

**Submission by the
National Council of Churches in the Philippines
Related to the PHILIPPINES
for the Universal Periodic Review May 2012**

1. For the first session of the first cycle of the Universal Periodic Review (UPR) in April 2008, the Philippines was a state under review (SuR). The National Council of Churches in the Philippines (NCCP) submitted an alternative report to the United Nations Human Rights Council with an appeal to the 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 situation". The NCCP participated in the process and has since monitored the UNHRC sessions related to the Philippines.
2. The Philippines was re-elected last May 2011 to the Human Rights Council for the period 2011-2014 despite its failure to uphold the highest standards in the promotion and protection of human rights. The Philippines' current pledges and commitments state that it has "a tradition of human rights protection and promotion at the national and international levels"¹. The continuing deterioration of human rights in the country particularly civil and political rights validates the views contrary to this statement.
3. In relation to the UPR, the Philippines stated in its voluntary pledges and commitments for its candidature to the Council that "the Philippines had a fruitful universal periodic review and adopted most of the recommendations stemming therefrom". NCCP reviewed the report of the UPR and found that many of the recommendations were not implemented in the national sphere especially in terms of extrajudicial killings, enforced disappearances and torture.
4. In this report, the National Council of Churches in the Philippines focuses on the recommendations of member states as reflected in the Report of the Working Group on the Philippines vis-a-vis the human rights situation during the period in review (2008 – 2011) in relation to civil and political rights.

Accepted Recommendations

5. The following are selected recommendations from the UPR of April 2008 supported by the Philippine Government²:

"To ensure that members of the security forces are trained on human rights and on their responsibility to protect human rights and human rights defenders (Canada)."

1 Note verbale dated 11 February 2011 from the Permanent Mission of the Philippines to the United Nations addressed to the President of the General Assembly, http://www.un.org/ga/search/view_doc.asp?symbol=A/65/790, last accessed on October 25, 2011

2 All the recommendations cited were taken from: Report of the Working Group on the Universal Periodic Review The Philippines, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/136/75/PDF/G0813675.pdf?OpenElement> last accessed on October 25, 2011.

6. The Armed Forces of the Philippines (AFP) launched its Human Rights Handbook in August 2010. The military stated that the handbook reflects its “commitment to institutionalize human rights protection in its approach to warfare.”³ Consequently, the AFP leadership also announced it will provide human rights education to soldiers, saying human rights is essential to the accomplishment of their mission. However, according to a report by Amnesty International (AI)⁴, “on closer inspection, the human rights handbook focuses on instructing soldiers how to avoid being investigated for human rights violations, rather than focusing on how to avoid committing them in the first place”. AI noted this telling entry in the handbook: “It is imperative that soldiers are conversant with the HR [human rights] standards in order to survive the ordeals of investigation in cases when he becomes involved in a HR violation”⁵.
7. The AFP continues its practice of filing trumped up charges against human rights defenders. On May 21, 2011, trumped up charges against the “Southern Tagalog⁶ 72” or “ST 72” was revived. The ST 72 is the collective name for church people, lawyers, human rights workers and leaders of people’s organizations who were charged by the military with fabricated cases of multiple murders and frustrated multiple murders. Two of the church people facing the charges are pastors of NCCP member churches. One of them, Pastor Edwin Egar, is a staff member of NCCP’s Human Rights Program. It was the third time that charges were filed against the 72. The two previous cases were dismissed. The new case is clearly a form of harassment of NCCP and other human rights defenders.

“To completely eliminate torture and extrajudicial killings (Holy See)..... to intensify its efforts to carry out investigations and prosecutions on extrajudicial killings and punish those responsible (Switzerland)...”

8. Twenty-three years after the Philippine government ratified the Convention Against Torture (CAT), a domestic law penalizing acts of torture in the country was finally passed in 2009 when former President Gloria Macapagal-Arroyo signed Republic Act 9745 or the Anti-Torture Law.
9. However, reports of torture, especially among those illegally detained continue. A case in

3 As stated in Philippines: Progress, Stagnation, Regression? The State of Human Rights in the Philippines under Aquino, <http://www.amnesty.org/en/library/asset/ASA35/002/2011/en/4c6ea1de-3ce9-4e57-ade5-e22e18e510ef/asa350022011en.html>, last accessed on October 25, 2011.

4 Philippines: Progress, Stagnation, Regression? The State of Human Rights in the Philippines under Aquino, <http://www.amnesty.org/en/library/asset/ASA35/002/2011/en/4c6ea1de-3ce9-4e57-ade5-e22e18e510ef/asa350022011en.html>, last accessed on October 25, 2011.

5 Philippines: Progress, Stagnation, Regression? The State of Human Rights in the Philippines under Aquino, <http://www.amnesty.org/en/library/asset/ASA35/002/2011/en/4c6ea1de-3ce9-4e57-ade5-e22e18e510ef/asa350022011en.html>, last accessed on October 25, 2011.

