

Joint Submission to the UN Periodic Review

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State under Review: **Philippines**

Submitted by: Aktionsbündnis Menschenrechte – Philippinen (AMP)

In cooperation with: Amnesty International Germany, Bread for the World – Protestant Development Service, International Peace Observers Network (IPON), MISEREOR, Missio Munich, philippinenbüro e.V. im Asienhaus, and the United Evangelical Mission.

## **Introduction**

1. This stakeholders' report is a joint submission of the member organizations of the Aktionsbündnis Menschenrechte – Philippinen (AMP – Action Network Human Rights – Philippines). The report highlights key human rights concerns in the Philippines related to the following areas: killings and criminalization of human rights defenders; extrajudicial killings of alleged criminals; impunity; paramilitary groups; indigenous peoples; and cooperation with special procedures.
2. The AMP was created in 2008 as an initiative of seven major German church-based agencies and human rights organizations to promote advocacy and information work in Germany and the EU regarding the human rights situation in the Philippines. Member Organizations of the AMP are Amnesty International Germany, Bread for the World – Protestant Development Service, International Peace Observers Network (IPON), MISEREOR, Missio Munich, philippinenbüro e.V. im Asienhaus, and the United Evangelical Mission (UEM). The main focus of the network lies on extrajudicial killings, enforced disappearances, and fabricated charges against political activists. The network cooperates closely with a multitude of Philippine human rights organizations which work both at the local and national level.
3. This submission is mainly based on information we received from our partner organizations in the Philippines and from publicly available sources. Some of the cases of human rights violations cited in this report were also documented by the AMP through interviews with victims.

## **Killings of Human Rights Defenders**

4. During its 2012 Universal Periodic Review (UPR), the Philippines accepted a recommendation to take all necessary measures to provide adequate protection to journalists and human rights defenders (HRDs).<sup>1</sup> However, for these groups, the Philippines remains one of the deadliest places worldwide.<sup>2</sup> Since the Philippines' last UPR in May 2012, at least 147 HRDs have been killed in 123 separate incidents.<sup>3</sup> In the same period, 23 killings of journalists were documented which appear to be work-related.<sup>4</sup> For a full list of documented cases, consult the annex to this report. Extra-judicial killings of human rights defenders in the Philippines had peaked around 2006/7 when leftist activists were systematically targeted by the military. Since then, the number of these killings as well as of enforced disappearances has declined considerably. There was, however, no significant further improvement in the situation of HRDs and journalists since the country's last UPR in 2012.
5. The two major driving forces of killings of human rights defenders are conflicts over mining projects and related environmental issues, and over the use of agrarian land. Since the last UPR, 33 anti-mining activists have been killed, 26 of whom were indigenous people (see also para 50). Another 50 activists died in land rights conflicts, often fighting against land-grabbing or demanding the redistribution of land under the Philippines' Comprehensive Agrarian Reform Program. For example, Menelao "Boy" Barcia, a leader of the peasants' rights group Aniban, was killed by four unidentified men on motorcycles on May 2, 2014. Barcia had been organizing the farmers of Hacienda Dolores against real estate developers from the LLL Holdings Incorporated (LLHI) which threatened to evict them from land they had tilled for generations.<sup>5</sup>
6. HRDs who work for NGOs that the military purports to be front organizations of the communist rebels of the New People's Army (NPA) are still particularly threatened. Targeted killings of leftist political activists had reached an all-time high after then-President Arroyo declared an "all-out war" against the communist

insurgency in 2006. During this period the military collected the names of leftist activists on target lists (called “order of battle”), a practice the former Special Rapporteur (SR) on summary executions, Philip Alston, cited as one of the main reasons for extra-judicial killings after his visit in 2007.<sup>6</sup> While this form of systematic persecution has declined, security forces still frequently cite an alleged affiliation with the NPA as a justification for killings of HRDs. For example, on March 25, 2014, William Bugatti, a member of the human rights organization Karapatan was shot dead by unidentified men in Ifugao province. Previously, he had received death threats and his name was tagged with the description “UTAK NG NPA” (“brain of the NPA”) on a list of target persons of the 5<sup>th</sup> Infantry Division of the Philippine Army.<sup>7</sup>

