent Maguindanao governor Andal Ampatuan Sr. in the forthcoming Maguindanao gubernatorial election as part of the national elections in May 2010. Victims include 30 journalists, 2 women lawyers, aides, and motorists who were witnesses or were mistakenly identified as part of the convoy. According to the World Association of Newspapers and News Publishers (WAN-IFRA) the Maguindanao massacre was the deadliest single attack on media workers in history and made the Philippines the worlds most dangerous country for media worker.

According to the Human Rights Organization Karapatan before the massacre 77 extrajudicial executions were committed between January and October 2009 and 1,118 between January 2001 and October 2009. The number of politically motivated killings involving security personnel is highly contested. The police unit Task Force Usig, created in 2006 to investigate political killings, discarded all but 156 "valid" cases of killed political activists and journalists by 14 January 2010.³

Two main causes underlying many extrajudicial executions and enforced disappearances, as identified by Prof. Philip Alston in February 2007, have still not been addressed by the government. These are

- "the characterization [by security forces] of most groups on the left of the political spectrum as 'front organizations' for armed groups, particularly the New People's Army (NPA)"
- "the extent to which aspects of the government's counter-insurgency strategy encourage or facilitate the extrajudicial killings of activists and other 'enemies'." (Prof. Philip Alston, A/HRC/4/20/Add.3)

Armed opposition groups are also responsible for severe and widespread human rights abuses. Members of the rebel group New People's Army (NPA) in July 2009 ambushed a truck in Negros Occidental resulting to the death of the innocent Rodolfo Salipod, Ena Pata and the 14 year old Edmar Sultan, while Barangay Chairman Eriberto Baynosa was the likely target of the ambush. Already in 2007 Prof. Alston stated that NPA practices were inconsistent with international humanitarian law and described the so-called "people's court system", which still uses capital punishment against "intelligence personnel", as "either deeply flawed or simply a sham," since it circumvents due process, as it lacks "anything that could reasonably be characterized as a penal code" (Philip Alston, Final Report, November 2007). Impunity, therefore is also happening in the wider context of political violence in the Philippines.

Extrajudicial executions of local urban poor alleged criminals have become commonplace. Particularly Davao is notorious for the Davao Death Squad (DDS) – the number of extrajudicial executions in Davao rose from 2 reported cases in 1998 to 98 in 2003 and 124 in 2008. On March 30 and 31, 2009, the Commission on Human Rights held the first-ever public hearing on death squads in Davao City. In April 2009 Human Rights Watch (HRW) published a 103-page report with details of the involvement of police and local government officials in targeted killings of alleged drug dealers and petty criminals, street children, and others. In February 2009, Duterte told reporters, "If you are doing an illegal activity in my city, if you are a criminal or part of a syndicate that preys on the innocent people of the city, for as long as I am the mayor, you are a legitimate target of assassination."⁴

³ Task Force Usig Accomplishment Report, 14 January 2010

⁴ Human Rights Watch (HRW), Philippines: Dismantle Davao Death Squad, 6 April 2009

Enforced disappearances and trumped-up cases

According to Karapatan, the numbers of “disappearances” increased during the first years of Arroyo administration from 8 in 2001 to 105 in 2006 and then decreased to 9 in 2008. However, the drop in numbers might be explained with increasing “trumped-up cases” when activists are abducted and detained for several days and weeks without being informed on the charges against them. Little evidence is found in most of the cases, but its an exhausting process of getting freed of charges.

Enforced disappearances and trumped-up cases have contributed to the erosion of the peace process with the NPA over recent years. On 6 February 2010, 43 health workers were arrested in Rizal Province with unspecified and incomplete warrant by the Armed Forces of the Philippines (AFP). They were accused of illegal possession of firearms, manufacturing bombs as well as of being part of the Communist Party of the Philippines - New Peoples Army (CPP-NPA) while they were participating in a health training seminar by the Council for Health and Development (CHD). Another incident is the tagging of a voters education program conducted by the Women’s Development Centre (WDC) as “insurgery”, done so by an intelligence report of the AFP published on 31 January 31 2010.

Despite continuing advocacy by Philippine and international Human Rights Organizations the Anti-Enforced or Involuntary Disappearance Act of 2009 has still not been passed by the Senate. Furthermore, it is important that the Philippine government ratifies the International Convention for the Protection of All Persons from Enforced Disappearance defining widespread or systematic use of enforced disappearance as a crime against humanity. As of December 2009 the convention was signed by 18 countries and will come into force when signed by 20 state-parties.

Torture

Torture in police custody is often experienced. The human rights NGO Task Force Detainees of the Philippines (TFDP) documented 40 cases of torture with 67 victims in 2009 alone. Most of these cases were perpetrated by the Philippine army. Amnesty International reports widespread use of harassments, beatings, sexual abuse and torture in custody in their 2003 report “Philippines: Torture Persists: Appearance and Reality within the Criminal Justice System” (AI Index: ASA 35/001/2003). While formally prohibited by law, torture during interrogation is not prevented, due to a lack of official investigation of allegations and cases of torture and due to weak institutional control mechanisms.

On 7 February 2010 a team of the Commission on Human Rights (CHR) was denied its constitutional visiting rights at Camp Capinpin. The military said the CHR team needed a written clearance from the AFP general headquarters to get access to the 43 detained health workers. This incident is clearly incompatible with the military’s assertion to cooperate with the CHR.

