

## **National Council of Churches in the Philippines: Submission to UPR**

In March 2007, the National Council of Churches in the Philippines (NCCP) released "*Let the Stones Cry Out: An Ecumenical Report on Human Rights in the Philippines and A Call to Action*". The report was brought by a delegation of church leaders and human rights defenders called Ecumenical Voice for Human Rights and Peace in the Philippines (Ecumenical Voice) to the international ecumenical community, Parliament of Canada, the US Congress and the Human Rights Council of the United Nations.

The said report discussed in detail a human rights crisis that showed a pattern of human rights violations nationwide, specifically extrajudicial killings, enforced disappearances, abduction, torture, arbitrary detention and strong military presence in rural and urban poor communities. The pattern shows that the human rights crisis was brought about by the Philippine government's counter insurgency program that has targeted not only armed rebels but also unarmed civilians. Quite a number of the victims were members or leaders of progressive organizations named as "enemies of the state" in powerpoint presentations and manuals circulated by the military while others were likewise listed in military hit lists before they were finally shot or abducted. Also the crimes were committed on a nationwide scale, with the biggest number of the cases taking place in "priority areas" of the government's counter-insurgency program.

The report also presented calls to action foremost of which was the collective call – "Stop the killings!" - addressed to the government of President Gloria Macapagal-Arroyo given its inaction over the deteriorating human rights situation. Part of the calls was that addressed to UN Human Rights Council one of which was the development of the Universal Periodic Review. The NCCP thus welcomes this opportunity provided by the Council as it submits the Philippines to the UPR Mechanism.

### **Recommendations:**

With respect to the upcoming UPR on the Philippines on April 2008, pursuant to the agenda, we are submitting the following recommendations and we are including the context why we are invoking said recommendations.

We appeal to the UN Human Rights Council to:

- Consider the deterioration of the human rights conditions in the Philippines as a special concern requiring the intervention of appropriate procedures to address the urgency of the situations
- Send a special fact-finding mission under the auspices of the United Nations be sent to conduct an investigation on the extrajudicial killings, enforced disappearances, torture and other forms of human rights violation to and to recommend appropriate action.
- Recommend and assist the Philippine government to establish an independent commission of senior judges, competent jurists, reputed academics in relevant fields and representatives from civil society to hold an impartial and credible investigation on the cases of human rights violations.

At the same time, we request the UN Human Rights Council to call on the Philippine government to submit and enact the following voluntary commitments:

- Issue an order to the military to immediately stop the killings, abductions, torture, and other forms of human rights violations, including the revocation of all hit lists that target members, leaders and other civilians suspected by the military as being affiliated with communist "front organizations".
- Rescind its national security policy and its counter-insurgency doctrine and comply with the

Comprehensive Agreement on the Respect of human Rights and international Humanitarian Law (CARHRIHL) and all other agreements that have been signed in connection with the peace negotiations between the Government of the Republic of the Philippines (GRP) and the National Democratic Front of the Philippines (NDFP) and to resume peace talks between the GRP and the NDFP and the GRP and the Moro Islamic Liberation Front (MILF).

- Strengthen the criminal justice system and support judiciary reform program that is being proposed by the Supreme Court.
- Ensure that sanctuaries provided by non-government organizations and church institutions for victims of and witnesses to human rights violations will not be subjected to surveillance and other forms of harassment.
- Ensure the independence of the Commission on Human Rights and pass legislation that would provide the commission prosecutorial powers independent of the Department of Justice.
- Pass legislation that would:
  1. Ban and prescribe penalties for the crimes of torture and enforced disappearances.
  2. Operationalize international humanitarian law and provide penalties for specific IHL violations
  3. Ratify all UN conventions and protocols such as the Rome Statute of the International Criminal Court and the Optional Protocol to the UN Convention Against Torture and the International Convention against Enforced and Involuntary Disappearances and immediately pass the enabling legislation.
- Allow the UN Representatives, Special Rapporteurs and Working groups especially those who have sent their requests to the Philippine government to visit and inquire into the human rights situation in the Philippines.

### **Context of Recommendations:**

This present report tries to respond to some points in the 2006 and 2007 commitments and voluntary pledges by the Philippine government but it is focused on what it committed to do on the national sphere:

1. Despite its "commitment to protect and promote human rights at the national, regional and international levels", care for civil and political rights has significantly deteriorated in the country since President Gloria Macapagal-Arroyo came to power in January 2001. As of July 31, 2007 there are 886 reported cases of extrajudicial killings. There are also 179 reported cases of enforced disappearances. There are presently 235 political prisoners, 204 arrested during the administration of President Arroyo.