7. As the perpetrators of these killings are rarely brought to justice, it is difficult to verify their identity and motive. Moreover, many assassinations are carried out by guns-for-hire, which further obstructs the search for those who are ultimately responsible. The testimonies of eye-witnesses and relatives, however, allow for a provisional delineation of the perpetrators’ backgrounds in 92 of the 144 reported incidents. In more than two-thirds (62) of these cases, state agents have been blamed for the assaults. Out of these cases, 31 have been imputed directly to the Armed Forces of the Philippines (AFP). In an additional 12 cases, the victims had reported threats, harassment, vilification, or surveillance by state agents prior to their assassination. 13 cases have moreover been blamed on private security guards.

#### *Recommendations for the State under Review (SuR)*

8. Investigate all cases of killings of human rights defenders and journalists without delay and bring all perpetrators to justice.
9. Take all necessary steps to protect human rights defenders and journalists from harassment, violence and death.
10. Direct the Armed Forces of the Philippines to refrain from making statements that stigmatize human rights defenders, especially statements that suggest that defenders are member of the New Peoples’ Army.

#### **Criminalization of Human Rights Defenders**

11. The widespread criminalization of human rights defenders and journalists in the Philippines received little attention in previous cycles of the UPR. Security forces, politicians, and private actors such as mining companies systematically abuse the criminal system to silence those who oppose their interests. While human rights organizations do not systematically record the number of cases of criminalization, it is widely believed that they increased in recent years. If HRDs are detained because of their work, this detention must be considered arbitrary and therefore prohibited under ICCPR Article 9(1). According to the Working Group on Arbitrary Detention, a detention is arbitrary if it either results from the “exercise of the right to freedom of expression” or from a “non-observance of the international norms relating to the right to a fair trial”.<sup>8</sup>
12. Both HRDs and journalists are frequently charged with libel if they report or express critical opinions regarding acts of public officials or public figures. In the Philippines, libel is a criminal offence pursuant to Articles 353-362 of the Revised Penal Code.<sup>9</sup> People convicted of libel may be imprisoned for up to four years. The definition of libel is particularly problematic as Article 354 declares that “every defamatory imputation is presumed to be malicious, even if it be true” which places the burden of proof on the

accused. Citing its general comment No. 34 which states that defamation laws should not serve to stifle freedom of expression<sup>10</sup>, the UN Human Rights Committee has already held in one case that the criminalization of libel represents a breach of the Philippines' obligations under Article 19(3) of the ICCPR.<sup>11</sup>

