



Aide-Mémoire 2011

Philippines

Human Rights Violations continue under the presidency of Aquino

In recent years, hundreds of defenders of human rights have been killed, disappeared or tortured by armed security forces in the Philippines. The victims are journalists, members of political parties, church people, civil society members, trade unionists, local politicians or land-reform and anti-mining activists. Up to now, only a few putative perpetrators and their backers among politicians, military, police or large landowners have been arrested and convicted.

Hopes pinned on Aquino

When the son of the democracy icons Benigno and Corazon Aquino was elected president of the Philippines on May 10, 2010, human rights organisations within and outside the country had high hopes that the human rights situation would improve under the presidency of “Noynoy” Aquino III.

During the presidential term of his predecessor, Gloria Macapagal-Arroyo (January 2001 to June 2010), the human rights organisation Karapatan registered 1,206 cases of political killings and 206 cases of enforced disappearances.¹ The conviction rate of so-called political killings is just about 1.05%.² More than 296³ political prisoners are still detained in the overcrowded and badly equipped prisons. Unlawful arrests which are often followed by tortures like in the prominent case of “Morong 43” are daily routine.⁴

Furthermore, it can be stated that the number of systematic attempts at intimidation has grown. The Philippine Human Rights Commission (CHR) calls it a “legal offensive” against left political activists. The victims are accused of made-up charges, so-called “fabricated cases”, where it is impossible to post a bail (e.g. murder) and finally end up in custody for an indefinite period of time.

Under the presidency of Benigno Aquino III things ought to change. After all, his father himself fell victim to a political murder. That he became 15th President of the Philippines is due to the “myth” of his family and the support of many NGOs. His election campaign was based on the promise of a fundamental change of policy leading to more justice and rule of law.

In his first government declaration (SONA) he promised that he will demand justice for the victims of political killings and “hold the murderers accountable” for their deeds.

Disappointed hopes by Aquino administration

Now, after a year of presidency has gone by, the hopes pinned on Aquino have been replaced by disillusion. Although Aquino has proclaimed his will to terminate extrajudicial killings, enforced disappearances and the impunity of perpetrators, he was not able to stop fundamental human rights violations. Since his inauguration on 30 June 2010, the Philippine Commission on Human Rights (CHR) reported a total of 64 victims of summary killings (indicating an upward trend of summary killings under the new administration). Further the human rights organisation Karapatan documented eight cases of

¹ Karapatan (2010): 2010 Year-End Report on the Human Rights Situation in the Philippines., p. 16f

² Parreño, Atty Al A. (2010): Report on the Philippine Extrajudicial Killings (2001 – Aug, 2010). The Asia Foundation. Online reference: <http://www.scribd.com/doc/37530361/FULL-Report-on-the-Philippine-EJKs-2001-2010>

³ TFDP (2010): Ang Matuwid na Daan – The Road Not Taken? Unpublished paper.

⁴ From January to September 2010 TFDP documented 56 cases of illegal arrests of an overall 109 people. 45 of these 109 prisoners were tortured following their arrests (TFDP (2010): Ang Matuwid na Daan – The Road Not Taken? Unpublished paper).

enforced disappearance, 29 torture cases⁵ and 151 illegal arrests and detentions.⁶ The families and victims of many killings and cases of enforced disappearance are still waiting that those responsible are called to justice and held accountable for their deeds.⁷

In many cases there are strong hints that the perpetrators belong to the Philippine armed forces and their representatives.⁸ Not included in the above numbers are the frequent extrajudicial executions of local urban poor alleged criminals, particularly in Davao City.

Military and counterinsurgency

The often criticised counterinsurgency programme “Oplan Bantay Laya II” established in June 2007 under Arroyo’s presidential term, specifically targeted civil-society actors, categorised as subversive and registered on so-called “hit lists”. According to Philip Alston, the former UN Special Rapporteur for extrajudicial, summary and arbitrary executions, this counterinsurgency strategy was one of the main reasons for political killings (Alston 2007).

Since January 2011 the new counterinsurgency strategy is in effect, also known as “Internal Peace and Security Plan” (IPSP) or “Oplan Bayanihan” (operation team work). According to the then chief of the Armed Forces of the Philippines (AFP), General David, the recognition of human rights is an integral part of IPSP. Thus, terms like “neutralisation” and “destruction” were exchanged by “winning the peace”. It remains to be seen if and to which extent this is just a form of “window dressing”, as many critics assume.

There are already growing reports that the military’s new “Peace and Development Teams”, who are instructed to implement Oplan Bayanihan, have molested civilians and staff of non-government organisations.⁹

Positive reform signs

There are some reform initiatives intending to improve the human rights situation in the country.

- Aquino has resumed the peace talks with the communist National Democratic Front (NDF) and the Moro Islamic Liberation Front (MILF) that were put on the hold for a long time. But both peace talks already reached a stalemate after some months of negotiations.
- The Rome Statute of the International Criminal Court was ratified by the Philippines on August 30 and will enter into force on November 1, 2011.
- In February 2011, the President endorsed the amendment of the Witness Protection, Security and Benefit Act (RA 6981) as one of the administration’s 23 priority bills sent to Congress and the Legislative Executive Development Advisory Council.¹⁰
- The Department of Justice (DoJ) is working on a reform of the revised penal code. The German government gives financial support to this reform initiative.
- The Aquino government recognizes the weaknesses of the security forces, and strives to address them holistically by espousing a paradigm shift in the way the security forces conduct their operations with the aim of mainstreaming the “human rights based approach”.
- The DoJ has set up a special task force to examine all “extrajudicial killings”. Said special task force is headed by an Undersecretary of the Department and assisted by prosecutors, state counsels and other officers to address all reported cases and unresolved cases of EJKs and enforced disappearance.

