

1. The National Council of Churches in the Philippines (NCCP) has previously made submissions in relation to the UPR during both the first and second UPR cycles. In the previous NCCP submission to the UPR in May 2012 we stressed that the prevailing climate of impunity is a major contributing factor to the continuing occurrence of extrajudicial killings, forced disappearances, torture and other human rights abuses. Since that time we have seen little that has been done by the Philippine government to challenge this culture of impunity. Those who have committed grave abuses continue to evade prosecution through lack of sufficient investigation, the failure to identify perpetrators (even in cases where there was clear identification by those whose rights have been violated or others as to their identity), and the lengthy time to undertake trials. In summary we believe that there has not been an appropriate commitment on the part of government to bring those who have committed human rights abuses before the bar of legal justice.
2. In this current submission we have chosen to focus particularly on some recommendations from the first and second UPR cycles, which the Philippine government agreed to implement, but has failed to do.

Recommendation accepted by the Philippine government but not implemented

3. *Cessation of extrajudicial killings and disappearances and punishment of the perpetrators* (Recommended by: UPR 2008: Holy See, Switzerland UPR 2012: South Korea, Singapore, Holy See, Germany, France, Trinidad and Tobago, Spain, United States, Sweden, Timor-Leste)
4. The number of extrajudicial killings and enforced disappearances of human rights defenders has declined significantly after 2007 as a direct result of local and international pressure that was brought to bear on the government.¹ However there have still been an alarmingly high number of human rights violations committed against human rights defenders, environmental activists, indigenous people, and political activists critical of the government. There has also been a significant failure on the part of government to adequately investigate and prosecute hundreds of cases of extrajudicial killings and disappearances that occurred during the term of President Gloria Macapagal Arroyo (2001–2010). During the term of President Aquino (2010-2016), human rights group, KARAPATAN, documented 249 cases of extrajudicial killings and 17 of enforced disappearances during the period under review². In June 30, 2016, with the assumption to the presidency by Rodrigo R. Duterte there has been a massive law and order campaign that has targeted those involved in illegal drugs. The numbers of deaths both at the hands of the police and by unknown individuals has been alarming³. We are extremely concerned that these deaths have not been adequately investigated, that the appropriateness of police conduct has not been

¹ The report by the former UN Special Rapporteur on extrajudicial, summary, or arbitrary executions, Philip Alston, from 2008 (A/HRC/8/3/Add.2) was highly significant.

² All data on human rights violations during the period of review were provided by KARAPATAN (Alliance for the Advancement of People's Rights) unless stated otherwise.

³ In a Senate hearing, Philippine National Police Chief Ronald dela Rosa stated that 712 suspects have died in police operations and 1,067 have been killed by vigilantes (<http://www.nytimes.com/2016/08/23/world/asia/philippines-rodrico-duterte.html> last accessed on September 16, 2016). However, there are various other tallies by media organizations in the Philippines.

determined, and that unknown assailants have not been apprehended. However, it should be noted that the drug related killings started in May 2016, which was during the last two months of the Aquino Presidency.