The signing of Republic Act (RA) 9745 or the Anti-Torture Act of 2009 is a positive step in instituting measures to stop the culture of impunity on human rights violations. However, the Philippine government also committed to the ratification of the Optional Protocol on the Convention Against Torture during the UPR in April 2008. The document has been signed by the president but its ratification is delayed in the Senate Committee on Foreign Affairs.

Mindanao

The peace process in Mindanao has broken down after the Memorandum of Agreement on Ancestral Domain (MOA-AD) could not be signed following a temporary restraining order and a later ruling of unconstitutionality of the Supreme Court in August 2008. As of today, the number of Internally Displaced Persons (IPD) remains high. Between 330,000 and 400,000 live in desperate conditions in crowded camps with limited access to food and livelihoods and become victims of human rights abuses.⁵ It is clear, that the current Philippine government does not have the political clout or will to push for a political resolution of the conflict at the moment. A paradigm shift away from the points of agreement within the MOA-AD towards a community-based approach to conflict resolution has moreover alienated the MILF leadership from the peace process and eroded confidence of the civilian

⁵ Amnesty International, Displaced Civilians in the Philippines still at risk despite Mindanao ceasefire

population in the affected areas in Mindanao in the Philippine government's sincerity in peace-building efforts. No important steps in the peace process are expected before the next administration becomes effective after the elections in May 2010.

Violence against women

In 2009, the Philippine National Police (PNP) documented a total of 6,905 cases of violence against women. Violation of RA 9262 registered as the highest 3,599 cases, accounting for 52.1% of the total VAW cases. RA 9262 penalizes abusive husbands and live-in partners, but only if the victim files a case under such law. Physical injuries and/or wife battering prevail to be the most common form of violence committed against women with additional 1,307 reported cases outside RA 9262. Rape accounts for 11.7% of all registered cases of violence against women.

Investment Policies

Human rights violations are also connected to foreign direct investments and private national investments. Workers rights within export-processing or special industrial zones are often violated and local small-scale farmers get expelled from the territory of such zones without compensation. Agricultural lands owned by the land-owning elite are often considered "fenced-in patches of impunity": On entering the hacienda, national law becomes secondary to the landowner's hacienda law. A government-appointed special commission identified 132 private armies in the country with a combined strength of 10,000 men that politicians use to intimidate rivals and voters.⁶

On 9 June 2009 the bicameral committee finally passed CARPER (Comprehensive Agrarian Reform Program extension with reforms). CARPER remains a compromised version of what the farmers and supporters of agrarian reform have hoped for. Especially the need of an attestation by the landowner that farmers were tilling the land before is mentioned as a 'killer amendment', because it is a potential exclusion of seasonal farm workers and endangers the selection and identification of beneficiaries. The landowner can use it as an instrument to evade or stall the program because it enables them to identify their own set of beneficiaries loyal to them or opt not to cooperate at all.⁷

Particularly in the mining sector there is great cause for concern regarding the effects of foreign direct investments into mining projects in culturally or environmentally volatile areas. During the presidency of Arroyo, progressive human rights legislation such as the Indigenous People's Rights Act (IPRA) or CARL has been overruled in favour of foreign direct investments and individual interests. Multiple human rights abuses have been documented like the enforced disappearance of James Balao, founder of the Cordillera Peoples Alliance (CPA). As a member of a 1986 Constitutional Commission, he drafted provisions on indigenous peoples' rights in the 1986 Constitution. James Balao could have been detained as part of the government security operation Oplan Bantay Laya (Freedom Watch Operation), which categorizes staff and volunteers of some NGOs as workers for "front organisations" supporting the CPP, its military arm, the New People's Army (NPA), or another communist organisation, the National Democratic Front of the Philippines. Oplan Bantay Laya II comes to an end with the term of the current administration. It is expected that further activists will fall victim as the state security forces rush to prove the success of the operation.

United Evangelical Mission (UEM), Diakonisches Werk and the philippinenbüro e.V. im Asienhaus are therefore calling on the Human Rights Council:

- **to urge the Philippine Government to officially report on the implementation of recommendations made by the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions Philip Alston and the former Special Rapporteur on Indigenous Peoples Rodolfo Stavenhagen and instruct Special Representative of the Secretary General for Human Rights Defenders Margaret Sekaggya.**
- **to strengthen the role of such representatives and independent mechanisms regarding the human rights situation in the Philippines in the light of the Universal Periodic Review of**

⁶ Inquirer, Commission to take on 100 private armies, 7 January 2010

⁷ Mary Ann Manahan, CARPER and the continuing struggle for land

the Philippines and to integrate victims' organisations and human rights organisations into the periodic review mechanism.

- **to support the work of the EU-Philippine Justice Support Program (EPJUST) in advising the Philippine government in improving the justice system and improving the human rights situation in the country.**

United Evangelical Mission (UEM), Diakonisches Werk and the philippinenbüro e.V. im Asienhaus are therefore calling on the German Government

- **to assess the implications of the human rights situation in the Philippines on development cooperation through an inter-agency meeting including the Human Rights Officer of the German Federal Foreign Office, the Philippines Desk Officer as well as the Southeast Asia Department of the Foreign Office and the Federal Ministry for Economic Cooperation and Development, the Philippines Desk of the European Commission, human rights organisations and the authors of this Aide Mémoire.**
- **to address serious concerns regarding the human rights situation in the Philippines and request immediate and concrete steps to implement measures to stop and prevent election-related violence and human rights abuses during the session of the UN Human Rights Council in March 2010.**