⁵ While the Philippines have an Anti-Torture Law since December 2009, there was no conviction under said law up to now, despite various documented torture cases. One of the Philippines commitments during the UPR was the ratification of the Optional Protocol on the Convention against Torture (OPCAT). The ratification process is, however, still pending in the Senate’s Foreign Relations Committee.

⁶ <http://www.ucanews.com/2011/08/18/activists-launch-impunity-campaign/>, 18.08.2011

⁷ There are many reasons for the delay or closure of trials. Among them is the insufficient knowledge of the prosecution and judges about recent human rights laws as well as the pay-off and harassment of judges, prosecutors and lawyers.

⁸ Many of the alleged perpetrators of Enforced Disappearances are unidentified (35 percent). However, 31 percent of the perpetrators allegedly belong to the military while 13 percent belong to the police. For torture, a staggering 49 percent of the cases are reportedly committed by the police, and a significant 20 percent reportedly perpetrated by the military (Rosales (2011): A View of the Human Rights Situation in the Philippines. Paper presented during a conference in Berlin. <http://www.asienhaus.de/menschenrechte-philippinen/dokumente/Fachtagung2011RosalesSpeech.pdf>)

⁹ References: <http://www.afp.mil.ph/bayanihan.pdf>, <http://www.dailymirror.ph/JAN-2011/JAN172011/loc4.html>, <http://bulatlat.com/main/2011/01/16/oplan-bayanihan-militarizing-civilian-functions/>, <http://www.philstar.com/Article.aspx?articleId=641746&publicationSubCategoryId=200>

¹⁰ However, these proposed amendments do not address crucial reforms needed in the WPP. See: Amnesty International (2011): Progress, Stagnation, Regression? The State of Human Rights in the Philippines under Aquino. <http://www.amnesty.org.ph/publications/pdfs/aquino.pdf>

- The Presidential Human Rights Committee (PHRC), which is to observe and advise on human rights issues, works on a National Monitoring Mechanism to document human rights violations, and fine-tunes a National Human Rights Action Plan (NHRAP), which - after several delays - shall be presented in September 2011.

Referring to these initiatives there is an “open window” for changes and international advice is critically accepted.

Conclusions

The real benchmark for the improvement of the human rights situation and the sincerity of the current government will be the indictment and conviction of the perpetrators of gross human right violations and their string pullers staying in the back. But up to now, this has not been the case.

While some improvements to the normative environment of human rights legislation have been initiated, the real problem – the lack of implementation of existing laws and the climate of impunity – is still rampant. The Philippine state must seriously work on coming to terms with the human rights violations of the past to pave the ground for a process of reconciliation and giving justice to the victims.

There is still a high need for international attention and pro-active efforts of the international community.

A comprehensive judicial reform and reforms in the security sector in the Philippines is absolutely essential. This includes transparent and independent procedures and an effective monitoring of military and police through parliamentary bodies.

Without a rehabilitation of the victims and/or their families and a strengthening of civil-society organisations, the Philippines will not turn into a state under the rule of law.

Recommendations

The Aktionsbündnis Menschenrechte-Philippinen, consisting of Amnesty International, Diakonisches Werk der EKD/Brot für die Welt, Evangelischer Entwicklungsdienst (EED), Misereor, Missio München, philippinenbüro e.V. im Asienhaus and the Vereinte Evangelische Mission (VEM) is therefore calling the German government to:

- use its diplomatic means in order to foster impartial, speedy and transparent trials and break through the climate of impunity still prevalent in the Philippines;
- name and condemn the gross and continuing human rights violations of the various actors, the Armed Forces, the Police, Civilian Armed Groups or Non State Actors;
- monitor the working progress of the “Special Task Force to Address Extralegal Killings and Enforced Disappearances” of the Department of Justice;
- Send, jointly with other EU-member states, trial observers to monitor significant cases that could serve as landmark cases¹¹, in order to ensure fair trials and an impartial implementation of existing laws;
- call upon the Philippine government to invite the UN-Working Group on Arbitrary Detention, the UN-Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on torture as well as the Special Rapporteur on human rights while encountering terrorism to visit the country;
- take an active role in the next UPR of the Philippines in 2012 by naming human rights violations in the discussion/dialogue with the reviewed States;
- to promote the EU Guidelines on Human Rights Defenders and thoroughly implement the existent Local Implementation Strategy through its embassy in Manila;
- assess possibilities of support for state and non-state witness protection programs in the country;
- monitor the peace processes with the NDF and the MILF and call on all parties to instruct their combatants to end all human rights abuses and to adhere to international human rights and humanitarian law.

¹¹ For example the Benjamin Bayles, the Picop 6 or the Empeño/Cadapan case.