During the time of its membership in the Council (2006 and 2007), the human rights violations continue. There were 207 persons killed and 95 disappeared in 2006 and from January to October 31, 2007, Karapatan (a national human rights alliance) reported 68 victims of extra-judicial killings and 26 victims of enforced disappearances.

Citing some significant cases, "*Let the Stones Cry Out*" documented these human rights violations among church people: 25 extrajudicial killings, 4 frustrated murders and 2 suicides due to torture at the hands of the military. Since then, church people continue to become victims of human rights violations. In particular, from March to October, 2007, the United Church of Christ in the Philippines (UCCP), a member church of the NCCP, reported that 7 of its members and pastors were victims of extrajudicial killing, abduction and illegal arrests resulting to enforced disappearances or detention and torture.

Based on the data mentioned about the number of human rights violation, the Philippines failed to carry out its pledges to the UN Human Rights Council, particularly in upholding the seven core international human rights treaties and their protocols and, to quote its own pledge, in “bridging national and international human rights goals, standards and strategies.”

2. Although the Philippines has deposited an instrument of accession to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, no enabling law has been passed against torture. Reports of torture, especially among those who were illegally detained, continue. In 2007 and among church people alone, three were tortured. They were all members of the UCCP: Pastor Berlin Guerrero (heavily tortured, still in detention), former Conference Minister Rev. Carlos dela Cruz (tortured and detained), and Christian Youth Fellowship leader Ruel Muñasque (tortured and detained).
3. The Philippines made a commitment to “uphold justice and strengthen efforts to address impunity”. These are the observations of churches and faith communities regarding these measures:
  - a. On August 21, 2006, the Melo Commission was established. At the outset, the Commission's credibility and independence was already tainted because among its members were the National Bureau of Investigation Director and the Chief State Prosecutor which the witnesses do not trust. The commission's mandate and powers were also questioned since it proceeded to interview people from the military and police before anybody else and the commission did not take a victim-centered approach. It did not have the means to protect witnesses who would come forward to testify in public hearings, and it lacked powers and means to conduct a thorough-going investigation on the root causes of the extrajudicial killings.

In its report, the Melo Commission named retired Philippine Army Maj. Gen. Jovito Palparan – along with other generals – as the “prime suspect behind the extrajudicial killings” in the country. However, for the Commission to say that “there is no official or sanctioned policy...to resort to illegal liquidations,” falls short of expectations raised by human rights organizations as well as church and faith institutions and it is contradictory to the findings of UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Prof. Philip Alston.

- b. On August 1 2006, the President told the Philippine National police and the Department of Justice she was giving them 10 weeks to put behind bars the criminals responsible for the murder of at least 10 political activists or journalists. Task Force Usig was formed but a study of its actions showed that no serious investigations were conducted. Instead, whatever cases claimed to have been solved meant pinpointing “usual” suspects or even arresting fall guys like in the killing of the Bishop Alberto Ramento, former Supreme Bishop of the Philippine Independent Church. According to former ICTFY Ad Litem Judge Romeo Capulong, the conclusions of the police that 4 accused robbers killed Bishop Ramento raises a number of questions as to its fairness, objectivity and thoroughness and that the. “The family of Bishop Ramento and the church where he is a bishop find the police investigation utterly unsatisfactory and unconvincing.”
    - c. One of the promises of the Philippines to provide justice to victims of HRVs is the creation of 99 “Special Courts”. What the Supreme Court did is to designate existing courts as "special courts” There is no information what they have done so far, if any; also, there are no transparent guidelines governing handling of cases of human rights

violations.

