



**DUBLIN**  
81 Main Street, Blackrock,  
Co. Dublin, Ireland.

info@frontlinedefenders.org  
www.frontlinedefenders.org

phone +353 1 212 3750  
fax +353 1 212 1001

**BRUSSELS**  
Square Marie - Louise 72  
1000 Brussels, Belgium.

euoffice@frontlinedefenders.org  
www.frontlinedefenders.org

phone +32 2 230 9383  
fax +32 2 230 0028

**Submission by:** Front Line; The International Foundation for the Protection of Human Rights Defenders (Front Line has Special Consultative Status with the Economic and Social Council of the United Nations)

**Related to:** The Philippines

**UPR Session:** 1<sup>st</sup> session of UPR, April 2008

**Submitted:** 19 November 2007

## Introduction

The following submission has been prepared based on information received from independent human rights defenders in the Philippines. Front Line is an international NGO based in Ireland with Special Consultative Status with the Economic and Social Council of the United Nations. We have particular expertise on the issue of the security and protection of human rights defenders and we work to promote the implementation of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders) adopted by General Assembly resolution 53/144 of 9 December 1998.

Front Line is gravely concerned by the ongoing persecution of human rights defenders (HRDs) in the Philippines. Extrajudicial killings, enforced disappearances, arbitrary arrests, ill-treatment and torture in police custody, threats and acts of harassment are major obstacles to the establishment of a favourable environment for human rights activities in the country and seriously hinder the work of HRDs. At particular risk are defenders working in the fields of women's rights, urban poverty, peasants' rights and workers' rights. Journalists and defenders who are critical of the military or seen as being sympathetic to the communist movement are also targeted. Certain defenders have been put at risk by accusations made by civilian and military leaders that they are fronts for the communist insurgency or "enemies of the state." The State security forces, including the military and the police, routinely abuse human rights with impunity.

In September 2007, a Front Line delegation visited the Philippines to meet with human rights defenders in Manila, Central Luzon, Zambales, Mindanao and Cebu as well as with the army, the police, the Chief Justice of the Supreme Court, the Commission on Human Rights and the Ministry of Justice. Many of the human rights defenders Front Line met with had received death threats and two had survived assassination attempts.

## Legal protection of human rights defenders

Despite the Philippines signature to international human rights treaties, which impose a clear duty on the state to investigate alleged violations of the right to life, including

extrajudicial killings, human rights defenders in the country have little or no access legal protection.

However on 25 September 2007, the Supreme Court announced that it had adopted a *Writ of Amparo*. The new rule, which came into effect on 24 October 2007, provides “remedies to any person whose right to life, liberty and security is violated and threatened”. The new rule could provide remedies to human rights defenders with provision for protection by a government agency or accredited group; it allows for inspection of places to locate victims of illegal arrest or disappearance; requires the authorities to produce necessary documents or reports in determining the victims’ plight; and guarantees referral for witnesses to be included to the Witness Protection, Security and Benefit Programme.

Whilst the new legislation has been welcomed by many human rights defenders, its effectiveness as a legal recourse faces a challenge from an administrative order issued by the President on the same day that the Rule on the *Writ of Amparo* was approved. The administrative order states among other things, that “The DND/AFP (Department of National Defense/Armed Forces of the Philippines) shall draft legislation in consultation with the Presidential Legislative Liaison Office and Congress allies for safeguards against disclosure of military secrets and undue interference in military operations inimical to national security...”

The new rule was adopted following a national consultation organised in July 2007 by the Supreme Court to address the continuing extrajudicial killings, forcible abduction and enforced disappearance of human rights defenders and political activists.

### **Human rights defenders at risk in the Philippines**

The environment in which human rights defenders work in the Philippines was described by the Special Representative for Human Rights Defenders as ‘a particularly dangerous one’. Amid variant claims about statistics relating to the number of human rights defenders killed in recent years, human rights lawyers, journalists, union and community leaders, continue to be targeted and extra judicially killed or disappeared with impunity. The authors of these killings are usually unidentified individuals on motorcycles, suspected of having ties with the army, the police and other law enforcement agencies.

