



## THE SITUATION OF HUMAN RIGHTS DEFENDERS IN

# THE PHILIPPINES

October 2016

This paper assesses progress towards implementation of UPR recommendations, and provides updates on current trends, relevant to the protection of human rights defenders at the national level by the Philippines government. Based on this assessment, ISHR, the Medical Action Group (MAG) and the Philippines Alliance of Human Rights Advocates (PAHRA) seek to provide guidance to States on third-cycle recommendations that we believe will generate significant impact on the ground – specifically, a recommendation to **enact a law to protect human rights defenders and promote their work**.

### 1. SECOND CYCLE RECOMMENDATIONS AND CIVIL SOCIETY ASSESSMENT OF IMPLEMENTATION

There were five recommendations on the topic of human rights defenders (HRDs) during the second cycle of the UPR of the Philippines.<sup>1</sup> Two of them were accepted and three were rejected:

- **129.35 ‘Take necessary measures to provide adequate protection to journalists and human rights defenders, in particular regarding enforced disappearances and extrajudicial killings.’ – Accepted, France.**
- 131.15. ‘Engage in closer contact with United Nations bodies and, *inter alia*, accept the request by the Special Rapporteur on human rights defenders to visit the country.’ – Noted, Norway.
- 131.15. ‘Invite the UN Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on human rights defenders to visit the Philippines.’ – Noted, UK.
- 131.32. Enhance its cooperation with the Special Rapporteur on the situation of human rights defenders including by accepting the mandate holder’s request to visit the country.’ – Noted, Ireland
- **131.32. (cont.) ‘Take urgent measures to end extra-judicial killings and enforced disappearances of human rights defenders, to investigate all cases and bring those responsible to justice.’ – Accepted, Ireland**

Civil society, however, has a rather sceptical view of the progress in the Philippines since these recommendations were made.

None of the recommendations on country visits by the Special Procedures were accepted by the Philippines, although the Special Rapporteur on the Right to Food visited in 2015.<sup>2</sup> Requests and reminders the Special Rapporteur on human rights defenders (2008, 2010, 2012) and the Working Group on Enforced or Involuntary Disappearances (2013, 2015) remain outstanding.

The Philippines accepted two recommendations focused on the protection of journalists and human rights defenders, and especially on enforced disappearances and extrajudicial killings. The government affirmed during its statement on the adoption of the UPR report in September 2012 that the country was committed to investigating cases of extra judicial killings as well as bring perpetrators to justice. The August 2016 exchanges between the government and the Special Rapporteur on extrajudicial killings regarding a visit to the country should be concretely followed up on to ensure that efforts to investigate and seek accountability for extrajudicial killings are in line with international human rights standards.

Despite accepting these recommendations, extrajudicial killing remains the gravest threat facing HRDs working in the Philippines. In 2015, **Front Line Defenders** received reports of at least 31 HRDs murdered. In 2016, international NGO **Global Witness** ranked the Philippines the second most dangerous country for human rights defenders<sup>3</sup> and one of the most dangerous countries to be a land and environmental rights defender.<sup>4</sup> Other risks facing HRDs include physical attack, threats, intimidation, harassment, detention and slander. Many cases have been documented by local and regional NGOs in recent years, including the **Asia Indigenous Peoples Pact**<sup>5</sup> (AIPP), the **Medical Action Group**<sup>6</sup> and **Task Force Detainees of the Philippines (TFDP)**.<sup>7</sup>

## 2. CURRENT SITUATION FOR DEFENDERS IN THE PHILIPPINES: ESC RIGHTS DEFENDERS AT PARTICULAR RISK

Defenders of economic, social and cultural (ESC) rights, including land and environmental rights, face significant challenges. In their attempts to peacefully defend their land or oppose major industrial projects, many HRDs find barriers to information necessary to carry out their work, such as missing data and unavailability of contracts.

### Intimidation and Harassment

When they seek this information, whether from public or private sources, defenders can become targets of violence, intimidation and harassment, including by government officials.

