

# Asian Indigenous & Tribal Peoples Network

[AITPN has Special Consultative Status with the UN ECOSOC]

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## **The Philippines: All promises, No implementation**

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### **I. Human Rights Situation on the ground**

The Philippines despite having overthrown Ferdinand Marcos' regime over two decades ago still remain military oriented in its law enforcement. The armed conflicts with the Moro National Liberation Front (MNLF), Moro Islamic Liberation Front (MILF), Abu Sayyaf Group (ASG), Communist Party of the Philippines (CPP) and New Peoples' Army (NPA) in the post September 11<sup>th</sup> period give the excuse for politically motivated executions of the human rights defenders including indigenous rights activists and journalists. Even the judges were not spared!

#### **a. Impunity for killing defenders, journalists and judges:**

Extrajudicial killings and enforced disappearances remain endemic under President Gloria Macapagal-Arroyo's rule. Since President Gloria Macapagal-Arroyo came to power in 2001, hundreds of people including human rights activists, lawyers, journalists and church workers, leftist political activists and laymen have been killed. Most of the victims were affiliated with cause-oriented groups, including leaders from indigenous communities. According to Karapatan (Alliance for the Advancement of People's Rights), a total of 885 people have been killed extra-judicially and 183 persons have disappeared from January 2001 to June 2007.<sup>1</sup> More than 50 persons have been killed so far in 2007.<sup>2</sup>

Even the judges were not spared. About 10 judges have been killed since Gloria Macapagal-Arroyo became President in 2001. In none of these cases, the perpetrator was brought to justice. Many judges have also been threatened.<sup>3</sup> If the judges are not safe, who else will be safe in this country?

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<sup>1</sup>. Beltran Wants to Probe Witness Protection Program, Slays and Disappearances, By Alexander Martin Remollino, Bulatlat, Vol. VII, No. 25, July 29-Aug. 4, 2007

<sup>2</sup>. PHILIPPINES: INDIGENOUS DEFENDERS ON THE LINE OF FIRE, AITPN, IRQ, II/11/06: 29 December 2006

<sup>3</sup>. I-Team report, Judicial reforms seek to end impunity, Inquirer.Net, 1 November 2007

In the wake of severe criticism over systematic extrajudicial killings, on 21 August 2006, President Gloria Macapagal Arroyo issued Administrative Order No. 157 to set up “Independent Commission to Address Media and Activist Killings” (also known as Melo Commission) headed by former Supreme Court Justice Jose Melo to investigate the killings and to submit recommendations to the President on policies and actions, including appropriate prosecution of the guilty and legislative proposals to end such killings. Justice Melo once worked as assistant to Mrs. Arroyo's late father, President Diosdado Macapagal. President Arroyo claimed that the recommendations of the Melo Commission have been followed and 76 criminal cases on political killings were on trial, 33 being prepared for prosecution as of mid-October 2007. While six persons including a former police sergeant and a former soldier have allegedly been convicted<sup>4</sup>, the detailed information about those accused was not made public. Unless rank and file of the guilty security personnel is disclosed, the claims of the government cannot be taken on its face value.

Earlier on 12 May 2006, President Arroyo's administration formed the Task Force Usig, a Philippine National Police (PNP) body led by Deputy Director General Avelino Razon. The police as expected gave a clean chit to the government. It proclaimed “There is no government policy —official or unofficial, formal or informal, written or covert — to suppress political dissent and fundamental constitutional freedoms, much less torture or murder critical journalists, leftist elements or the political opposition.” It further accused 23 of the 111 activists killed of having links to the Communist Party of the Philippines (CPP) and New People's Army (NPA).<sup>5</sup>

### **b. Indigenous peoples: Disproportionate victims of human rights violations**

Indigenous peoples of Philippines have been disproportionate victims of the human rights violations in the so-called war against terror. They have also been the primary targets of evictions from their ancestral domains because of unsustainable development activities like mining and logging in their lands and territories.

