

THE PHILIPPINES



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IN LUMPING ITS CRITICS TOGETHER WITH CRIMINALS, THE GOVERNMENT SEEKS TO MAKE US ALL GUILTY BY ASSOCIATION AND, THUS, THE NEXT TARGETS OF THE VIGILANTES AND ROGUE POLICE OFFICERS WHO HAVE LED PRESIDENT RODRIGO DUTERTE'S BLOODY WAR AGAINST DRUGS. NOW, HE HAS STARTED A NEW WAR... WITH NEW TARGETS

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THE CLIMATE OF IMPUNITY THAT PREVAILS IN THE PHILIPPINES, combined with the administration's encouragement of extrajudicial killings of alleged drug users, as well as the increasingly hard line taken by the army towards the National Democratic Front of the Philippines, has resulted in the serious deterioration in the situation for human rights defenders (HRDs) in the country.²⁵¹

Since the election of President Rodrigo Duterte in May 2016, HRDs have faced a spate of killings and violence. Judicial harassment and criminalisation of HRDs remains common, with politicians and private actors such as mining companies, using the criminal justice system to silence those who oppose their interests. HRDs have been accused of violent crimes or of being members of the New People's Army, the armed wing of the Communist Party. HRDs have also reported instances of close monitoring and surveillance by security officials.²⁵² In some ways this is the same pattern of human rights abuse seen during the presidencies of Presidents Arroyo and Aquino, but what distinguishes the government of President Duterte from previous regimes is the explicit and undisguised nature of his direct attack on the rule of law, independent media and state institutions designed to protect human rights. This anti-human rights agenda has increasingly been targeted at HRDs. In December 2017, the In Defense of Human Rights and Dignity Movement (iDEFEND) and the Philippine Alliance of Human Rights Advocates (PAHRA) condemned "in the strongest terms – the continuing attack against HRDs in the Philippines which is now compounded by the Duterte administration's anti-human rights policies and actions, that are creating a more hostile environment for human rights work"²⁵³

This has led to "a chilling effect on the country's opposition in the wake of attacks against prominent figures who have criticised Duterte's policies, including the arrest of key government critic Senator Leila de Lima,²⁵⁴ the removal from office of the Chief Justice of the Supreme Court and threats against its Ombudsman".²⁵⁵ Attacks on the National Commission on Human Rights also intensified, as lawmakers accused it of "siding with suspected criminals" in the anti-drugs campaign, and caused uproar by approving an annual budget for the Commission of just US\$20, before the decision was overturned in the Senate.²⁵⁶ As a result, the World Justice Project's 2018 Rule of Law Index ranked the Philippines 88 out of 113 countries, as the country saw "the most significant drop in terms of constraints on government powers, fundamental rights, order and security, and criminal justice".²⁵⁷

SMEAR CAMPAIGNS AND JUDICIAL HARASSMENT OF HRDs

This overt hostility to the work of HRDs is feeding an increasing pattern of harassment and intimidation of HRDs, including smear campaigns by state officials. Smear campaigns are used to undermine the credibility of HRDs and help to identify them as potential targets. Very often a smear campaign is the precursor to a direct attack. These smear campaigns have been reinforced by the President's own threats to kill HRDs because of their criticism of his shoot to kill policy in the 'war on drugs': "The human rights (defenders) said I ordered the killings. I told them, 'OK let's stop. We'll let them (drug users) multiply so that when it's harvest time more people will die. I will include you because you are the reason why their numbers swell.'" This level of threat has increased to such an extent that during the March 2018 session of the UN Human Rights Council, Elecer Carlos, speaking on behalf of PAHRA and iDefend, called on the UN to suspend the Philippines' membership of the Human Rights Council and to initiate an independent investigation.²⁵⁸ This call was supported by Amnesty International, ARTICLE 19, Asian Forum for Human Rights and Development (FORUM-ASIA), FIDH – International Federation for Human Rights, Franciscans International, International Service for Human Rights (ISHR), and World Organisation Against Torture (OMCT). President Duterte has also "encouraged the shooting of women in the genitals, bragged about killing his enemies and called journalists legitimate targets for assassination".²⁵⁹ Similarly, on 28 March 2018, Cebu City Mayor Tomas Osmeña said in an interview, "what I see is that criminals are not afraid any more because they have human rights and the victims have no human rights. So what happened? There will be more victims. The Human Rights Commission is a big part of this."²⁶⁰ The combined effect of hate speech by officials, presidential endorsement of the use of lethal force against the civilian population and an ineffective legal system has entrenched a climate of impunity for human rights violations and contributes to the creation of an environment in which the killing of HRDs is normalised.