6 Southern Tagalog comprises the provinces of Cavite, Laguna, Batangas, Rizal, Quezon, Marinduque, Oriental and Occidental Mindoro, Romblon and Palawan. It covers these provinces where many Tagalog native speakers reside. The ST 72 are human rights defenders in the said provinces.

point was the arrest and detention of forty three health workers who participated in a training conducted by a non-government organization, the Council for Health and Development in Morong, Rizal, on February 6, 2010. The detained health workers included Dr. Alexis Montes, a member and former national health program coordinator of the United Church of Christ in the Philippines. According to their affidavits filed with the Commission on Human Rights, they were arrested based on faulty warrant, were repeatedly interrogated without counsel of their choice, subjected to various forms of coercion, threats, harassments, intimidation and indignities as well as psychological torture and deprived of sleep. They were refused their right to counsel of their own or their relatives' choice for six days. A number of them were subjected to various forms of physical torture. Strong pressure from local and international organizations led to the release of 36 of the 43 health workers on December 17, 2010.

10. The human rights group Karapatan documented 212 cases of torture from January 2008-June 2011⁷.
11. Extrajudicial killings continue. From January 2008 to December 2010 there were 252 cases. From January 2011 to the time of this writing, 26 cases of extrajudicial killings have been documented.
12. The NCCP received reports of extrajudicial killings of church people. From 2008 to the present, six extrajudicial killings of members of the clergy and lay leaders/workers have been reported⁸. The victims include: Rev. Filimino Catambis, pastor of the United Church of Christ in the Philippines (UCCP); Fr. Cecilio Lucero, a Roman Catholic Priest; Benjamin Bayles and Jovelito Agustin, lay leaders of the Iglesia Filipina Independiente (IFI); Rabenio Sungit, lay leader of the UCCP; and, Fr. Fausto Tentorio, of the Pontifical Institute for Foreign Missions (PIME). The latest victim, Fr. Tentorio who was assassinated on October 17, 2011 worked among the indigenous people in his parish of the Mother of Perpetual Help Parish in Arakan Town, North Cotabato, Mindanao. It is believed that Fr. Tentorio was killed because of his defense of the rights of the indigenous Manobo tribes in Arakan Valley and his vocal criticism of military abuse. His brutal murder follows the pattern of killings that has been attributed to state agents.
13. Fr. Tentorio is also one of those killed for being an active advocate and staunch oppositionist to a foreign mining project. He is the seventh anti-mining advocate killed this year⁹. Thus the recent announcement of President Benigno Aquino III for the commissioning of special civilian active auxiliaries (SCAA) or paramilitary groups to augment the private security forces of mining companies is very alarming. This is a dangerous development since

7 Unless stated otherwise, data on Human Rights Violations were provided by Karapatan-Alliance for the Advancement of People's Rights.

⁸ National Council of Churches in the Philippines. (2011). Churches as Human Rights Defenders. Quezon City, Philippines. National Council of Churches in the Philippines. pp. 67-69.

⁹ According to Kalikasan-People's Network for the Environment, Fr. Tentorio is the 18th anti-mining activist killed since 2008.

paramilitary groups have a history of human rights abuses since the time of martial rule in the 1970's.

14. The prevailing climate of impunity is a major contributing factor to the continuing pattern of extrajudicial killings. Only a handful of cases have been successfully investigated and prosecuted According to a report¹⁰ by Al Parreno, lawyer of the Asia Foundation, who conducted an audit of 364 cases of extrajudicial killings from 2001 up to the present, only 1.37% of the 364 extrajudicial killings audited are solved as of August 21, 2011. According to the report, 100% of perpetrators of enforced disappearances have not been jailed while only 5.88% of journalist killings have resulted in convictions. The 6.31% of the 206 victims of disappearances have surfaced dead. While these figures include years prior to the period in review, the failure of the government to seriously address these cases results to the continuing climate of impunity.
15. Left to go after the perpetrators, human rights victims and their families have filed civil and/or criminal lawsuits against former president Gloria Macapagal-Arroyo and military officers who have been identified by witnesses as the perpetrators of the crimes. The United Church of Christ in the Philippines has filed a civil case against former President Arroyo for their pastors and members who have been victims of human rights violations.

Recommendations For Further Study

16. One of the three recommendations noted by the Philippines for further study was:

“To sign and ratify...the International Convention on the Protection of All Persons from Enforced Disappearance (Slovenia, Mexico)”

17. The government has not ratified the International Convention on the Protection of All Persons from Enforced Disappearances. An Anti-Enforced Disappearance Bill is still pending in Congress and the Senate while enforced disappearances continue. From 2008 to June 2011, a total of 22 cases of enforced disappearance have been recorded.