5. *Effective protection of journalists and human rights defenders* (Recommended by UPR 2012: France)
6. The Philippines is the second most dangerous country for journalists in the past 25 years⁴. There is little protection for Journalists and the rhetoric especially of the current President Duterte, which paints the press as unpatriotic and against the national interest, continues to make journalists particularly vulnerable to abuse and human rights violations. The culture of impunity which prevails in the Philippines has protected many who have violated the life or taken the lives of members of the Philippine media. There are no specific protections that the Philippine government extends to journalists. The infamous case referred to as the Maguindanao massacre which occurred during the election period of November 2009 that resulted in the murder of 34 journalists, is still ongoing trial. The main master mind of the attack, Andal Ampatuan, Sr. has since died and other perpetrators have not yet been convicted. Such delayed justice only serves to reinforce the culture of impunity that prevails in the Philippines.
7. Similarly there are no specific actions on the part of government to actively protect the rights of human rights defenders. They continue to be subjected to surveillance, trumped up charges, red-tagging, enforced disappearances, and to extra-judicial killing. It is hoped that under the current Duterte administration with the re-commencement of formal peace talks between government and the National Democratic Front of the Philippines (NDFP), the reaffirmation of the CARHRIHL (Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law), and the current unilateral ceasefires by both sides, the environment will be safer for human rights defenders.
8. *Effective implementation of the Anti-Torture Law* (Recommended by UPR 2012: Ireland, Mexico, Denmark)
9. In 2009 the Philippines enacted an anti-torture law, however as of this date, there has not been a single proceeding brought against any persons under this act and no prosecutions. Torture remains an ongoing reality and during the term of President Aquino, there were 144 cases of torture recorded by Karapatan. Torture and other human rights abuses mostly occurred in the context of the government's counter-insurgency campaign called *Oplan Bayanihan*. The NCCP is hopeful that the new emphasis that the current Duterte government has placed on peace negotiations between the government and NDFP, and the ceasefires that both the government and the NDFP have implemented will significantly reduce the level of militarization in the country, especially in rural areas and reduce the number of incidents of torture and other human rights abuses that had previously occurred in the context of the anti-insurgency campaign. Already these peace initiatives have resulted in situations where residents from some previously displaced communities were able to return to their villages and farm lands. On the other hand, the current government has also begun a massive armed assault on groups and criminal elements associated

⁴ According to the report of the International Federation of Journalists (http://www.ifj.org/fileadmin/documents/25_Report_Final_sreads_web.pdf) last accessed on September 16, 2016.

with the Abu Sayaff group in Western Mindanao and the Sulu archipelago. There have already been significant population displacements and there is fear for the welfare and safety of the civilian population in the affected areas.

10. *Further elaboration and immediate publication of a National Action Plan for Human Rights* (Recommended by UPR 2012: Palestine, Qatar)
11. On the part of the Philippines government there is a significant lack of a consistent and coherent interagency human rights policy. The National Action Plan for Human Rights, which was intended to layout concrete measures and steps to improve the human rights situation in accord with the declaration of the World Conference on Human Rights in Vienna has never been successfully publicized and is not fully observed by state security forces. This indicates the fundamental problem that confronts the Philippines, in that, while there has been legislation developed to protect human rights, there has never as yet been the will on the part of government to implement the practical steps that will ensure that human rights are protected.
12. *Immediate establishment of a national prevention mechanism against torture as specified in the Optional Protocol to the Convention against Torture (OPCAT)* (Recommended by UPR 2012: France, New Zealand, Denmark)
13. In 2012 the Philippines ratified the OPCAT and under Part V Article 24 postponed for three years, and extended for two, the implementation of its obligations under Part III, specifically Article 11 (1)(a) on the visitations by the Subcommittee on Prevention to places referred to in Article 4 and for them to make recommendations to States Parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment. This postponement ends in 2017 which will give added effectiveness to the protocol. While in 2009 the Philippines enacted an anti-torture law and in 2012 a law against enforced disappearances, up to now these laws have not been able to stop gross human rights violations or to guarantee adequate legal protection for the victims. The Philippine government has not established the national prevention mechanism specified in the OPCAT.
14. *Disbandment of all private armies* (Recommended by UPR 2012: Chile)
15. Private armed groups remain a significant problem in the Philippines and the source of significant human rights violations. Some of these groups are associated with local politicians, especially those who are members of political dynasties. The Philippine government has repeatedly said that it will pass legislation to outlaw political dynasties but no such legislation has yet emerged. Other armed groups are associated with criminal organizations, and while the current government is attempting to address those associated with the drug trade, many of these groups continue to persist. Other groups are paramilitary in nature, have been created by the Armed Forces of the Philippines to support their counter insurgency campaign, but have not been acknowledged by the armed forces as operating under their direction or command responsibility. There are also private armed groups which are engaged to protect projects such as mining and plantations operations, and while these groups are ostensibly comprised of private security personnel, they have been the source of human rights abuses, especially against indigenous people and environmental activists opposing the implementation and presence of these projects.