Apart from undermining the credibility of HRDs, smear campaigns are also used to justify legal proceedings against them by helping to give credibility to false accusations. HRDs who challenge the policies of President Duterte are arrested and jailed using trumped-up charges. According to the Rural Missionaries of the Philippines²⁶¹ "Dissent in the country today carries a heavy price as the government systematises it as a terror act. The method: plant firearms and explosives and brutally force activists to admit they are members of the New People's Army (NPA) which is easily enforced by the state forces – the military and the police. It is an old tactic made worse as Mindanao has been placed under Martial Law until December 31, 2018".²⁶² Staff members of the Rural Missionaries of the Philippines have themselves been targeted because of their support for HRDs. In March 2018, Godfrey Palahang, one of the organisation's human rights field workers was arrested and charged with possessing live ammunition.²⁶³ Godfrey was the second field worker to be arrested on charges of being linked to the Communist Party of the Philippines-led New People's Army.²⁶⁴ Additionally, under the Human Security Act of 2007, the Court of Appeals can authorise government agents "to track

WHAT DISTINGUISHES THE GOVERNMENT OF PRESIDENT DUTERTE FROM PREVIOUS REGIMES IS THE EXPLICIT AND UNDISGUISED NATURE OF HIS DIRECT ATTACK ON THE RULE OF LAW, INDEPENDENT MEDIA AND STATE INSTITUTIONS DESIGNED TO PROTECT HUMAN RIGHTS

down, tap, listen to, intercept, and record communications, messages, conversations, discussions, or spoken or written words of any person suspected of the crime of terrorism or the crime of conspiracy to commit terrorism.”²⁶⁵ This vaguely worded legislation gives the government almost limitless powers to target and harass HRDs.

Of particular concern are recent statements by government officials, in which they attempted to connect human rights organisations with the drug trade. On 26 March 2018, Secretary of Foreign Affairs Alan Cayetano stated that human rights organisations “were being used by drug lords”, “unwittingly.”²⁶⁶ The following day, Presidential spokesperson Harry Roque went further, insinuating that human rights groups may be part of “destabilisation plots” mounted by drug lords against the government. On 28 March 2018, a spokesperson from the Philippine Drug Enforcement Agency (PDEA) stated that the agency, together with the Philippine National Police (PNP), was “probing” links between drug syndicates and human rights groups.²⁶⁷ According to Amnesty International “The allegations are the latest dangerous attempt by the government to target human rights defenders and delegitimise their work, instead of ensuring accountability for widespread and systematic human rights violations in the ‘war on drugs’. The Philippine government must end its campaign of harassment and intimidation of human rights defenders and retract its latest statements, which place the safety of those who criticise the government, in peril”.²⁶⁸

ATTACKS ON THE MEDIA

In its 2017 Annual Report, the International Federation of Journalists listed the Philippines as the second most dangerous country in the world for journalists, after Iraq.²⁶⁹ In its Annual Report for 2017, the Committee for the Protection of Journalists reported the killing of four journalists in the Philippines. Hostile rhetoric towards members of the media by President Duterte has further exacerbated an already perilous situation for journalists.²⁷⁰ For example, just weeks after his election the President asserted that “corrupt” reporters “are not exempted from assassination.”²⁷¹ Journalists who investigated the administration’s role in extrajudicial killings carried out as part of its war on drugs frequently faced harassment and death threats. According to the Philippine Centre for Investigative Journalism²⁷² “these murders, death threats, slay attempts, libel, online harassment, website attacks, revoked registration or denied franchise renewal, verbal abuse and police surveillance of journalists and media agencies from June 30, 2016 to May 1, 2018 — have made the practice of journalism an even more dangerous endeavour under Duterte.”²⁷³

