



SUBMISSIONS

OF THE NATIONAL UNION OF PEOPLES' LAWYERS (NUPL)

TO THE OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS

For the 27th Session of the Universal Periodic Review in the United Nations Human Rights Council May 2017 Third Cycle of the UNIVERSAL PERIODIC REVIEW ON THE PHILIPPINES

The NATIONAL UNION OF PEOPLE'S LAWYERS (NUPL), founded in 2007, is the largest nationwide voluntary organization of human rights lawyers, law students, and legal workers in the country. NUPL works towards the protection and promotion of human rights, and the assertion of national sovereignty.

The NUPL participated in the 2012 Universal Periodic Review on the Philippines, and noted in its submission the slow progress of cases due to the current judicial system in the Philippines, the increasing and still rampant extra-judicial killings, and the unresponsiveness of the Philippine government in addressing the concerns of its stakeholders. Not much has changed since then.

The NUPL is submitting the following submissions for the 2017 Universal Periodic Review on the Philippines based on the recommendations in the 2nd cycle of the UPR in 2012:

The Philippine Government failed and refused to comply with Recommendation No. 129.30 under Right/Area No. 16 on the *Right to an Effective Remedy, Impunity* where it was recommended that it should "(C)ontinue efforts to combat impunity and ensure alleged perpetrators of serious human rights violations are brought to justice, including through renewed efforts to arrest Major General Jovito Palparan Jr., former Governor Joel Reyes and the perpetrators of the Maguindanao massacre."

1. The proceedings in the individual cases mentioned in the recommendation have been dragging for years without any clear indication that it will be terminated soon. In the case of Gen. Palparan and the Maguindanao Massacre, dilatory tactics have been employed to delay the resolution of the cases. In the case of Palparan and his co-accused, they are being detained in a military facility instead of being held in a civilian detention facility like other detention prisoners, thereby giving them special privileges and treatment. The special treatment given to Palparan and his co-accused

indicates that the Philippines is not serious in its commitment to combat impunity. Its actuation in providing special treatment to Palparan encourages human rights violators because they know that they will be coddled by the Armed Forces of the Philippines in case they are apprehended and prosecuted. With this kind of treatment, the Philippine Government is openly showing its acquiescence to what Palparan did, and flaunting its refusal to comply with its commitment under the UPR.

2. To date, there seems to be no serious investigation and prosecution of those responsible for extra-judicial killings. Of the thousands of cases of extra-judicial killings and enforced disappearances from 2001 to the time that Aquino ended his term in June 2016, not one has been seriously investigated and no perpetrator has yet been convicted.

3. Take for example the abduction of Jonas Burgos where only a low ranking soldier was indicted. The case has been dragging for more than three (3) years now. As in the case of Gen. Palparan, the indicted abductor, he is out on bail and is holding a sensitive position within the AFP structure, and has not been subjected to any administrative sanction. The other high ranking military officers who figured prominently in the abduction have also been promoted and appointed to sensitive positions in the AFP, like Maj. Gen. Eduardo Año, who was assigned as the Commanding General of the Philippine Army in 2015.

4. In the same year (2015), Brigadier Gen. Aurelio Baladad was also promoted. Baladad, who as then a Colonel and the commanding officer of 202nd Brigade of the Philippine Army, was among those involved in the illegal arrest, illegal detention and torture of the forty-three health workers now known as the Morong 43. The other military officers involved in the case like Gen. Jorge Segovia was promoted to Lt. General and was appointed as the Commanding General of the Eastern Mindanao Command.

5. All of these promotions and appointments were effected despite the serious allegations of violation of human rights and the pending cases against these officers. Thereby giving the impression that they are being cited for their notoriety, instead of being investigated and relieved from the service. This contributes to the prevailing climate of impunity in the Philippines.

6. This is among the reasons why incidents of extra-judicial killings and enforced disappearances continued during the administration of President Benigno Aquino III. It must be noted that the main reason for extra-judicial killings being committed by state actors is the fact these are committed as part of the implementation of the Government's counter-insurgency program, as in fact, this is the main justification for the continued extrajudicial killings in the Philippines.