The indigenous rights defenders have been systematically eliminated. According to the Indigenous Peoples Human Rights Watch, 123 indigenous persons were killed from 2001 February to 11 January 2007, including 42 deaths in 2006.<sup>6</sup> On 3 October 2007, environmental activist Armin Marin of Sibuyan in Romblon was killed while town residents were staging a protest against Sibuyan Nickel Property Development

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<sup>4</sup>. Arroyo affirms: We have no tolerance for rights violations, *Inquirer.net*, 15 October 2007

<sup>5</sup>. PHILIPPINES: INDIGENOUS DEFENDERS ON THE LINE OF FIRE, AITPN, IRQ, II/11/06: 29 December 2006

<sup>6</sup>. The Pattern of Human Rights Violations of Indigenous Peoples Continues--UN Special Rapporteur Rodolfo Stavenhagen, Cordillera Peoples Alliance, available at:  
[http://www.cpaphils.org/campaigns/unsr%20updates\\_8feb07.htm](http://www.cpaphils.org/campaigns/unsr%20updates_8feb07.htm)

Corporation.<sup>7</sup> On 8 June 2006, indigenous leader Markus Bangit from Cordillera was killed.<sup>8</sup> There has not been any accountability for these killings.

The adoption of the Mining Act of 1995 and the Supreme Court's decision to uphold its constitutional validity removed all legal obstacles for mining operations in the country.<sup>9</sup> The Cordillera Peoples Alliance stated that 1.2 million hectares of the Cordillera's total land area of 1.8-million hectare were already covered by foreign corporations' mining applications.<sup>10</sup> According to Federation of Indigenous Peoples of the Philippines (KAMP) more than 16,000 indigenous small scale miners and more than 100,000 indigenous peasant families will lose their livelihood sources if the government approves the mining applications. Two projects, the Teresa Gold Project in Mangkayan and Padcal Sto. Tomas Copper Expansion Project in Tuba, were already under operation.<sup>11</sup>

Indigenous peoples have also been displaced as a result of the conflicts. According to Internal Displacement Monitoring Centre, an estimated 100,000 peoples were displaced from their homes due to armed conflict and human rights abuses in 2006.<sup>12</sup>

### **c. Violations of the rights of women**

Women face serious human rights violations, including sexual violence. According to Senate President Manuel Villar, an average of 20 cases of violence against women is reported everyday in the country.<sup>13</sup> The Philippines National Police recorded 253 rapes in January and February 2007.<sup>14</sup> The provisions in the Code of Muslim Personal Laws which permit the marriage of girls under 18 years and polygamy; and the policy of some schools dismissing an unmarried female student (but not her male partner) if she got pregnant<sup>15</sup> are highly discriminatory against the girls.

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7. London Anti-Mining Confab Blames GMA, TNCs for Killings, Harassment, By Arthur L. Allad-IW, Vol. VII, No. 38, October 28–November 3, 2007

8. Five Years Down the Drain for Indigenous Peoples, By Jhong Dela Cruz, The Bulatlat, Vol. VI, No. 24, July 23 – 29, 2006

9. Open-Pit Mining Destroyed Village in Zambales, By Abner Bolos, The Bulatlat, Dec. 31, 2006 – Jan. 6, 2007

10. London Anti-Mining Confab Blames GMA, TNCs for Killings, Harassment, By Arthur L. Allad-IW, Vol. VII, No. 38, October 28–November 3, 2007

11. Five Years Down the Drain for Indigenous Peoples, By Jhong Dela Cruz, The Bulatlat, Vol. VI, No. 24, July 23 – 29, 2006

12. Children Again are Casualties of War in ARMM, By Mae-Fe Ancheta-Templa, Bulatlat, Vol. VII, No. 30, September 2–8, 2007

13. 20 cases of abuses against women happen in RP daily, records show, Sun.Star Manila, 11 March 2007