In a move designed to address journalists’ longstanding concerns about their safety, President Duterte in October 2017, issued an order creating the Presidential Task Force on Violations of the Right to Life, Liberty, and Security of the Members of the Media, which was empowered to investigate crimes against journalists. However, no major investigations had been initiated by year’s end.²⁷⁴ As a result, the harassment and intimidation of independent media continued. On 15 January 2018, the Philippines’ Securities and Exchange Commission ruled that online news group Rappler had violated laws barring foreign ownership and control of local media, and moved to revoke its registration. The ruling was based on accusations that Rappler had received funds from the Omidyar Network, a fund created by eBay founder and entrepreneur Pierre Omidyar to promote open societies. Maria Ressa, Rappler’s founder and editor, has

IN ITS 2017 ANNUAL REPORT, THE INTERNATIONAL FEDERATION OF JOURNALISTS LISTED THE PHILIPPINES AS THE SECOND MOST DANGEROUS COUNTRY IN THE WORLD FOR JOURNALISTS

ELISA BADAYOS & ELEUTERIO MOISES



Elisa Badayos, regional coordinator of the human rights group Karapatan, was killed on the 28th November 2017 in Bayawan City, Negros Oriental when two

unidentified gunmen opened fire on her and two colleagues, Eleuterio Moises and Carmen Matarlo. Eleuterio was also killed and Carmen was seriously injured. Elisa and her colleagues were returning from interviewing farmers who had been harassed by the security guards of a land claimant involved in a land dispute. The fact-finding mission was investigating reported cases of killings, harassment and other human rights violations in several towns in Negros Oriental. There is evidence suggesting the possible involvement of police officers and other state agents in the case.

FATHER MARCELITO ‘TITO’ PAEZ



On 4 December 2017, Father Marcelito ‘Tito’ Paez, coordinator of the Rural Missionaries of Philippines in Central Luzon, was shot dead in Nueva Ecija. In 1980, he had been the leader of the Central Luzon Alliance for a Sovereign Philippines (CLASP), and campaigned for the removal of US military bases in the Philippines. He was also an anti-nuclear activist. The 72-year-old retired priest was targeted as he was driving home after facilitating the release of political prisoner Rommel Tucay in Cabanatuan City. In his 32 years of service in the Diocese of San

Jose City, Father Marcelito had always stood up for the human rights of the oppressed, especially in Central Luzon.

challenged what she and others at Rappler see as “a politicised decision aimed at stifling critical coverage of President Rodrigo Duterte’s government and policies, including a lethal ‘war on drugs’ campaign that has resulted in thousands of deaths”.²⁷⁵ In the absence of any formal structure to investigate attacks on HRDs the standard state response is to deny any involvement by state agents, vilify the victims or, if there is sufficient public pressure, promise an investigation which never comes to fruition.

EXTRAJUDICIAL EXECUTIONS AND ATTACKS ON HRDs

According to Human Rights Watch, since President Duterte assumed office, an estimated 12,000 extrajudicial killings have been linked to his anti-drugs campaign,²⁷⁶ while the government shields the perpetrators among the police from all forms of accountability. President Duterte has repeatedly stated that he would pardon any police officers facing charges because of obeying his orders.²⁷⁷ According to Amnesty International “the result is an even more dangerous country – where the authorities violate the rule of law instead of upholding it, where armed groups become emboldened and where the most vulnerable people suffer.”²⁷⁸

