

**Philippine Independent Church
Ramento Project for Rights Defenders
1500 Taft Avenue, Ermita, Manila
Philippines**

Report to the United Nations Universal Periodic Review on Human Rights in Philippines

This report focuses on continuing serious violations of human rights with the main purpose of contributing towards ending the persisting culture of impunity in the Philippines. Thus the violations pointed out are selected for their being attributable to impunity.

The data presented are purposely linked to particular provisions of the Universal Declaration on Human Rights (1948) and the UN Declaration on Human Rights Defenders (1998), all under the general provision on the right to life and security. These provisions are the following: UDHR Art 7, UDHR Art 8, UNDHRD Art 9 Sec 2, UNDHRD Art 9 Sec 3, and UNDHRD Art 14 Sec 1 & 2.

A. Impunity and human rights violations

1. Delay and denial of justice strengthens impunity

Victims of extra-judicial killings and enforced disappearances, their families, the perpetrators of human rights violations, and the general public are yet to hear of significant success in the government's task of rendering justice to victims. The case on the shooting and killing of Philippine Independent Church (PIC) priest Rev. Fr. William Tadena in La Paz, Tarlac on 13 March 2005 is still pending in the Tarlac City Regional Trial Court 6 years after the incident. In the same manner, the case on the killing of PIC Bishop Alberto Ramento in Tarlac City on 3 October 2006 is yet to move on in the same Tarlac City Regional Trial Court five years after the incident.

These are cases involving clergy as victims. The other thousand cases of EJK and EDs may have worse experiences. Roman Catholic priest Rev. Fr. Cecilio Lucero who was gunned down in Northern Samar on 6 September 2009 suffers the worst fate as the court dismissed the murder case against the suspected perpetrators.

Repeated delays in the decision and resolution of human rights cases are tantamount to denial of justice, encouraging impunity and sending the message of government toleration of the killings. These are serious violations with fatal implications to the provisions against "undue delay" as spelled out in UNDHRD Art 9 Sec 2 and in UNDHRD Art 9 Sec 3.

2. Government resources are used to defend violators of human rights

The case on the killing of PIC lay leader Benjamin Bayles in Himamaylan City in Negros Occidental, wherein the accused and detained killers are confirmed members of the 61st Infantry Battalion of the Philippine Army, can be a strong basis in claiming that government resources are used to defend the perpetrators of human rights violations. Suspects Private First Class Rafael Cordova (or Ronnie Caurino being the fictitious name given to the police) and Private First Class Reygine Laus (or Roger Bajon being the name given to the police) are enjoying the legal services of the three (3) top and most expensive lawyers in Negros Occidental. This have been their privilege seventeen (17) months after they were arrested while fleeing from the crime on 14 June 14 2010 – a significant length of time when they were not receiving salary from the government and unable to get any form of income because of imprisonment.

The lawyers of the suspects, Attorneys Leon Moya, Vicente Garaygay, and Basilio Garaygay are veteran lawyers known to provide highly paid legal services to the military and police in Negros Occidental. They form the formidable legal team that defends the accused military murderers of Benjamin Bayles. Common logic tells that no lawyer will provide free legal services to accused killers. It is also impossible for the two suspects to be able to pay the expensive lawyers' fees by themselves or by their families. Thus it is highly probable that government resources through the Philippine Army are being used to defend the perpetrators and not the victim of the human rights violation.

This fact is very ironic in a government whose official stand claims to be on the side of human rights. Defending human rights violators in court litigation is condoning the killings outright, siding with injustice, and indirectly promote the culture of impunity. Using government resources for the benefit of perpetrators and not the victims stands destructively opposite to the provision on “equal protection of the law” as stated in UDHR Art 7.

3. International Human Rights Instruments and UN Special Rapporteur Philip Alston Report

The Philippine government may have already significantly addressed the problems on EJK and ED had it make use of the outcome of the United Nations intervention done in 2007. Special Rapporteur on human rights Philip Alston's findings and recommendations from his “Mission to the Philippines”¹ can be regarded as a missed opportunity on this regard. Here are very important points:

3.1 On human rights violations in relation to insurgencies

The Alston Report repeatedly pointed out that the violations have direct relations to the state security forces' counter-insurgency operations. The military strategy “Oplan Bantay Laya” was particularly mentioned to have something to do with the political killings. This being the case, the logical solution for the government to resolve human rights violations should have been to immediately review and overhaul the counter-insurgency strategy and take initiative in advancing peace negotiations with rebel groups.

¹ Philip Alston, “Mission to the Philippines: Report of the Special Rapporteur on extra-judicial, summary, or arbitrary executions” (United Nations, 2007).

3.1.1 The Alston Report's top-most recommendation on human rights violations and insurgencies: "Extra-judicial executions must be eliminated from counter-insurgency operations" is not observed. This recommendation underlines the need to review and overhaul Oplan Bantay Laya.

To the contrary however, the government under former President Gloria Arroyo continued to implement the said military strategy despite the release of the recommendation in 2007 until the new president Benigno Aquino III assumed office in July 2010. Around 300 lives of human rights defenders were added to the number of EJK victims during this period that could have been saved had the government listened to the recommendation of Alston.

The succeeding government of President Aquino offered nothing different. Despite full knowledge of the killing track record of Oplan Bantay Laya, the new government willfully extended Oplan Bantay Laya for another 6 months from July to December 2010. The 6 months extension netted an additional 31 extra-judicial kills and 5 abductions.