- Ms **Honey May Suazo** has been the target of continuous harassment and surveillance by local police since 2015. The most recent acts of harassment follow her involvement in providing assistance to victims of forced eviction due to the military presence in the Talaingod region, Davao del Norte Province.
- Mr **Antonio Nercua Ablon** is a human rights defender and the chairperson of human rights group Karapatan in Western Mindanao. He advocates for environmental rights, with a particular focus on regional large-scale mining projects due to their environmental impact. In April 2015, Karapatan's offices in Southern Mindanao were attacked by unidentified men; they were raided again in October 2015. Staff of the organisation are subjected to frequent harassment and intimidation.
- Ms **Erita Capion Dialang** is the chairperson of the indigenous people's organisation Kalgad, based in South Cotabato province, and part of a large alliance of indigenous peoples of South Mindanao. She is also a vocal critic of a mining corporation which wants to start exploiting tribal lands. She has been subject to threats and harassment; her sister-in-law was killed in 2012, reportedly in retaliation for Ms Dialang's advocacy.

### Detentions

ISHR's 2016 joint report to the Committee on Economic, Social and Cultural Rights noted the trend of filing of trumped-up charges against indigenous leaders and HRDs and their communities to 'delegitimise and criminalise human rights work'.

- Antonia Tolentino, better known as **Apung Tony**, is a village leader in Pampanga who sought to protect farmers' land rights to enable them to continue to cultivate land in the Hacienda Dolores area. He was involved in a dispute over contested land, which resulted in the killing of a farmer by private security personnel. Tolentino has been detained since 16 April 2014 on criminal and administrative charges filed by, respectively, a security guard and the land developer.

### Extrajudicial killings

If HRDs persist in their work despite the threats noted above, they can become victims of extra-judicial killings. Most perpetrators of killings escape punishment; observers note that, in light of the Duterte Administration's stance on the illegal drug trade, the perceived 'costs' of killing defenders are lower than ever before.

- In July 2016, Ms **Gloria Capitan**, a human rights defender and the president of the people's organization Samahan ng Nagkakaisang Mamamayan ng Lucanin (SNML) in Bataan, was killed by two unidentified men on motorcycles. At the time of her death she was leading a petition to seek the closure of open-air coal storage and stockpile in her community.<sup>8</sup>
- After receiving numerous death threats warning him to stop his work, in February 2014 community leader **Sixto Bagasala** was murdered in Malabon City. He headed the Local Association of Urban Poor Communities in that city and had been working for the rights of informal settlers to acquire secure, adequate, accessible and affordable housing.

The situation which defenders of indigenous rights face in the Philippines continues to deteriorate. Indigenous communities are particularly vulnerable and their right to free, prior, informed consent (FPIC), enshrined in the UN Declaration on the Rights of Indigenous Persons and ILO C169, is often overlooked or manipulated. This right is not recognised in domestic law. In this way, their work often intersects with land and environmental rights activists; similarly, they are often victims of extrajudicial killings. This is especially true in Mindanao.

- Killings of indigenous leaders include Mr **Jimmy Liguyon** of the indigenous organisation Kasilo (2012); Mr **Gilbert Paborada**, the chairperson of the community-based indigenous organisation Pangalasag (Indigenous Shield) which resisted the expansion of oil palm plantations (2012); Mr **Emerito Samarca**, allegedly killed by members of a paramilitary group due to his work with ALCADDEV, a self-initiated school for the Lumad indigenous people.
- Killings of community leaders in Mindanao specifically include Mr **Genesis Ambason**, the Secretary-General of Tagdumahan, a grassroots indigenous organisation that has campaigned against the entry of large-scale mining ventures (2012) as well as Mr **Lito Abion**, another member of Tagdumahan (2015); and **Ms Teresita Navacilla**, a member of Save Pantukan Movement, a network of indigenous peoples from the Pantukan region of Mindanao (2016).

### WHY A LAW TO PROTECT DEFENDERS?

A law on the recognition and protection of human rights defenders<sup>9</sup> would ensure that the Government of Philippines develops policies and institutions at the national level in order to support the work of human rights defenders. An essential part of a safe and enabling operating environment, this law would also reaffirm freedom of expression and the right to access information necessary for their work. It would also aim to protect them from reprisals and attacks and provide them with an effective tool to advocate for a stronger legal recognition of their work on the ground. Finally, it can assist in efforts to seek accountability and bring perpetrators to justice. This would be an important step in a country such as the Philippines.