13. Despite this finding of the UN Human Rights Committee, in 2012 the Philippine Congress enacted the Cybercrime Prevention Act which further criminalizes libel committed through the use of information and communications technology and imposes penalties of up to 12 years of imprisonment.<sup>12</sup> The fact that most newspapers and NGOs publish their articles and statements online makes journalists and human rights defenders particularly vulnerable to be punished for critical statements under this law. One example for a libel charge against human rights defenders are the charges filed by the Hinatuan Mining Corporation (HMC) against four staff members of the civil society network Philippine-Misereor Partnership, Inc. (PMPI). HMC accuses PMPI of making libelous statements on their website regarding an incident which took place on June 20, 2015, when a barge hired by the company forced its way into the port of Manicani Island which was barricaded by local fisher who protested against their mining project.<sup>13</sup>
14. So-called "trumped-up" charges constitute a particularly insidious form of criminalization. These constructed charges are based on falsified evidence and are mostly filed by the AFP to discredit and imprison HRDs. The filing of charges is often preceded by a vilification campaign against the HRD who is wrongly accused of being a member of the NPA. Typically, the charges allege that the HRD took part in an NPA-led attack on members of the military. The HRD is then charged with murder, arson or the illegal possession of firearms or explosives. For example, teacher and human rights activist Zara Alvarez was arrested on October 30, 2012 on murder charges. As an alleged high-ranking officer of the NPA, Alvarez was supposed to have been involved in the murder of Archie Polenzo, a lieutenant in the Philippine army, who died in a skirmish with suspected members of the NPA on March 7, 2010. The charge is based on the testimony of an alleged ex-rebel who supposedly participated in the armed encounter, but who was never charged himself. While in detention, Alvarez received a warning from the military that she would face additional charges if she did not cooperate with them. Alvarez spent 20 months in prison before she was granted bail in July 2014. After her release, she remains under surveillance and received several messages threatening to imprison her again. The trial against her is ongoing.<sup>14</sup>
15. Constructed charges are oftentimes based solely on the testimonies of self-declared former rebels (so-called "rebel returnees") who claim to be able to identify the HRD as a co-perpetrator. In several instances, however, these witnesses had to admit that their testimonies were actually based on information provided by the military during cross-examination. Human rights organizations thus assume that they are paid to give false testimony. Despite the spurious nature of the evidence, prosecutors file charges and judges allow trials to proceed without taking exculpatory evidence into account. This is in violation of Article 14 of the United Nations Guidelines on the Role of Prosecutors which states that "prosecutors shall not initiate or continue prosecution, or shall make every effort to stay proceedings, when an impartial investigation shows the charge to be unfounded."<sup>15</sup> Other reports indicate that prosecutors and judges are pressured into upholding unfounded charges against HRDs. The Philippine government thus violates its duties to protect the independence of the judiciary, an obligation which arises under ICCPR Article 14(1).
16. Even manifestly false accusations against HRDs often lead to several years of pretrial detention because defendants are not allowed to post bail and trials drag on for several years. The masterminds behind the false accusations thus take advantage of the dysfunctional justice system, with its long-drawn-out trials. If the defendants are accused of crimes for which bail can be denied (e.g. murder), they remain in custody

until a verdict is reached. Cases against HRDs are also often systematically sabotaged in order to prolong them, e.g. when witnesses of the prosecution do not appear in court to give their testimony. The denial of bail and the overlong trials violate the Philippines' obligations under ICCPR Articles 9(3) and 14(3).

#### *Recommendations for the SuR*

17. Repeal all criminal defamation laws, including those set out in Articles 353 to 355, Articles 358 to 362 of the Revised Penal Code, and Section 4(c)(4) of the Cybercrime Prevention Act. The law should be amended so that civil liability proceedings are the sole form of redress for complaints of damage to reputation, as recommended by the UN Special Rapporteur on Freedom of Expression.<sup>16</sup>
18. Order the Armed Force of the Philippines to cease filing constructed charges against human rights defenders.
19. Ensure that prosecutors and judges do not open trial proceedings in cases of manifestly fabricated charges against human rights defenders.