In its May 2017 report to the Human Rights Council (HRC), the Office of the High Commissioner for Human Rights (OHCHR), “expressed concern at the continued perpetration of extrajudicial killings and enforced disappearances. It was particularly concerned at the proliferation of private armies and vigilante groups that were partly responsible for those crimes, as well as at the large number of illegal firearms”.²⁷⁹ Extrajudicial executions remain the gravest threat facing HRDs in the Philippines where HRDs have long been targeted: 474 HRDs were killed during the Arroyo presidency (2001-2010), and 139 during the Aquino presidency (2010-2016).²⁸⁰ This is continuing into the present. In its Annual Report covering the period January-December 2017, Front Line Defenders reported the killing of 60 HRDs in the Philippines, making it the country with the highest number of killings of HRDs outside of the Americas.²⁸¹ This was almost double the 31 killings of HRDs reported by Front Line Defenders in its 2016 Annual Report.²⁸² In two separate letters submitted to Agnes Callamard, UN Special Rapporteur on extrajudicial killings, and Michel Forst, UN Special Rapporteur on the situation of human rights defenders, Philippine human rights organisation Karapatan²⁸³ called for the investigation of 25 emblematic cases of summary killings of HRDs, committed “as part of the government’s intensifying counter-insurgency programme”.²⁸⁴ The programme arbitrarily tags individuals, groups and movements as “enemies of the state” and makes no distinction between armed and unarmed civilians. Meanwhile women HRDs (WHRDs) are at increased risk. According to the Association of Women HRDs in the Philippines (Tanggol Bayi), at least 17 WHRDs have been killed between the inauguration of President Duterte in June 2016 and November 2017.²⁸⁵ President Duterte’s speech to the AFP, in which he appeared to condone rape by soldiers during counter-insurgency operations²⁸⁶ has increased concern for the security of WHRDs. In its December 2017 statement condemning attacks on HRDs, the Philippine Alliance of Human Rights Advocates (PAHRA) stated, “We therefore hold the Duterte government accountable for the systematic violence against human rights defenders who are carrying out peaceful and legitimate work to make meaningful changes in the

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GLORIA CAPITAN



On 1 July 2016, human rights defender Gloria Capitan was shot dead by two unidentified men in Lucanin village, Mariveles municipality, Bataan province. Since the start of her work opposing a coal mining and storage project in 2015, Gloria Capitan had faced intimidation and threats from representatives of the companies owning the coal facilities. Gloria Capitan was one of the leaders of the Coal-Free Bataan Movement and the President of United Citizens of Lucanin Association (*Samahan ng Nagkakaisang Mamamayan ng Lucanin*), a community-based

organisation that has been peacefully opposing the operation and expansion of coal plants and open storage facilities in the Mariveles neighbourhood which have had harmful consequences for the local population. As a part of her human rights work, Gloria Capitan organised campaigns, filed complaints with the court, collected signatures for petitions and initiated other public actions, calling for a permanent closure of the coal project.

JIMMY SAYPAN



On 8 October, 2016, Jimmy Saypan, Secretary General of the Compostela Farmers Association (CFA), travelled to Montevista for the send-off of the “Lakbayan ng Pambansang Minoraya”, a campaign caravan of national minorities taking their protest to Metro Manila. On the morning of 10 October Jimmy was travelling home on his motor bike when he was chased and shot three times by a gunman, allegedly from the 66th Infantry Battalion-Philippine Army (IBPA). He died the next day in the Davao Regional Hospital. Since 2012 Jimmy Saypan had been a vocal anti-mining advocate who had campaigned for the discontinuation of mining exploration in the area. He had also campaigned for the withdrawal of the army from Compostela on the basis that the military presence had merely resulted in a string of human rights violations and caused fear in the community.

country. President Duterte should be reminded that the Philippine Government has a legal obligation to respect human rights of all and to exert efforts to protect all human rights defenders at all times without exemption.”²⁸⁷