14. Available at: <http://www.pnp.gov.ph/stat/content/stat/2007/crime%20statistics%20jan-may2007.xls>

15. Test for women legislators, Inquirer.Net, 13 November 2007, available at: [http://opinion.inquirer.net/inquireropinion/columns/view\\_article.php?article\\_id=100529](http://opinion.inquirer.net/inquireropinion/columns/view_article.php?article_id=100529)

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The women do not have proportionate representation in the Parliament. Presently, there are only four women out of 24 members in the Senate and 56 women out of the 236 members in the House of Representatives.<sup>16</sup>

#### **d. Violations of the rights of the child**

The implementation of the laws on juveniles is extremely poor. According to the Department of Social Welfare and Development, there were 4,039 children in conflict with the law in the country as of July 2007. Of these, more than 300 were detained at the New Bilibid Prisons, 590 were locked up in city jails, 406 in police detention cells, among others, in violation to the Republic Act No. 9344 also called the Juvenile Justice Welfare Act of 2006. More than 1,000 children in conflict with law were languishing in sub human conditions in jails together with adult criminals.<sup>17</sup>

According to the Salinlahi Alliance for Children's Concerns, 60 children or seven percent of the victims of extrajudicial killings recorded by the human rights group from 2001 to 2007 in the Autonomous Region of Muslim Mindanao (ARMM) were children.<sup>18</sup>

#### **e. Violations of the rights of the prisoners**

Prison conditions remain deplorable due to overcrowding, sub-standard facilities and lack of basic facilities. This has reportedly been confirmed by International Committee of Red Cross (ICRC) which is allowed to visit prisons.<sup>19</sup> There were about 35,000 inmates who fought for space in jails maintained by the Bureau of Jail Management and Penology in 2001. The number increased to 69,500 as of October 2007. Overcrowding resulted in spread of diseases such as tuberculosis and sanitation problems. As per government estimates, the population in government jails could reach to more than 114,930 by 2010. However, new facilities are being made.<sup>20</sup>

## **II. State's human rights obligations and commitments**

There are several provisions in the 1987 constitution and several national legislations in the Philippines which uphold the rights of the citizens including the indigenous peoples. Yet, these are not implemented in practice.

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<sup>16</sup>. Test for women legislators, Inquirer.Net, 13 November 2007, available at:

[http://opinion.inquirer.net/inquireropinion/columns/view\\_article.php?article\\_id=100529](http://opinion.inquirer.net/inquireropinion/columns/view_article.php?article_id=100529)

<sup>17</sup>. Proper way to arrest youth offenders explained in primers, Inquirer.Net, 30 October 2007

<sup>18</sup>. Children not spared from human rights violations—activists, Inquirer.Net, 18 September 2007

<sup>19</sup>. ICRC cites deplorable jails conditions, available at:

[http://www.bjamp.gov.ph/Press%20Releases/08092007\\_icrc.html](http://www.bjamp.gov.ph/Press%20Releases/08092007_icrc.html)

<sup>20</sup>. Justice as circus, Inquirer.Net, 30 October 2007

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### **a. Constitution: Political autonomy**

The 1987 Constitution of Philippines recognizes the right of Muslims and indigenous peoples of Cordillera to self-determination in the form of autonomy. But there has not been genuine autonomy for the Cordillera peoples. The indigenous peoples of Cordillera rejected two Organic Acts for Cordillera Regional Autonomy of 1990 and 1998 because of the failure of the Acts to grant self-governance and control over their land and natural resources.<sup>21</sup> The same is being followed with regard to the Moros in Mindanao.