#### **Extrajudicial Killings of Alleged Criminals**

20. Since the election of President Duterte in May 2016, instances of killings of alleged drug users and dealers surged dramatically. During a Senate hearing on extrajudicial killings, the chief of the Philippine National Police (PNP) said that between July 1, and August 22, 2016, 712 people have been killed in police operations, including covert buy-bust operations.<sup>17</sup> According to the police, in a majority of cases the victims had violently resisted their arrest. So far, however, the police did not provide any evidence that these killings were indeed cases of self-defense. The police also documented 1,067 killings attributed to vigilante groups during the same period. A number of these victims were discovered with an attached label or sign tagging them as drug dealers.
21. This wave of extrajudicial killings of suspected drug offenders is clearly related to the new presidency of Mr. Rodrigo Duterte. During his election campaign, Duterte had announced the mass killings of tens of thousands of criminals as part of his promise to eradicate crime within six months. Immediately after his electoral success had been confirmed, the country saw a steep increase in the number of drug-related killings. Duterte issued an explicit shoot-to-kill order against people allegedly involved in the drug trade to the police and promised impunity to the police officers should they get indicted, both of which is in blatant contradiction with the Philippines' human rights obligations under international law. Duterte even incited ordinary citizens who knew drug addicts to "go ahead and kill them yourself".<sup>18</sup> In a statement, the SR on summary executions, Agnes Callamard, said that "directives of this nature are irresponsible in the extreme and amount to incitement to violence and killing, a crime under international law."<sup>19</sup>
22. The campaign to fight drug-related crime bypasses the judicial procedure and violates due process rights of suspected criminals. According to media reports, lists of suspected drug users and dealers are collected on the barangay-level by public officials. The Barangay Anti-Drug Abuse Councils (BADAC), created in June 2015, are tasked with the preparation and maintenance a confidential list of suspects, which they then submit to the police.<sup>20</sup> There seems to be no further verification of these allegations and there are reports that local officials abuse the lists by naming political opponents.<sup>21</sup> During so-called Oplan TukHang operations, police officers visit people who appear on these lists at home to warn them of consequences if

they do not stop their drug-related activities. Nationwide over 600,000 individuals have surrendered to the police after appearing on such lists, presumably out of fear of being killed. Over 10,000 were arrested, overwhelming the capacity of the already over-crowded prison system.

23. So far, only few reported cases of killings by police officers are properly investigated. In one particularly gruesome case, two of the police officers involved were suspended and will face murder charges. Renato and Jaypee Bertes, father and son, were arrested and taken to a police station where, according to the investigators, they were tortured, and then summarily executed.<sup>22</sup> Of the 1,067 vigilante killings, not a single one had been solved by August 11.<sup>23</sup>
24. As part of its campaign to fight drug-related crime, the Duterte administration announced plans to reintroduce the death penalty and to lower the age of criminal responsibility. Two respective bills were introduced to the House of Representatives as the first legislative acts of the new administration.<sup>24</sup> The experience with the death penalty in the Philippines before its abolition in 2006 and worldwide shows that it is cruel, ineffective in deterring crime, and often imposed unjustly in that it affects mainly the poor. The lowering of the age of criminal responsibility from currently 15 years to nine years would subject even very young children to the harsh detention conditions in the Philippines which are among the worst in Asia. Even now, juvenile detainees in the Philippines are reported to experience torture and physical, emotional, and sexual abuse while in prison.<sup>25</sup> Prosecuting child offenders as adults would violate the Philippines' obligations under the Convention on the Rights of the Child, even if those convicted would serve part or all of their sentences at facilities separate from adults.

#### *Recommendations for the SuR*

25. Retract the shoot-to-kill order against people suspected of committing drug-related offences and ensure that the police comply with international human rights standards regarding the use of force by law enforcement officials.<sup>26</sup>
26. Investigate all cases of drug-related extrajudicial killings without delay, including covert police buy-bust operations and vigilante killings.
27. Refrain from reintroducing the death penalty and from lowering the minimum age of criminal responsibility.

#### **Impunity**

28. Even though the Philippines accepted several recommendations to address the issue<sup>27</sup>, impunity for severe human rights violations such as extrajudicial killings, enforced disappearances, and torture continues to be almost complete. Over the years, the Philippine government created a multitude of bodies and mechanisms to investigate and prosecute cases of severe human rights violations. These include specialized investigation units such as the PNP's Taskforce Usig, investigatory powers vested in the Commission on Human Rights, inter-agency bodies such as the AO 35, and the human rights offices of the PNP and AFP which exist in parallel to the regular law enforcement agencies. However, a 2015 study still ranked the Philippines as the country with the highest impunity rate worldwide.<sup>28</sup> According to the Philippine Government, only in 8 cases of extrajudicial killings and in 12 cases of murders of journalists were the perpetrators convicted in recent years.<sup>29</sup> Strikingly, none of the abovementioned cases of killed HRDs since

2012 has led to a conviction. Furthermore, hundreds of other cases of grave human rights violations also remain unsolved, sometimes stretching back more than a decade.