ATTACKS ON ENVIRONMENTAL RIGHTS DEFENDERS

The Philippines has an estimated \$840 billion worth of untapped mineral resources, according to the Mines and Geosciences Bureau of the Philippines which is responsible for giving permits to mining companies to do exploration of mining areas and to commence operations.²⁸⁸ A high proportion of this wealth is on land belonging to indigenous peoples, thus creating the basis for conflict between local communities and mining companies. Today the Philippines is one of the deadliest places in the world to defend the right to a healthy environment. In its 2017 report, *Defenders of the Earth*, Global Witness reported 28 killings of environmental activists in 2016.²⁸⁹ In its 2018 report, *Guardians of the Forest*, Global Witness reported the killing of 41 environmental activists in the Philippines.²⁹⁰ Most of these killings were linked to struggles against mining and other extractive industries.²⁹¹ Teresita Navacilla,²⁹² a HRD concerned about the impact of the King-king mining project in Southern Mindanao, the second largest gold and copper mine in the Philippines, was targeted for her campaigning and died of gunshot wounds in January 2016. In July 2016 Gloria Capitán,²⁹³ a leading environmental defender, was shot dead in her home town of Mariveles. She was opposing the use of coal storage facilities and the expansion of a coal-fired plant amid concerns about the potential negative impacts on the health and livelihoods of the local community. To date, no one has been held accountable for her death. Nenita Andes Condez, an indigenous Subanen leader from Mindanao, advocates for her people in the face of complaints of human rights violations and ecological damage caused by Canadian mining companies. In 2017 she put her life at risk to visit Canada as part of a delegation of Philippine leaders seeking accountability from Canadian companies and government officials. Nenita says she lives under constant threat of assassination and is currently unable to return to her village.²⁹⁴ Following the shooting dead of human rights lawyer and environmental rights defender Mia Mascariñas-Green,²⁹⁵ PAHRA issued a statement highlighting the dangers faced by environmental rights defenders: “The killing of Atty. Mia and many environmental rights defenders like Gerry Ortega,²⁹⁶ Armin Marin,²⁹⁷ Fr. Fausto Tentorio²⁹⁸ among others, indicates a grim warning for environmental rights defenders where odds are stacked against them. Impunity reigns in the majority of cases of attacks and violence against environmental rights defenders”.²⁹⁹

ATTACKS ON INDIGENOUS PEOPLES

According to the United Nations Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz, “the ongoing militarisation of Mindanao is having a massive and potentially irreversible impact on the human rights of some of the island’s indigenous Lumad communities. Thousands of Lumads have already been forcibly displaced by the conflict and have seen their houses and livelihoods destroyed. ... We fear the situation could deteriorate further if the extension of martial law until the end of 2018 results in even greater militarisation”.³⁰⁰ During an Indigenous Peoples’ Summit in Davao City on 1 February 2018, the President stated that Lumads should leave their ancestral domains as he would broker investors,

particularly in palm oil or mining, to invest in these lands: “We’ll start now, and tomorrow I will give something to you. Prepare yourselves for relocation” came his cryptic warning. Lumad leaders are concerned that the harassment their communities experience is due to this plan.³⁰¹ In the past two decades, nearly 500,000 hectares in Mindanao have been swamped with large-scale mining, agribusiness and energy projects. Now the move is towards the ancestral lands of indigenous peoples, which are rich in natural resources, offering developers the potential for large profits.

A further element of risk is that the military are deployed as paid security to protect these projects and it is therefore in their interests to see them proceed.³⁰² In March 2018, the United Nations Permanent Forum on Indigenous Issues expressed “its grave concerns about the Philippine government’s accusations against indigenous human rights defenders as being terrorist group affiliates”.³⁰³ This was prompted by a petition filed by the State Prosecutor of the Department of Justice, seeking to include several indigenous HRDs on a list of more than 600 individuals identified as “terrorist and outlawed organisations and/or group of persons” under the National Security Act of 2007.³⁰⁴ The list of alleged terrorists includes nationally- and internationally-renowned indigenous leaders and HRDs from the Cordillera and Mindanao regions. Among them are Victoria Tauli-Corpuz, UN Special Rapporteur on the rights of indigenous peoples, and Jeanette Ribaya Cawiding, Regional Coordinator in the Cordillera region of the Alliance of Concerned Teachers (ACT). In an op-ed published in the *Financial Times* in May 2018, Victoria Tauli-Corpuz stated, “In lumping its critics together with criminals, the government seeks to make us all guilty by association and, thus, the next targets of the vigilantes and rogue police officers who have led President Rodrigo Duterte’s bloody war against drugs. Now, he has started a new war — with new targets.”³⁰⁵