- d. The Witness Protection Program continues to be weak. At present there is no information dissemination or education how this is done. Witnesses and families have confessed to threats and harassment making them hesitant or even fearful to come forward. It must be noted that RA 6981 (Witness Protection, Security and Benefit Program) only provides protection to witnesses when their cases are filed or are pending in court and the law is ineffective and unresponsive in urgent situations.
- e. Most of the cases that police claim have been solved are questionable. Perpetrators are either declared as members of the New People's Army (NPA) ascribing the killings to an internal purge, or are named as John Does. According to Prof. Alston, the evidence that there is currently an internal purge is "strikingly unconvincing". In some cases, investigators have produced cartographical sketches of suspects that none of the witnesses saw during the murders. There is little attempt to provide evidence and basic information necessary to bring them to court. According to the study of the Center for Media Freedom and Responsibility entitled Press Freedom Report 2007, among the thirty three journalists who were killed, 15.2% cases are under trial, 51.5% are still under investigation, 15.2% have been dismissed due to lack of evidence, and 12.1% are pending prosecution. Only one case was successfully concluded in 2006: the assassins of Marlene Esperat were sentenced to life imprisonment after a trial that began in mid-2005 and ended in October 2006. But while Esperat's killers were convicted, the murder case against suspected masterminds still needs to be reopened after being prematurely dismissed by the Regional Trial Court where the case was heard.

As of March 2007, no military individual has been convicted with regards to the killings.

- f. Another measure that the government initiated through the Supreme Court was the rule on the writ of amparo. The rule on the writ of amparo promulgated by the Supreme Court was a result and was prompted by the default of the political branches of govt, i.e. executive and even legislative of its responsibility. Since it was released on October 24, 2007, the writ of amparo, while providing hope to the victims, is remedial and not preventive. There is also inadequacy in using only contempt as a punishment for those who defy it (the same ineffective penalty for those who defy or circumvent the privilege of the writ of habeas corpus, which the writ of amparo wishes to remedy or complement). A number of victims have been issued the writ of amparo by the Supreme Court and to date two victims of illegal arrest (Ruel Muñasque, a leader of UCCP's Christian Youth Fellowship and farmer Lucito Bustamante) were successfully released from detention. However, the military opposed the request of the mothers of two missing university students (Sherlyn Cadapan and Karen Empeño), under the writ of amparo, to be allowed to inspect military camps where they believed their daughters were detained and tortured and provide them with documents and military operation reports concerning military camps.

Recently President Arroyo issued an administrative order that would further shield the military from inquiries coming from other branches of government. Administrative Order # 197 among other things, directs the Department of National Defense and the Armed Forces of the Philippines to draft a bill aimed at putting "safeguards" in place against the "disclosure of military secrets" and "undue interference in military operations inimical to national security".

4. Another measure mentioned by the Philippine mission is the strengthening of the Commission on Human Rights (CHR), a body created by the Philippine Constitution, by increasing its resources. But this is not what the CHR needs, for at present it does not have prosecutorial powers. The CHR has been criticized for not often standing its ground. It lacks independence, its success is entirely contingent on the cooperation of the police and the AFP and it cannot go far without the backing of the president and other agencies to provide counterweight.
5. In its pledge to the UN Human Rights Council, the Philippine government said that it will “campaign for the passing in Congress of an Anti-Terrorism Law which shall put in place measures to combat terrorism in the perspective of respect for and protection of human rights.” The Anti-Terrorism Law (euphemistically called Human Security Act) passed last February 19 by both houses of Congress, signed into law by the President in March and implemented on July 15 has been met by numerous criticisms from various civil libertarians and church groups including the Catholic Bishops Conference of the Philippines. To qualify as a terrorist act, the law included: “to sow and create conditions of widespread and extraordinary fear and panic among the populace, in order to coerce the government to give in to an unlawful demand.” Martin Scheinin, UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism described it as “an overly broad definition which is seen to be variance with the principle of legality and thus incompatible with Article 15 of the International Covenant on Civil and Political Rights. Moreover, the Act disregards the civil and political rights enshrined in the Bill of Rights of the Philippine Constitution and various international instruments and covenants on respect for human rights.

Aside from the things mentioned regarding the Philippine government’s pledges, we would like to take note of the attitude of the Philippine government to UN Special Rapportuer Prof. Philip Alston.

Although Executive Secretary Eduardo Ermita claims that Philippine government received Professor Philip Alston with “open arms”, indicating the country's “good citizenship in the international human rights system”, his visit and report on the human rights situation was often misquoted/misrepresented and maligned.

Meanwhile, there are other rapporteurs who have not been issued any formal invitation to visit the Philippines despite their long-standing request to the government to do so, namely the UN Special Rapporteur on the Independence of Judges and Lawyers and the UN Working Group on Enforced and Involuntary Disappearances.

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CC: NGO Working group on Asia and to the Philippine Working Group.

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