This is not an impossible task. There is growing interest internationally in the adoption and development of defender protection laws. Various UN bodies have supported the development and implementation of national laws for the recognition and protection of human rights defenders.<sup>10</sup> These bodies include the former UN Special Rapporteur on Human Rights Defenders,<sup>11</sup> the UN High Commissioner for Human Rights,<sup>12</sup> the UN Human Rights Council,<sup>13</sup> and the African Commission on Human and Peoples' Rights.<sup>14</sup> There is growing consensus that defenders protection laws are also part of countries' commitments and obligations to promote and protect human rights, as outlined in the UN Declaration on Human Rights Defenders.

### THE PHILIPPINES GOVERNMENT SHOULD:

- Guarantee a safe and enabling environment for the work of human rights defenders, specifically through the adoption of a law for the protection and recognition of human rights defenders.
- Refrain from drafting or enacting laws or policies, and review and amend existing laws and policies, which have the purpose or effect of criminalizing or restricting the activities of human rights defenders.
- Provide for meaningful civil society participation in the development and implementation of public policies, in particular those that support consultation with communities affected by economic development projects.
- Combat impunity through prompt, impartial and transparent investigations into crimes against human rights defenders, including in the context of anti-drug policies, and through ensuring effective remedy for victims.
- Cooperate fully with relevant Special Procedures, including by accepting country visits, following up on recommendations, and responding in a timely and substantive manner to Communications.

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1 Report of the Working Group on the UPR of the Philippines. A/HRC/21/12.

2 Country visit of the Special Rapporteur on the Right to Food A/HRC/31/51/Add.1

3 Briefing paper to the Committee on Economic, Social and Cultural Rights on the Philippines – ISHR (2016): The Situation of Human Rights defenders [http://www.ishr.ch/sites/default/files/article/files/philippines\\_update.pdf](http://www.ishr.ch/sites/default/files/article/files/philippines_update.pdf) p.5

4 Global Witness – Deadly Environment : <https://www.globalwitness.org/en/campaigns/environmental-activists/deadly-environment/> and How many more : <https://www.globalwitness.org/en/campaigns/environmental-activists/how-many-more/>

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- 5 TFDP, 2016 : <http://www.tfdp.net/campaigns/other-campaigns/519-urgent-appeal-the-eik-of-gloria-capitan-hrd-and-president-of-the-samahan-ng-nagkakaisang-mamamayan-ng-lucanin-snml-in-mariveles-bataan>
- 6 ISHR CESCR Briefing Paper, p.5.
- 7 Global Witness, 2016.
- 8 The Medical Action Group, 2016 : <http://magph.org/news/205-human-rights-group-condemns-the-killing-of-woman-human-rights-defender-appeals-to-duterte-for-justice>
- 9 ISHR, 'A Model Law for the recognition and protection of human rights defenders', 2016. Available at [https://www.ishr.ch/sites/default/files/documents/model\\_law\\_full\\_digital\\_updated\\_15june2016.pdf](https://www.ishr.ch/sites/default/files/documents/model_law_full_digital_updated_15june2016.pdf)
- 10 Ibid.
- 11 ISHR, 'Developing A Model Law', 2016. Available at <http://www.ishr.ch/news/developing-model-national-law-protect-human-rights-defenders>.
- 12 Office of the High Commissioner for Human Rights, 'Human Rights Defenders: Protecting the right to defend human rights: Fact Sheet No 29', p 33, available at <http://www.ohchr.org/Documents/Publications/FactSheet29en.pdf>, and OHCHR report 'Practical recommendations for the creation and maintenance of a safe and enabling environment for Civil Society', A/HRC/32/20.
- 13 See A/HRC/RES/31/32, 'Protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights.'
- 14 ISHR, 'From Restriction to Protection', 2014. Available at [http://www.ishr.ch/sites/default/files/article/files/research\\_report\\_on\\_legal\\_environment\\_for\\_hrds\\_upload.pdf](http://www.ishr.ch/sites/default/files/article/files/research_report_on_legal_environment_for_hrds_upload.pdf) p.7