In one incident in December 2017, eight Lumad people were killed in what was initially presented as an armed confrontation with the army, but according to an independent investigation conducted by the Philippine church and human rights groups, was in fact a mass killing. The main target of the attack was Victor Danyan, killed because he was vocal in his community’s claim to a contested piece of land. It appears that Victor was deliberately targeted to silence dissent in the area.³⁰⁶ Victor was chairman of Tamasco, a tribal group formed in 2006 to reclaim 1,700-hectares of ancestral land that was planted with coffee. The organisation was also protesting against coal mining operations on their ancestral

IN THE PAST TWO DECADES, NEARLY 500,000 HECTARES IN MINDANAO HAVE BEEN SWAMPED WITH LARGE-SCALE MINING, AGRIBUSINESS AND ENERGY PROJECTS

land. Army claims of having been the target of an armed attack have been discredited by the evidence collected by Dr. Benito Molino, a forensic expert who said “at least 300 empty and live shells from M14 and M16 rifles were recovered from various sites where soldiers apparently fired their weapons”.³⁰⁷ He concluded that “there was no clash – all the shooting came from the army”.³⁰⁸

NEW PATTERNS OF OPPRESSION

The southern Philippines has a long history of conflict, with armed groups including Islamist separatists, communists, clan militias and criminal groups active in the Mindanao region.³⁰⁹ According to the United Nations, the declaration of martial law in Mindanao on 23 May 2017, following clashes between government forces and Islamist militants in Marawi City, has merely aggravated an already worsening human rights situation.³¹⁰ In addition, at least 25 paramilitary groups with direct links to the military have been responsible for rights violations against Lumads and other rural communities.

Between July 2016 and December 2017, Philippine human rights organisation Karapatan³¹¹ documented 126 victims of political killings, mostly in the Southern Mindanao Region (SMR) and 235 attempted killings. In December 2017, following the violence in Marawi City, and the ongoing security situation in Mindanao, the National Human Rights Commission called on the government “to investigate allegations of looting by the military, unlawful/arbitrary arrests, military presence in IDP camps, cases of profiling, military harassment, enforced disappearance, torture, and extrajudicial killings”.³¹² The Commission also urged the government to “hold to account both state and non-state actors responsible for the atrocities committed against the local residents”.

IMPUNITY: DENIAL OF JUSTICE

To date the government of the Philippines has consistently failed to address either human rights violations from the past, or to confront the ongoing harassment and killing of HRDs, quite apart from its failure to address the issue of those killed in the context of the war on drugs. In July 2007, the Philippine Supreme Court attempted to take a more active role in defending the human rights of citizens. Following a two day summit, the ‘Writ of Amparo’,³¹³ which was described by former Chief Justice Reynato Puno as “the greatest legal weapon to protect the constitutional rights of our people,” took effect.³¹⁴ In August 2007, former Chief Justice Puno also issued a writ of Habeas Data.

The Writ of Amparo was intended to prevent military officers in judicial proceedings from avoiding accountability for human rights abuses by simply denying any knowledge of the case, in petitions on disappearances or extrajudicial executions, an option which is legally permitted in Habeas Corpus proceedings.³¹⁵ The Writ of Habeas Data, is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act of any official or employee, or of a private individual or entity engaged in the gathering, collecting or storing of data or information. The Writ of Habeas Data functions as an independent remedy as well as a complement to the writs of Habeas Corpus and Amparo—both of which are aimed at protecting the right to life, liberty and security, especially of victims of politically motivated crimes. Under the Writ of Habeas Data, a person can compel the release of information, or to update, rectify, suppress or destroy database information or files in the control of the respondents in a petition. These legal measures were introduced in response to an alarming increase in the number of forced disappearances and extrajudicial executions, including the murders of HRDs, left-wing activists and journalists during the Arroyo administration.³¹⁶ They were specifically intended to address the limitations of the Writ of Habeas Corpus. However, even though these writs were promulgated by the Supreme Court, they have remained ineffective to date because the armed forces consistently deny any involvement in the killing of HRDs and the Supreme Court cannot enforce them because of a lack of cooperation from the state. According to the August 2017 report of the Global Impunity Index, the Philippines has the highest general rate of impunity for crime in the world with a score of 75.6% of the 69 countries studied.³¹⁷ The experience of HRDs is in line with that statistic, though the absence of a centralised state agency to collect data on attacks on HRDs means that the reports produced by civil society organisations are the only reliable source.