In June 2006, President Arroyo declared “all-out war” on the National People’s Army (NPA) and its political wing, the Communist Party of the Philippines (CPP). This pressure on the military to produce results may be leading to an increase in serious violations of human rights, with human rights defenders perceived to be associated with the communist movement being targeted as ‘enemies of the state’. As such, they face ongoing harassment and surveillance by security forces, threats, arbitrary arrests, ill-treatment and torture in police custody, extended periods of detention, disappearances and extra-judicial killings. Peasant leaders involved in disputes linked to agrarian reforms are also victims of killings and disappearances, as are union leaders working to defend the rights of their communities.

In Central Luzon Front Line met with human rights defenders who had not slept in their own beds for over a year, forced to constantly move where they are staying following the extra-judicial execution of several of their colleagues as well as ongoing death threats. One veteran human rights defender spoke of how armed men had called at his home on three occasions in recent months.

## **Extra-judicial killings and impunity**

A climate of impunity continues to shield the perpetrators of extrajudicial killings and disappearances of human rights defenders in the Philippines. The reluctance of the government to prosecute the authors of these violations, including mining or timber corporations, large land owners, armed groups and military personnel has led to a lack of public confidence in the ability of the authorities to deliver justice. Ineffective investigations fail to lead to the prosecution of those responsible, whilst in many cases witnesses are reportedly too frightened to testify.

Despite the evidence of the involvement of military personnel in many unlawful killings of human rights defenders, the Armed Forces of the Philippines has failed to hold its members accountable for these crimes, including superior officers who ordered, encouraged, or permitted them. The security forces claim that most of the killings have in fact been carried out by members of the armed groups themselves in the context of factional rivalries or internal purges. In a speech to the Nation in 2006, President Macapagal Arroyo paid a glowing tribute to General Jovito Palparan, Commander of the seventh infantry division, for his “fight against the enemies” in Central Luzon. However, the General is known for his outspoken attacks against human rights defenders, and it has been alleged that the abduction and assassination of human rights defenders increased markedly in the regions where he exercised command.

In May 2006 a special unit known as Task Force Usig was established to better coordinate investigations into political killings at a national level; however the majority of investigations do not meet international standards and have reportedly led to very few legal actions against the perpetrators of extrajudicial killings.

Front Line delegates raised with senior police officials the cases of Karen Empeño and Sherlyn Cadapan reportedly victims of an enforced disappearance in June 2006 as well as Jonas Burgos reportedly the victim of an enforced disappearance in April 2007. In a testimony presented to the Supreme Court in August 2007 two brothers, Raymond and Reynaldo Manalo, who claim they themselves were the victims of an enforced disappearance in February 2006, stated that they saw and spoke with Karen Empeño and Sherlyn Cadapan whilst illegally detained by the military. Senior police officials stated that they were unaware of the testimony submitted to the Supreme Court the previous month but that they would follow-up on the information. In the case of Jonas Burgos a car bearing the number plates identified by a witness to his abduction was found in a military facility.

## **Anti Terror Legislation**

A new counterterrorism law known as the ‘Human Security Act’ was passed by the Philippine Congress in February 2007 and came into effect on 15 July 2007. The law provides for the indefinite detention of terrorism suspects without adequate procedural protections, and permits persons apprehended in the Philippines to be rendered to countries that routinely commit torture, as long as the receiving government provides assurances of fair treatment. The new legislation has been criticised for its vague definition of terrorism, as contained in Article 3 of the Act, which could allow the government to transform less serious offences, such as vandalism, or legitimate acts of protest, into crimes punishable by a mandatory 40-year sentence. Article 17 of the act,

allows regional trial courts to declare a group of persons to be a “terrorist and outlawed organization, association, or group,” and seize its assets and search its financial records, among other actions. Such a declaration can be made in cases where it is shown that a group has engaged in terrorism but also in cases in which the government shows the group is “organized for the purpose of engaging in terrorism”.