16. *Reform of the judicial sector to combat impunity* (Recommended by UPR 2012: Spain, South Korea, The Netherlands)
17. The Philippine judicial system remains open to manipulation, is exceedingly slow in delivering justice, and a high number of cases that lack credibility and are intended as a form of harassment are brought against human rights defenders and political activists by the military and police. There are currently 557 political prisoners held in detention facilities, who have been sentenced (frequently in the absence of generally accepted evidentiary standards) as a result of legal manipulation and red-tagging. These prisoners are clearly imprisoned as a form of political persecution. More than 50% of these people were arrested during the administration of President Aquino. Around 14% have been in detention for more than 20 years. The Philippine prison system was subjected to unacceptable overcrowding during the time of the Aquino administration, and the situation has become an even more desperate human rights concern under the current Duterte administration as the result of the 'war on drugs' and the massive increase in the number of prisoners. Currently, prisons are overflowing and can no longer ensure the health and safety of prisoners or meet minimal standards under international law. The NCCP affirms the commitment of the current government to pursue peace negotiations with the NDFP, and the commitment to ensure the release of all political detainees.
18. *Ensuring that all paramilitary organizations are subjected to the military command structure* (Recommended by UPR 2012: United States)
19. As part of the government's counter insurgency program, the Armed Forces of the Philippines has continued to develop and deploy paramilitary groups, who remain a significant source of human rights abuses in the country. A recent example has been the use of para-military groups in Mindanao amongst the Lumad communities, some masquerading as supposedly indigenous organizations. Military activity, and especially the activity of para-military groups, has brought immense suffering to the Lumad communities of eastern Mindanao. They have been responsible for raiding schools and villages, committing extrajudicial killings, and the subsequent displacement of thousands of indigenous people from their homes. The para-military groups in these areas have also, together with the military, occupied and destroyed schools, threatened teachers and children. This has particularly been the situation for schools run by the Alternative Learning Center for Agricultural and Livelihood Development, Inc. (ALCADEV) where the Executive Director of the school system was extra judicially murdered. Many of the displaced people sought refuge in one of the NCCP member churches, the United Church of Christ in the Philippines (UCCP) Haran Mission Centre. This was documented by Mr. Chaloka Beyani, Special Rapporteur on the human rights of internally displaced persons, during his visit to the country⁵. The people there were further harassed by the military and government officials even after his visit. There were also charges of kidnapping and human trafficking brought against those offering refuge. One of our NCCP staff members, Rev. Irma Balaba, was included in the list of those charged with such offenses. Fortunately the courts dismissed the charges as lacking merit; however this kind of harassment is intended to cause human rights organizations to redirect their time and resources onto their own defence and away from other productive engagements. After more than a year of being provided refuge at UCCP Haran, the recent return home of many of the displaced has been

⁵ <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16280&LangID=E>, last accessed on September 16, 2016.

made possible by the peace process and the subsequent ceasefire that have been negotiated under the current Duterte administration.

Recommendations:

20. In light of the above, with respect to the upcoming UPR on the Philippines on May 2017, the NCCP requests the UN Human Rights Council to call on the Philippine government to act on the recommendations of the UPR in 2008 and 2012 and in particular to:
- i. Continue its peace negotiations with the National Democratic Front of the Philippines and with rebel groups in Mindanao (Southern Philippines) struggling for self-determination. It has been pointed out that the government's counter-insurgency program is the cause of many human rights violations against human rights defenders and principled negotiations to address the roots of the armed conflict can help mitigate these violations.
 - ii. Enforce the implementation of the laws on Anti-Torture and Anti-enforced Disappearance.
 - iii. Render justice to the victims of human rights violations committed by State security forces through proper investigation and prosecution of alleged perpetrators.
 - iv. Reform the criminal justice system to address the pervasive climate of impunity, in particular, ensure speedy and proper investigation, arrest, prosecution and conviction of perpetrators.
 - v. Improve the jail management and penology system in the country. Ensure that the conditions under which people are imprisoned meets international humanitarian standards and that the treatment of prisoners respects fundamental human rights
 - vi. Ensure human rights standards are observed in the current government's conduct of its campaign against illegal drugs. That all deaths are properly investigated both those involving state security forces allegedly killing suspects in self-defense and those perpetrated by unidentified assassins
 - vii. Issue invitations to UN special procedures mandate holders especially those with pending requests.

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