According to Global Witness, of the 67 murders of environmental rights defenders investigated and documented by them in the Philippines between 2002 and 2013, only two perpetrators have been imprisoned for their crimes. In August 2017, Karapatan reported that 40 of the organisation’s human rights workers have been killed by state security forces since 2001,³¹⁸ but to date no one has been brought to justice for any of these killings.³¹⁹ Government response is to obfuscate and deny as borne out by Human Rights Watch’s statement on killings in the context of the war on drugs: “The government has frustrated efforts by media and other independent observers to maintain a verifiable and transparent tally of such deaths by issuing contradictory data.”³²⁰ Meanwhile, the National Human Rights Commission of the Philippines has expressed its concern at the denial of due process: “All humans have the right to due process in court of law. Regardless of their circumstances, summary executions are not justice, and any assertion that their deaths are deserved is a sign of a failing justice system.”³²¹ As distinct from the situation in countries such as Brazil, Colombia and Mexico, where the state has recognised its obligation to protect HRDs and set up formal (though largely ineffective) systems to protect them, in the Philippines there is still no formal mechanism for the protection of HRDs.

Justice remains elusive for victims of historic rights abuses by the AFP and paramilitary groups during the Arroyo and Aquino regimes. Perpetrators of the Lianga massacre, as well as state security forces responsible for EJs of peasants and indigenous people, remain free from arrest and prosecution, even when there is an outstanding arrest warrant. While some human rights violations under the Aquino administration

are being pursued in the courts, prosecutions such as the recent filing of criminal charges against military officials involved in the 2011 killing of Father Fausto Tentorio are a rare occurrence.³²² Father Tentorio was a staunch anti-mining advocate who defended the rights of the Lumad peoples. Before he was killed, he had received several death threats.³²³ Meanwhile the long list of HRDs killed because of their peaceful activism continues to grow.

The April 2018 decision of the Supreme Court, ordering the Philippine National Police (PNP) to submit data on the administration's campaign against illegal drugs³²⁴ is a welcome step towards ensuring accountability, but what is needed is for the government to retract its support for the practice of EJE's, recognise the legitimate work of HRDs and introduce a comprehensive reform of the legal system. However, even the limited reforms introduced by the government to protect human rights such as the Anti-enforced Disappearance Law of 2012, the Anti-torture Act of 2009 and the Republic Act no.10368 (also known as the Victims Reparation and Recognition Act) of 2013, have not been effectively implemented and, have in effect, been largely ignored.³²⁵ Since 2015 the National Human Rights Commission has been working to develop a system to document violations against HRDs but, to date, has been unable to find a way to make this work in practice. The root cause of this inaction is the government's explicit hostility to the work of HRDs.

STATE RESPONSE

In March 2018, President Duterte announced his intention to withdraw from the International Criminal Court (ICC) in response to the ICC's announcement of its intention to initiate a preliminary investigation into killings in the context of the war on drugs.³²⁶ In response, the National Human Rights Commission issued a statement "calling on the government, especially the security sector, the prosecutors, and the judges to ensure that the rule of law still prevails and justice is dispensed with haste. Transparency, fairness, and due process must be paramount in the investigation and prosecution of cases. This will be for the benefit of the state as it will show the international community that the Philippine justice system can be depended on and is working. Thus, there will be no reason for the ICC to step in." ³²⁷