There are fears that human rights activities will be further constrained by the broadly drafted anti-terrorism legislation and that it will be used by the government as a tool to further persecute human rights defenders.

### **Freedom of Assembly**

Philippine law provides for freedom of assembly however during the declared state of emergency in February and March 2006 restrictions were imposed on the rights to freedom of assembly and demonstrations were violently broken up. Many human rights defenders have borne the brunt of police violence and excessive force.

On 5 October 2007, members of **Action and Solidarity for the Empowerment of Teachers (ASSERT)**, including public school teachers from seven provinces and six cities in Luzon and Metro Manila were arrested. The arrests took place at Plaza Salamanca on Taft Avenue in Manila where ASSERT members had gathered to celebrate World Teachers' Day. This area is a designated Freedom Park and is approved by the local government for public assemblies. Fidel Fababier, secretary-general of ASSERT, was reportedly approached by three uniformed policemen who asked him to show his demonstration permit. Fidel Fababier explained that although a permit was not required for demonstrations in that area, he had requested one from the Mayor's office and presented the police officers with this letter of request. Under Section 6(b) of the Public Assembly Act of 1985 (Batas Pambansa BLG. 880), any petition not acted upon in two working days shall be deemed granted, and as such, the letter that Fidel Fababier presented constitutes a *de facto* permit. The officers did not accept the letter as a valid authorisation but reportedly took a copy of it and left the area. Soon after the peaceful demonstration began, several dozen policemen from the Special Weapons and Tactics (SWAT) unit reportedly arrived on the scene and surrounded the ASSERT members, some of whom proceeded to leave the area. Those teachers who remained were allegedly subjected to physical and verbal abuse by units of the Manila Police District. According to reports, it is the same units that were subsequently involved in the violent dispersal of a peaceful demonstration of telecommunications workers outside the Department of Labour and Employment in Manila on 10 October 2007. There has reportedly been no official response at local or national level regarding the alleged police misconduct in dispersing the peaceful and legal demonstration.

**Pete Pinlac**, President of *Manggagawa sa Komunikasyon ng Pilipinas*, MKP (The Telecommunications Workers of the Philippines); **Arturo Castillo** and **John Beato**, First and Second Vice-Presidents of MKP respectively; **Aurelio Veloso**, of *Manggagawa para sa Kalayaan ng Bayan*, MAKABAYAN (Workers for People's Liberation); **Atty. Virgie Suarez Pinlac**, Vice-Chairperson of *Kaisa Ka* and member of Board of Directors of Legal Alliance for Workers' Struggles (LAWS); **Mitzi Chan**, Chairperson of the People's Struggle Commission of *Kilusan para sa Pambansang Demokrasya* (KPD); and **Roy Fernandez**, MKP Representative were arrested on 10 October 2007, outside the Department of Labour and Employment in Manila. The arrests took place during the second day of peaceful demonstrations against the labour policies of the Philippine Long Distance Telephone (PLDT) Company. Agents of the Western Police District of the

Philippine National Police reportedly used excessive force to disperse the crowd arresting the above-mentioned human rights defenders. Mitzi Chan suffered from a broken nose when she was allegedly hit by a member of the police. The other defenders also suffered from serious bruising as a result of the excessive force used. The seven named individuals have been released on bail and have been charged with violation of Batasang Pambansa 880 (relating to permits for rallies), obstruction of traffic and disturbance of the peace.

**Front Line calls upon the UN to urge the authorities in the Philippines to prioritise the protection of human rights defenders and in doing so to:**

- (1) To conduct an independent inquiry into the source of threats, ill-treatment, torture and all forms of intimidation and harassment directed towards all those human rights defenders mentioned in this report;
- (2) To take urgent measures to end extrajudicial killings of human rights defenders and bring those responsible to justice;
- (3) To ensure that all human rights defenders in the Philippines are free to carry out their human rights activities free from persecution;
- (4) To invite the UN Special Representative for Human Rights Defenders to the Philippines.

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