29. The creation of the Inter-Agency Committee on Extra-Legal Killings, Enforced Disappearances, Torture and Other Grave Violations of the Right to Life, Liberty and Security of Persons, under Administrative Order 35 (AO 35) by former President Aquino in 2012, adds yet another mechanism to the array of human rights institutions in the Philippines.<sup>30</sup> However, no public accounts of actions undertaken by the committee are available. The Philippines' 2015 state report to the Committee against Torture cites the creation of the Inter-Agency Committee several times as an accomplishment, but fails to provide details on meaningful successes achieved.<sup>31</sup>
30. The Philippines did not follow the recommendations to ratify the International Convention for the Protection of All Persons from Enforced Disappearances (CPED).<sup>32</sup> In December 2012, the Philippines passed the Anti-Enforced or Involuntary Disappearance Act, making it the first country in Asia to criminalize the practice of enforced disappearances.<sup>33</sup> The law also prohibits the use of secret detention facilities and the invocation of an "order of battle" list (see para 6) as a justification for enforced disappearances, and makes provisions for the compensation and restitutions of victims and their relatives. To date, however, no perpetrators of enforced disappearances have been convicted under this law. Whereas the number of new cases of enforced disappearances has declined sharply in recent years, over 2,000 victims remain missing.<sup>34</sup>
31. The Commission on Human Rights (CHR), the Philippines' National Human Rights Institution (NHRI), charged with investigating all forms of violations of civil and political human rights, continues to lack political and fiscal independence. The Chair of the Commission as well as the highest ranking Commissioners are appointed by Presidential decree, a fact which was criticized by the SR on the situation of HRDs.<sup>35</sup> Furthermore, the work is hampered by a lack of resources. A recent Amnesty International report cites an official who states that a CHR regional office, covering several provinces with millions of residents, has an operational budget of less than 400 USD per month to cover visitation, investigation and human rights education activities.<sup>36</sup>
32. In the majority of cases of severe human rights violations only preliminary investigations are carried out without ever identifying possible suspects. But even in cases where arrest warrants are issued, these are often not executed even though the suspects roam openly in their communities. This unwillingness to execute the arrest warrants is particularly noticeable in cases in which the suspect is a member of an AFP-affiliated paramilitary organization. For example, Alde "Butsoy" Salusad, the leader of the paramilitary group New Indigenous People's Army for Reform (NIPAR) who publicly confessed to having killed anti-mining activist Jimmy Liguon on March 5, 2012 in San Fernando, Bukidnon, remains at large despite being sought on an arrest warrant since April 2012.<sup>37</sup> The NIPAR is attached to the infantry battalion stationed in the region. Even though both national and international human rights organizations, as well as the EU have repeatedly called for Salusad to be arrested, reports suggest that the NIPAR is still freely operating in the area. On July 30, 2016, Salusad and NIPAR members allegedly attacked a wedding party in Barangay Kawayan, San Fernando and killed a six-month pregnant woman and wounded five children and two farmers.<sup>38</sup>
33. The few cases in which alleged perpetrators of severe human rights violations are facing trials usually drag on for years. Over six years after the Maguindanao Massacre (also called Ampatuan Massacre) on November 23, 2009, in which 58 people were killed in an act of election-related violence, none of the

perpetrators has been convicted. Only about half of the 197 suspects have been arrested. The alleged mastermind of the massacre Andal Ampatuan Sr. died in prison awaiting a verdict while some of the accused, including his son Sajid Islam Ampatuan, were released on bail. Journalists' organizations criticize that the defense lawyers were allowed to file over 500 motions, thereby stalling case proceedings. This, they allege, was done in the hope that a future administration would influence the trial in favor of the accused.<sup>39</sup>