In March 2018, the High Commissioner for Human Rights presented his Annual Report to the Human Rights Council. In relation to the Philippines he stated, "I deplore President Duterte's statement last week to elite police units that they should not cooperate "when it comes to human rights, or whoever rapporteur it is" and the continued vilification of this Council's Special Rapporteur on extrajudicial killings by the authorities. The government has a duty to uphold human rights and to engage with persons appointed by this Council. I am concerned by deepening repression and increasing threats to individuals and groups with independent or dissenting views, including opposition Senators, current and former public officials, the Commission on Human Rights, human rights defenders and journalists. Several cases for impeachment or dismissal have been launched against members of the Supreme Court, the Office of the Ombudsman and other institutions representing democratic safeguards. Senator de Lima has now been arbitrarily detained for over a year, without clear charges. This authoritarian approach to governance threatens to irreparably damage 30 years of commendable efforts by the Philippines to strengthen the rule of law and respect for the human rights of the people". This pattern is reinforced by the constant stigmatisation of HRDs and direct threats by the President to attack HRDs, whom he has identified as "enemies of the state".³²⁸

JUSTICE REMAINS ELUSIVE FOR VICTIMS OF HISTORIC RIGHTS ABUSES BY THE AFP AND PARAMILITARY GROUPS DURING THE ARROYO AND AQUINO REGIMES

On 21 February 2018, Senator Leila de Lima, presented a Bill in the Senate³²⁹ to ensure the protection of HRDs. The Bill would establish a human rights court and set jail terms of 12 to 20 years for perpetrators of violence against HRDs.³³⁰ However the Bill has not progressed and Senator de Lima is currently in detention on politically-motivated charges. According to the United States' Country Reports on Human Rights Practices for 2017, there has been little progress in implementing and enforcing reforms aimed at improving investigations and prosecutions of suspected human rights violations. Potential witnesses often were unable to obtain protection through the witness protection programme managed by the Department of Justice due to inadequate funding or procedural delays, or failure to step forward because of doubts about the program's effectiveness.³³¹ The vast majority of perpetrators appear to enjoy impunity due to the weakness of the judiciary and law enforcement agencies. Allegations of security service involvement in killings are a feature of many cases".³³² The government's response to the international community's concerns with regard to key human rights issues is as outrageous as President Duterte's violent rhetoric. Among the recommendations rejected by the government during its third Universal Periodic Review at the UN in September 2017,³³³ were 18 relating to the issue of enforced disappearances and all 13 regarding the protection of HRDs and journalists. Instead of taking note and acting on the reported violations, the Duterte government has resorted to personal attacks and verbal insults. President Duterte threatened to slap Agnes Callamard, the UN Special Rapporteur on Extrajudicial Killings, if he met her.³³⁴ The message the government is sending to HRDs is that they cannot expect any protection from the authorities, and in fact can be 'legitimate targets'.

RECOMMENDATIONS TO THE GOVERNMENT OF THE PHILIPPINES

The government of the Philippines should take immediate action to end the stigmatisation of and attacks on human rights defenders in recognition of their vital role in creating more just and equal societies. The government should also completely review its policies in relation to the war on drugs and the counter-insurgency programme to end the indiscriminate violence against HRDs and civil society. In particular the government of the Philippines should:

- ❖ recognise that human rights defenders have a legitimate role to play in ensuring peace, justice and democracy;
- ❖ ensure prompt and exhaustive investigations into threats to and attacks on HRDs;
- ❖ bring both the intellectual authors and the perpetrators of attacks on HRDs to justice;
- ❖ provide effective protection to HRDs at risk.

RECOMMENDATIONS TO THE HUMAN RIGHTS COMMISSION OF THE PHILIPPINES

Additionally, in the absence of a formal programme of protection for HRDs, the Philippine Commission on Human Rights (PCHR)³³⁵ should implement its 2015 resolution on the monitoring and investigation of cases of human rights violations against HRDs.

In addition the PCHR should take action to ensure fast and thorough investigations by its regional offices into complaints filed by HRDs and their relatives.