7. Under this kind of environment, wherein the Philippine Government, expressly and/or impliedly, is giving its approval to such atrocities, the climate of impunity is engendered rather than abated. In effect, the Philippine Government also reneged in its commitment in the recommendations under

Right/Area No. 12.3 on *Extra Judicial, Summary or Arbitrary Execution* because there is no serious effort on its part to stop extra judicial killings and even enforced disappearances.

Torture, in various forms, are still being committed by state forces, specially against those who are tagged as “communist”, or members of alleged “communist front” organizations in violation of its commitment under Right/Area No. 12.5 of the UPR on Prohibition of Torture and Cruel or Degrading Treatment.

8. On October 2012, the same year that the 2nd cycle of the UPR on the Philippines was conducted, and after the Philippine Government committed to prohibit torture, a security guard was abducted by soldiers and police and was paraded in public as an alleged high ranking officer of the Communist Party of the Philippines with a bounty for his arrest. The security guard, Rolly Mira Panesa, was subjected to physical and psychological torture. He was blindfolded and handcuffed for more than twenty four (24) hours, during which time, he was interrogated without the assistance of counsel. The police even refused to allow lawyers to talk to Mr. Panesa. Mr. Panesa was later on belatedly ordered released by the Court of Appeals through a Writ of Habeas Corpus.

9. While a case of violation of the Anti-Torture Law was filed by Panesa, the Department of Justice, which is under the Office of the President, absolved superior officers, and indicted only junior officers in violation of **Recommendation No. 129.20 where it committed to ensure “all investigations and prosecutions of allegations of torture and ill treatment fully cover the possibility of command responsibility as stipulated in section 13.”** It must further be stated that no investigation was in fact conducted by police agencies, and to date refused to divulge the identities of soldiers who participated in the operation, including the names and ranks of police officers who were present when he was interrogated and tortured. Mr. Panesa was not assisted by the any police agency when he filed the anti-torture case.

10. Worst, the case for violation of the Anti-Torture Law filed by the Morong 43 was dismissed by the Office of the Ombudsman notwithstanding sufficient evidence showing that the health workers were in fact tortured physically and psychologically. All the acts of torture described in the Philippine Anti-Torture Law of the Philippines (Republic Act No. 9745) enacted in 2009 were experienced by the health workers which were particularly described in their complaint. They were handcuffed and blindfolded for more than twenty-four hours, during which time they were interrogated and being forced to admit that they are members of the New Peoples Army. Physical violence was used during the interrogation in an attempt to obtain confession from them. These were disregarded and ignored resulting in the dismissal of the anti-torture case.

11. These two cases illustrate the lack of seriousness by the Philippine Government to enforce its Anti-Torture Law, and to investigate and penalize

those who are involved. Instead, it is rewarding them with promotions and juicy positions in the military and police hierarchy.

No serious effort is being exerted by the Philippine Government to identify and prevent human trafficking cases in violation of its commitment under Recommendation No. 12.7 (Prohibition of Slavery, Trafficking)

12. The iconic example of the Philippine Government's lack of interest in implementing its law against human trafficking and in complying with its international commitment in this regard, is the case of Mary Jane Veloso. Veloso, a young mother, comes from a very poor family. He was recruited to work in Malaysia. However, when in Malaysia, she was told that the work for which she was recruited for was no longer available, and she was diverted to go to Indonesia in the meantime. Without any choice, she agreed to go to Indonesia where she was arrested for carrying heroin in her luggage in April 2010 without her knowledge. Veloso was tried, convicted and sentenced to death under Indonesia's anti-drug law. The Philippine Government failed to invoke the law against Anti-Human Trafficking of Indonesia which provides protection to victims of human trafficking and provides exemption from criminal liability. The fact that Veloso is a trafficked person was never considered during the investigation, trial and appeal stages of the case because the Philippine Government simply failed to provide any assistance during the critical stages of the case, and to investigate the allegation of human trafficking. The Philippine Government was in fact repeatedly requested by Veloso's privately retained Indonesian lawyer to investigate this fact so that they can use it on appeal, but it failed to do so. It only sent investigators to interview Mary Jane in March 2015, or a few weeks before her scheduled date of execution. Even then, the investigators did not take their work seriously because, as the transcript shows, they failed to ask critical questions. Veloso was, however, spared from execution due to last minute appeals and relentless campaigns but remains on death row.

No serious effort has been made by the Philippine Government to comply with its commitment based on the recommendations under Right/Area No. No. 36 on *Human Rights Defenders*.