34. The Philippines made little effort to improve the witness protection system which was recommended during its first UPR in 2008<sup>40</sup> and by the SR on Summary Executions who in his 2009 report identified the lack of witness protection as "one of the most significant causes of continued impunity".<sup>41</sup> Due to a lack of forensic expertise on the part of investigative authorities, criminal trials in the Philippines are heavily dependent on witness testimonies. Potential witnesses, however, often hesitate to cooperate with the judicial authorities out of fear for their lives and if they do, they often receive threats. Time and again, witnesses are also killed. The problem is aggravated by the lengthy trials which require witnesses to stay hidden for several years with limited opportunities to provide for their livelihood themselves.
35. The Philippines did succeed in arresting both Ex-General Jovito Palparan and former Governor Joel Reyes, as was recommended during the last UPR.<sup>42</sup> Palparan, who is one of the few high-ranking military officers facing trial for severe human rights violations, is accused of having ordered the disappearance of university students Sherlyn Cadapan and Karan Empeño in 2006 who, according to eye witnesses, were tortured and sexually assaulted while in detention. Both women remain missing to date. Units under Palparan's command were notorious for their brutality against political activists and alleged supporters of the communist insurgency. Reyes is accused of being the mastermind behind the killing of journalist and environmental advocate Gerry Ortega in 2011. In March 2016, Arturo Regalado, a former aide of Reyes, was found guilty for his role in the murder.

#### *Recommendations for the SuR*

36. End impunity for extrajudicial killings, enforced disappearances and torture, in particular those perpetrated by security forces, by undertaking thorough investigations and vigorous prosecutions of perpetrators.
37. Ratify the International Convention for the Protection of All Persons from Enforced Disappearances.
38. Immediately execute all outstanding arrest warrants in cases of extrajudicial killings and enforced disappearances.
39. Instruct the Inter-Agency Committee on Extrajudicial Killings, established under Administrative Order 35, to publish a list of cases it handles and to give regular updates on advances made in their prosecution.
40. Embark on a substantial reform of the judicial system to ensure that perpetrators of severe human rights violations are brought to justice and to expedite judicial proceedings of such cases.
41. Expand the funding and effectiveness of the witness protection program to ensure full protection of witnesses before, during and after investigations and trials.



## Paramilitary Groups

42. In the 2012 UPR cycle, recommendations were made to the Philippines to disarm and dismantle all private armed groups and paramilitary organizations, and to ensure full control over and accountability of its reserve forces.<sup>43</sup> Moreover, the Philippines was advised to revoke Executive Order 546, which is used to legitimize private armed groups and paramilitary organizations throughout the country.<sup>44</sup> In spite of these recommendations, a multitude of armed groups continues to operate in the Philippines with virtual impunity, frustrating the meaningful improvement of the human rights situation in many parts of the country.
43. The record has been mixed regarding the disarming and dismantling of private armed groups since 2012. Even though, according to the PNP, the number of private armed groups had fallen from 107 in 2010 to 81 in 2013, this number has risen again to 85 in preparation of the May 2016 elections.<sup>45</sup> Keeping in mind that these numbers do not include armed groups legitimized as Civilian Volunteer Organizations (CVO), Special CAFGU Active Auxiliary (SCAA) units, or “force multipliers” under Executive Order 546, the actual number of private armed groups can be expected to be much higher.<sup>46</sup>
44. The geographically organized reserve forces of the AFP – so-called Citizen Armed Forces Geographical Units (CAFGUs) – are still being used in counterinsurgency operations and to prevent the re-infiltration of cleared areas. These units are officially attached to the military’s infantry battalions and are in theory liable to its chain of command and oversight mechanisms.<sup>47</sup> Nonetheless, forces have been linked to numerous human rights violations since 2012, including instances of displacement, torture, harassment, and extrajudicial killings. In a particularly gruesome incident, members of a CAFGU attached to the 26<sup>th</sup> Infantry Battalion allegedly tortured and killed anti-mining activist Genesis Ambason Saguitan on September 13, 2012 in San Luis, Agusan del Sur.<sup>48</sup> Saguitan’s companions testified that after being fired at with no warning, they had to leave the injured 23 year-old behind. He was later found dead with his head unrecognizably deformed and his teeth missing.<sup>49</sup> So-called Special CAFGU Active Auxiliary (SCAA) units, which are deployed to protect private corporations, business entities, or Local Government Units, have a similarly worrying human rights record. These auxiliary forces receive their allowances from the respective entity they protect, which often turns them into private goons that terrorize those who oppose the company’s interests.<sup>50</sup>
45. Even more troublesome than the human rights violations committed by CAFGUs themselves are the atrocities committed by affiliated paramilitary organizations. These groups are deputized as “force multipliers” for the AFP and PNP under Executive Order 546, but in reality often evolve into ungovernable militias mired in numerous human rights violations. The Magahat-Bagani paramilitary group constitutes a case in point. This group, recruited from local indigenous communities, has become infamous for its atrocities in Surigao del Sur, Mindanao. Several cases of harassment, displacement, torture and extrajudicial executions attributed to Magahat-Bagani have been reported since 2012, including the killing of Emerico Samarca, Dionel Campos and Aurelio Sinzo on September 1, 2015 in Lianga, Surigao del Sur. Samarca, an environmental activist and director of an alternative tribal learning center, was found dead by students and teachers of his school right after they had witnessed the public execution of tribal leader Campos and his cousin Sinzo by members of the Magahat-Bagani force.<sup>51</sup> Even though the plethora of witnesses made the identification of the perpetrators simple, all suspects remain at large<sup>52</sup> and reportedly maintain close contact to the local military deployments.<sup>53</sup> AFP and PNP, while denying any connection to the group, have so far failed to react meaningfully to the repeated assaults. In fact, local officials, newspapers and eye-witnesses claim that the AFP is responsible for the formation and arming of the