Recommendations That Do Not Enjoy the Support of the Philippine Government

18. NCCP is deeply concerned by the refusal of the Philippine Government to support four very important recommendations of the 2008 UPR as those were very urgent concerns. Those recommendations were:

“To enable the visit by the Special Rapporteur on the promotion and protection of human rights while countering terrorism as soon as possible (Slovenia).”

19. The Human Security Act (HSA), the country's law on countering terrorism is fairly new, but its full implementation have grave implications for human rights protection as it 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. The law states

10 Report on the Philippine Extrajudicial Killings (2001-August 2011), by Atty. Al A. Parreno.

that terrorist acts are those that “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, the first UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism raised serious concerns that “an overly broad definition” of terrorism in the HSA is at variance with the principle of legality and thus incompatible with Article 15 of the International Covenant on Civil and Political Rights.

“...as well as to provide follow-up reports on efforts and measures to address extrajudicial killings and enforced disappearances, taking into account the recommendations of the Special Rapporteur on extrajudicial, summary or arbitrary executions (the Netherlands).”

20. The former Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, visited the Philippines in 2007. He submitted a very credible report to the Human Rights Council that enjoys the support of the country's human rights community. The report is a detailed narrative on the extrajudicial killings that peaked in 2005-2006 in the country. The report cited the counter-insurgency program of the government, in particular the practice of labelling of activists as enemies of the state as root causes of extrajudicial killings and the failure to prosecute perpetrators as the main reason for the climate of impunity. The report also proposed several practical and policy recommendations for the government to undertake. Unfortunately, the Philippine government has all but turned a blind eye to his recommendations. The Philippine Government stated that it is a ‘rights-based’ State that has signed the UN core documents and has enacted laws that supposedly protect the rights of its citizens. But it refuses to accept the recommendations of the Special Rapporteur that would help resolve the killings and disappearances and stop the impunity.

21. The new government of President Benigno Aquino III continued the implementation of his predecessor's counter-insurgency program until December 2010. A new counter-insurgency program called Oplan Bayanihan still includes the vilification campaign against human rights defenders and the filing of fabricated charges against those who are being tagged as the government’s enemies.

“To strengthen the witness protection programme and address the root cause of this issue in the context of the reform of the judiciary and the armed forces (Switzerland).”

22. This recommendation should have enjoyed the support of the Philippine government as this is one of the key to successful prosecution of cases of extrajudicial killings. As it is, the witness protection programme of the government continues to be ineffective. Witnesses and families of victims continue to approach churches and human rights organizations for sanctuary instead of approaching the government. The government's programme has high level of distrust among human rights victims and their families.

“To consider extending a standing invitation to special procedures (Brazil)”

23. There are currently 13 pending requests including that of the Special Rapporteur on Human Rights Defenders, the Special Rapporteur on Independence of Judges and Lawyers, and the UN Working Group on Enforced and Involuntary Disappearances. The Philippine

Government has not issued invitation to any of the above special procedures to visit the Philippines.

NCCP's Recommendations:

24. In light of the above, with respect to the upcoming UPR on the Philippines on May 2012, pursuant to the agenda, the NCCP requests the UN Human Rights Council to call on the Philippine government to act on the recommendations of the last UPR and in particular to:
 - i. Scrap its counter-insurgency program, Oplan Bayanihan, in particular the practice of labelling of activists as enemies of the state and the filing of fabricated charges against those who are being tagged as the government's enemies.
 - ii. Enforce the implementation of the Anti-Torture Law.
 - iii. Enact the Anti-enforced Disappearance Bill
 - iv. Repeal the Human Security Act as its overly broad definition of terrorism may result to wanton violations of human rights.
 - v. Render justice to the victims of human rights violations committed by State security forces through proper investigation and prosecution of alleged perpetrators; that the principle of command responsibility with respect to a) military hierarchy, and b) the executive branch especially the President of the Republic, be made more explicit as basis for criminal liability for extrajudicial killings, enforced disappearances and torture. Government and military officers found to perpetrate human rights violations should not be entitled to any form of immunity.
 - vi. Implement an effective witness protection program by addressing the problem of rampant witness vulnerability especially on cases involving state security forces. This include among others a realistic budget for the witness protection program. It is also necessary to ensure that state security forces would not be able to harass those under witness protection.
 - vii. Reform the criminal justice system to address the pervading climate of impunity centered in particular on the enhancement and protection of human rights through the speedy and proper investigation, arrest, prosecution and conviction of perpetrators.
 - viii. Issue invitations to UN special procedures mandate holders including that of the pending requests from the Special Rapporteur on Human Rights Defenders and the UN Working Group on Enforced and Involuntary Disappearances. Their visits will help provide a healthy atmosphere for the promotion and protection of human rights in the country.

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