13. Despite its undertaking to take steps to "end extrajudicial killings and enforced disappearances, and to investigate all cases and bring those responsible to justice", no investigation has yet been conducted to identify and prosecute those responsible for these acts.

14. Lawyers and human rights workers continue to be harassed. Atty. Maria Catherine Dannug-Salucon, a founding member and national officer of NUPL, has been the subject of different forms of surveillance. She has handled cases of suspected NPA guerrillas and "communists", and has been tagged as a "Red Lawyer". Preceding the series of surveillance, William Bugatti, a human rights defender assisting Atty. Salucon in some of her cases, was shot dead. Atty. Salucon was followed by state agents, later identified as members of the ISAFP, the Philippine Army and the police, from

court hearings to her house.

15. Despite allegations that those responsible for the killing of Bugatti and the harassment of Atty. Salucon are members of the Armed Forces of the Philippines, no investigation has been conducted by police and military agencies to identify the perpetrators, specially those from intelligence service of both the armed forces and the police.

16. It must be noted that several human rights defenders are languishing in jail due to the filing of trumped up charges. Many of them were included in pending criminal cases without them being subjected to preliminary investigation. The practice is for the prosecutors to simply include their names in the indictment without investigation being conducted. This practice requires the participation not only of the police and military agents, but also of the prosecutors, who recommend such inclusion, and of the Courts who approve the inclusion of their names.

17. As a result of this practice, by the end of 2015, there remains 557 political prisoners who languish in different detention facilities. More than half of that number were arrested sometime in 2010-2016, while around 80 of them have been detained for more than 20 years.¹

18. This kind of practice has been previously observed as the handiwork of the Inter Agency Legal Action Group (IALAG), a multi-agency task force tasked with contriving cases against members and leaders of alleged communist front organizations. The U.N. Special Rapporteur on Extrajudicial, Summary or Arbitrary Execution recommended the disbandment of this task force, but it is clear that it still exists and is still manufacturing cases against human rights defenders, an indication that also violates its undertaking under Recommendation No. 156.1 (**Right/Area No. 15.1 on *Administration of Justice & Fair Trial***).

The Philippine Government was oblivious of the social and economic concerns of its people in violation of its commitment under No. 22.1 of the UPR on Right to and Adequate Standard of Living.

19. This is exemplified by what is now known as the Kidapawan Massacre referring to an incident in April 1, 2016 where over 6,000 starving farmers who had been severely affected by the drought brought about by the El Niño Phenomenon, held mass protests in Kidapawan City, North Cotabato, seeking assistance from the Provincial Government. Instead, they were brutally dispersed with truncheons and gunshots, leaving 2 farmers dead, and several severely injured.

20. The massacre itself is just the culmination of the many misdeeds committed by the Aquino Administration in addressing the El Niño Phenomenon. As early as 2014, there was already a forecast that there will be widespread drought to be felt in many parts of the Philippines because of

¹ HR report

the El Niño Phenomenon. The drought in North Cotabato was felt in March 2015, destroying crops. Farmers in this area were left to fend for themselves without any assistance from both the local and the national government, and leaving them to starve. A year after the drought started, and after hearing that a state of calamity has been declared since January 2016, the farmers marched and converged at the Provincial Capital, Kidapawan City, to demand assistance from the Provincial Government. Instead of talking to them, the Provincial Government, with the knowledge and acquiescence of the national hierarchy of the police establishment, violently dispersed the protest action.

21. The Aquino administration has always denied its involvement in any of the violations committed against its citizens. When all of its defenses fail, it claims ignorance. It is with great disappointment that NUPL observes that these human rights violations remain rampant, and continue to this date. With the new administration, NUPL hopes that it stays true to its promise in bringing about “change” – one that is inclusive and progressive.

22. We hope the UPR sees beyond the feigned ignorance, denial and callousness of the past administration. There is much work to be done in the realm of human rights protection and promotion. Much has to be undertaken to address the impunity under the period covered by the UPR, even as justice for the victims remains elusive despite formal mechanisms in place domestically and internationally.

23. For the UPR to be relevant and useful on the ground, the ultimate measure is whether we have gone full circle in terms of human rights violations or whether it has proven to be a vicious cycle bred by lack or denial of State responsibility and accountability despite its formal commitments and pledges to respect human rights.#