Magahat-Bagani and uses them as part of its counterinsurgency strategy.<sup>54</sup>

### *Recommendations for the SuR*

46. Revoke Executive Order 546 which legitimizes the creation of militias and paramilitary organizations.
47. Subject all paramilitary groups and private armies to the military chain of command or else disarm and disband them.
48. Ensure full protection of civilians and non-combatants during counterinsurgency operations as stipulated by international humanitarian law. Hold accountable all perpetrators of such attacks as war criminals.
49. Arrest and prosecute the perpetrators of the killings of Emerico Samarca, Dionel Campos, and Aurelio Sinzo on September 1, 2015 in Lianga, Surigao del Sur.

### **Indigenous Peoples**

50. Despite accepting a recommendation to ensure that mining activities do not negatively affect the rights of indigenous peoples (IPs)<sup>55</sup>, mining-related human rights violations have dramatically increased since the last UPR. An estimated 60 % of the Philippines mineral resources are located within the ancestral domain of one of the more than 100 distinct tribal groups. Mining projects often cause widespread damage to the environment, for example through the unregulated usage of highly toxic chemicals. The Mining Act of 1995 also grants mining companies extensive rights to cut timber and to the usage of water which in turn severely compromises the social-economic rights of IP communities, in particular their right to food.<sup>56</sup> The Indigenous People's Rights Act (IPRA) of 1997 provides that mining companies consult with and gain consent from indigenous peoples' communities who live in the areas in which they seek to operate.<sup>57</sup> A recent study, however, showed that this requirement of Free, Prior, and Informed Consent (FPIC) is frequently violated.<sup>58</sup> Indigenous human rights defenders who demand the respect of consultation and free, prior, and informed consent and lead community processes on this subject often face harassment, threats, and attacks as a result of their work. Since the Philippines' last UPR in May 2012, 26 indigenous human rights defenders who opposed mining operations in their communities were killed.
51. Contrary to a recommendation to intensify efforts to secure equal access to educational services for IPs,<sup>59</sup> attacks against independent indigenous schools in Mindanao perpetrated by the military and paramilitary groups intensified in 2015. Since IP communities in remote areas often lack access to public education facilities, religious and nongovernmental groups set up independent schools whose curricula incorporate the tribes' specific cultural traditions. The teachers, students and administrative personnel of these schools are frequently harassed by paramilitary groups such as the Almara and the Magahat-Bagani who claim that these schools are training grounds for the NPA. The worst of these attacks was the killing of Emerito Samarca, the leader of the independent Alternative Learning Center for Agricultural and Livelihood Development (ALCADEV) on September 1, 2015 (see para 45). Between September 2014 and October 2015, the advocacy network Save Our Schools has documented 95 cases of attacks and harassment against indigenous schools in Mindanao alone.<sup>60</sup> According to UNHCR, instances of attacks by paramilitary groups against IP communities led to the displacement of an estimated 17,000 persons in 2015.<sup>61</sup>