A new counter-insurgency strategy called Oplan Bayanihan replaced Oplan Bantay Laya beginning January 2011. The new strategy is said to respect human rights and a "paradigm shift" from the former. While the new strategy indeed contains mechanisms for human rights protection, the government and state security forces are yet to explain why after 9 months (January – September 2011) in operation, 55 individual victims of EJKs were counted including that of Italian missionary priest anti-mining activist Rev. Fr. Fausto Tentorio²

These limitations on the side of the government render futile the UN intervention through Special Rapporteur Philip Alston. These runs contrary to the provision on the obligation of the state to adhere, promote, and popularize the international human rights treaties as specifically pointed out in UNDHRD Art 14 Sec 1 & 2.

3.1.2 The government failed to consider peace talks with rebel groups as logical and appropriate solution to resolve human rights violations and culture of impunity. The most significant breakthrough of the peace negotiations with communist and Muslim was the joint signing of the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) in year 1998. Said agreement brings to the Philippine context international human rights standards while seeking to humanize the conduct of war between the communist New People's Army and government security forces.

Mutual observance of the warring parties of the CARHRIHL as a supposed to be binding agreement beginning the date when it was approved may have avoided the counter insurgency-related thousands cases of EJKs and EDs in the past decade. Yet before the current human rights situation, the agreement may still be a very effective material to resolve the ongoing problem on impunity and extra-judicial executions. However, the Philippine government has been observed to be putting politics above the primacy and universality of human rights by refusing to implement the signed CARHRIHL.

Setting aside the implementation of CARHRIHL and treating it to be entirely under the realm of politics are tantamount to withholding from the Filipino people, especially the victims and potential victims of human rights violations, an effective mechanism against impunity. This

² Data on victims were from Karapatan.org

is contempt of the important provision on the right of everyone “for an effective remedy” as pointed in UDHR Art 8.

3.2 The government has not acted on Alston’s recommendation for the criminal justice system to refocus investigations and prosecutions towards those committing extrajudicial executions and other serious crimes. This recommendation arose from the findings in which the criminal justice system was focused on prosecuting human rights defenders in a so called “legal offensive” against perceived enemies of the state while keeping a blind eye in the pressing need to prosecute the perpetrators of EJKs and EDs.

The cases of EJK victims Rev. Fr. Cecilio Lucero of the Roman Catholic Church and Bishop Alberto Ramento are strong examples to conclude that the criminal justice system is yet to refocus investigations and seriously act against perpetrators. To recall, less than two years after the killing of Fr. Lucero in September 2009, the Regional Trial Court handling the case ruled in favor of the suspects dismissing the charge for insufficient evidence. The lawyer, family, and supporters of the victims can not accept the dismissal and are accusing the court of denying justice in cahoots with the government’s security forces in the area.

In a similar manner, Bishop Alberto Ramento was killed while sleeping inside the Church in Tarlac City on October 3, 2006. In that same day, police authorities ruled that the killing was a simple case of “robbery with homicide” disregarding the following facts:

- 1) the prior human rights and political involvements of the bishop including his being a third party depository of peace talks between the Philippine government and the National Democratic Front;
- 2) the tragic fact that one of his priests in the diocese, Rev. Fr. William Tadena was gunned down a year before also because of his political involvements together with Bishop Ramento in the Hacienda Luisita farm workers’ struggle which a massacre occurred in the picket-lines in 2004; and
- 3) the fact that the bishops has been repeatedly receiving death threats in the same fashion as other EJK victims prior to their executions.

Five (5) years after the killing, the criminal justice system is still holding on to the “robbery with homicide” shallow conclusion of the police. The Department of Justice is yet to exert effort towards a reinvestigation of the case. This insincere conclusion allows the killers go scot free denying justice and promoting the proliferation of the culture of impunity.

On the above cases, the state, criminal justice system has condoned the wrong doings in the past and miserably failed the provision on the victims’ right to justice and redress without undue delay being pointed out in UNDHRD Art 9 Sec 2.

B. Conclusion: continuing count of victims of EJKs as running outcome of the failure to curb impunity

Despite the change in the national leadership and the subsequent change in the military’s counter-insurgency strategy, political killings and abductions persist in the Philippines. The count of victims continues as if no change has occurred in the government. The families of victims of the Maguindanao Massacre two years ago are still crying for justice. Church people are still counted along with other victims of journalists, anti-mining advocates, leaders of indigenous peoples, and other human rights defenders now reaching the number 55 in the current year alone.

To mention recent victims from the Church, the United Church of Christ in Philippines also lost a dutiful Church member in the person of Rabenio Sungit. An anti-mining activist, he was killed on 5 September 2011 while in a public market in Quezon, Palawan. A more alarming incident was the killing of anti-mining activist Rev. Fr. Fausto Tentorio in the early morning of 17 October 2011 inside the Church compound in Arakan, North Cotabato.

All these confirm that the culture of impunity and disrespect to the rule of law and international human rights instruments still persist especially in the ranks of the government security forces.

C. Prayers

Having made clear the perspective of the Ramento Project for Rights Defender of the Philippine Independent Church, the following recommendations are respectfully raised:

For the Philippine government:

- To put more weight on the government's commitment to the primacy of life and human rights over politics. Pursue peace talks with armed opposition groups and sincerely implement the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law;
- To undertake every effort towards the punishment of human rights violation perpetrators in order to bring justice to victims. This may involve making changes in country's criminal justice procedures. Punishment of the perpetrators is a huge first step in the ending of impunity.

For the United Nations and the international community:

- To undertake a new major investigation on human rights in the Philippines to follow up the findings and recommendations of the Philip Alston Report.

- End of Report -