### **b. Draconian anti-terror law: Human Security Act of 2007**

The Human Security Act (HAS) of 2007 is a disingenuous attempt to fool international community. It is actually the latest anti-terror law and empowers the security forces to detain suspects without warrant or charges up to three days which can be extended beyond three days by approval from a human rights officer under section 19 of the HSA. A conviction for terror offences could result in a 40-year jail sentence without the benefit of parole.<sup>22</sup> Article III, Section 3 of the 1987 Constitution provides that any evidence obtained through wiretapping or voice recording cannot be used in any court proceeding. But the new law allows the state to use tape recorded evidence to pin down a suspect, in violation of the 1987 Constitution.<sup>23</sup>

### **c. Indigenous Peoples Rights Act, 1997**

In 1997, the government of the Philippines adopted the Indigenous Peoples Rights Act (IPRA). The Act created the National Commission on Indigenous Peoples (NCIP) mandated to formulate and implement policies, plans and programs for the recognition, promotion and protection of the rights and well-being of Indigenous Cultural Communities/Indigenous Peoples (ICC/IPs) with due regard to their beliefs, customs, traditions and institutions.

### **d. Land Titling: Long delays**

In the Philippines, there are an estimated five million hectares of ancestral domains exists based on combined pending claims for direct application for CADT and claims for conversion of Certificate of Ancestral Domain Claim (CADC) into Certificate of Ancestral Domain Title (CADT). The figure could be much higher as lack of accurate data on the actual extent and location of ancestral domains and lands nationwide continue to affect the efficient planning, targeting and implementation of ancestral domain and land titling.<sup>24</sup>

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<sup>21</sup>. Militants Skeptical of New Autonomy Push for Cordi, By Arthur L. Allad-IW, *Bulatlat*, Vol. VII, No. 25, July 29–Aug 4, 2007

<sup>22</sup>. Philippines approves terror bill, *BBC News*, 20 February 2007

<sup>23</sup>. Republic Act of 9372 or the Human Security Act of 2007

<sup>24</sup>. NCIP, MTPDP for Indigenous Peoples, 2004–2008

Lack of funds and boundary disputes delay the processing of ancestral land titles. According to NCIP Ancestral Domain Bureau director Myrna Cagaoas, NCIP has issued a total of 150 Certificates of Ancestral Land Titles and 56 CADTs comprising an area of 1,114,857.17 hectares as of 4 January 2007. The NCIP could not fund all the processes since the agency's budget for ancestral domain is merely Pesos 31 million a year.<sup>25</sup> In fact, the first CADT comprising ancestral domain of 29,444.34 hectares was issued to the Bago tribe of Bakun, Benguet only on 20 July 2002 and another covering 11,811.6 hectares was issued to the Manobo tribe of Lanuza, Surigao Province on 30 November 2002 after almost five years of IPRA implementation.<sup>26</sup>

### **III. Enhancement of State's capacity**

Most of the capacity building programmes are focused on Philippines' National Human Rights Commission. The Human Rights Council should emphasize for capacity building programmes of the National Commission on Indigenous Peoples including for titling of the lands of the indigenous peoples.

### **IV. Cooperation with HRC, Treaty Bodies and OHCHR**

The government of Philippines has failed to extend Open invitation/Standing invitation to the Special Procedures. Since 2003, only Special Rapporteur on extrajudicial, summary or arbitrary executions (12 to 21 February 2007) has been invited to visit.

The government of Philippines has ratified most instruments but seldom implements the same at national level. The government of Philippines also failed to submit periodic reports under International Convention on the Elimination of All Forms of Racial Discrimination since 1998; under the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment since 1992; under International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families since July 2004, under Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography since June 2004, under the International Covenant on Civil and Political Rights since November 2006, and under Convention on the Rights of the Child since September 2007.

In a nutshell, the government of Philippines neither implements the Treaties nor has anything to report to the Treaty Bodies.

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<sup>25</sup>. Agency set to give more domain titles, 15 February 2007, Sun.Star Bagui, available at: <http://www.sunstar.com.ph/static/bag/2007/02/15/news/agency.set.to.give.more.domain.titles.html>

<sup>26</sup>. 2002 Annual Report of the National Commission on Indigenous People of the Philippines