52. The Philippines did not follow the recommendation to ratify the Indigenous and Tribal Peoples Convention (ILO Convention No. 169).<sup>62</sup>

*Recommendation for the SuR*

53. Launch thorough and impartial investigations of all killings of indigenous people in which the military, paramilitary groups or mining companies are implicated. Take all necessary steps that members of indigenous peoples' communities who oppose mining projects are protected from violence and harassment.
54. Ensure that the requirement of Free, Prior, and Informed Consent of indigenous peoples' communities is met before mining projects receive a license to operate on their ancestral domain.
55. Investigate all incidents of attacks on indigenous peoples' schools, their teachers and students and bring the perpetrators to justice.
56. Ratify the Indigenous and Tribal Peoples Convention (ILO Convention No. 169).

**Cooperation with Special Procedures**

57. During its last UPR, the Philippines received several recommendations to extend standing invitations to all special procedures mandate holders<sup>63</sup> and especially to the SR on the situation of HRDs and to the Working Group on Enforced Disappearances.<sup>64</sup> After the then-SR on extrajudicial executions, Philip Alston, had issued a substantive and highly critical report after his visit in 2007, the Philippines would not allow any further visits of mandate holders for several years. Only in 2012 another mandate holder was invited when the SR on trafficking in persons visited the country. Since then only two further visits materialized. The visit of the SR on internally displaced people, Chaloka Beyani, in 2015 was overshadowed by a press release of the AFP which grossly distorted his findings. Beyani was forced to issue a statement of clarification, saying that he was "appalled" by the AFP's misrepresentation of his views.<sup>65</sup> In his 2016 report to the Human Rights Council, the SR on the situation of HRDs, Michael Forst, singled out the Philippines as one of the countries which had failed to confirm its acceptance of a specific date for his country visit despite having previously issued an invitation and despite numerous exchanges in that regard.<sup>66</sup> In total, there are still 16 outstanding requests for visits by SRs and Working Groups of the Human Rights Council.

*Recommendations for the SuR*

58. Issue a standing invitation to all Special Rapporteurs with thematic mandates and working groups of the UN Human Rights Council, in particular the Working Group on enforced or involuntary disappearances and the Special Rapporteur on the situation of human rights defenders.

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<sup>1</sup> Report of the Working Group on the Universal Periodic Review, Philippines, 9 July 2012, A/HRC/21/12, para 129.35 (France)

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- 2 Global Witness, 'On Dangerous Ground. 2015's Deadly Environment: The Killing And Criminalization Of Land And Environmental Defenders Worldwide', June 2016, <https://www.globalwitness.org/en/reports/dangerous-ground/>
- 3 This number includes some cases of relatives or bystanders who died during the assaults on the HRD.
- 4 Center for Media Freedom and Responsibility, 'Database on the Killing of Journalists in the Philippines since 1986, <http://cmfr-phil.org/mediakillings/>
- 5 Medical Action Group, 'Justice for Ka Melon Barcia!', 7 May 2014, <http://magph.org/news/166-justice-for-ka-melon-barcia>
- 6 Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Mission to Philippines, 16 April 2008, A/HRC/8/3/Add.2, para 17
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