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THE SITUATION OF HUMAN RIGHTS DEFENDERS IN THE PHILIPPINES

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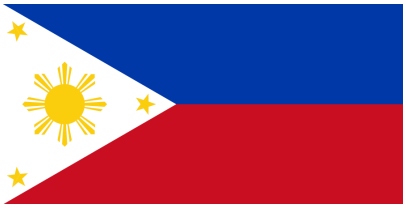

This paper assesses progress towards implementation of recommendations central to the protection of human rights defenders (HRDs) at the national level by the Philippines government. Based on this assessment, ISHR and the Medical Action Group (MAG) seek to provide guidance to States on third-cycle recommendations that we believe will generate significant impact on the ground – specifically, a recommendation to enact a law to protect human rights defenders and promote their work.

SECOND CYCLE RECOMMENDATIONS AND CIVIL SOCIETY ASSESSMENT OF IMPLEMENTATION

1. There were five recommendations on the topic of HRDs during the second cycle of the UPR of the Philippines.[1] Two of them were accepted and three rejected:

   a) 129.35 **'Take necessary measures to provide adequate protection to journalists and human rights defenders, in particular regarding enforced disappearances and extrajudicial killings.' – Accepted, France.**

   b) 131.15. 'Engage in closer contact with United Nations bodies and, inter alia, accept the request by the Special Rapporteur on human rights defenders to visit the country.' – Noted, Norway.

   c) 131.15. 'Invite the UN Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on human rights defenders to visit the Philippines.' – Noted, UK.

   d) 131.32. Enhance its cooperation with the Special Rapporteur on the situation of human rights defenders including by accepting the mandate holder's request to visit the country.' – Noted, Ireland

   e) 131.32. (cont.) **'Take urgent measures to end extra-judicial killings, and enforced disappearances of human rights defenders, to investigate all cases and bring those responsible to justice.' – Accepted, Ireland**

2. Civil society, however, has a rather sceptical view of the progress in the Philippines since these recommendations were made.

3. None of the recommendations on the country visits were accepted. The last visit from a Special Rapporteur to the Philippines was the Special Rapporteur on the Right to Food in 2015.[2] Requests and reminders of the Special Rapporteur on human rights defenders (2008, 2010, 2012) and the Working Group on Enforced or Involuntary Disappearances (2013, 2015) remain outstanding.

4. The Philippines accepted two recommendations focused on the protection of journalists and HRDs, especially regarding enforced disappearances and extrajudicial killings. The Government affirmed during its statement on the adoption of the UPR report in September 2012 that the country was committed to investigating cases of extrajudicial killings as well as bring perpetrators to justice. The August 2016 exchanges between the Government and the Special Rapporteur on extrajudicial killings regarding a visit to the country should be concretely followed up on to ensure that these efforts to investigate and seek accountability for killings are in line with international human rights standards.

5. Despite accepting these recommendations, extrajudicial killing remains the gravest risk facing HRDs working in the Philippines. In 2015, **Front Line Defenders** received reports of at least 31 HRDs murdered. In 2016, **Global Witness** ranked the Philippines the second most dangerous country for HRDs[3] and one of the most dangerous to be a land and environmental defender.[4] Other risks facing HRDs include physical attack, threats, intimidation, harassment, detention and slander. Many instances have been documented by local and regional NGOs in the past year, including the **Asia Indigenous Peoples Pact**[5] (AIPP), **the Medical Action Group**[6] and **Task Force Detainees of the Philippines (TFDP).**[7]

CURRENT SITUATION FOR DEFENDERS IN THE PHILIPPINES: ESC RIGHTS DEFENDERS AT PARTICULAR RISK

6. Defenders of economic, social and cultural (ESC) rights, including land and environmental defenders, face significant challenges. In attempts to peacefully defend their land or oppose major industrial projects, many HRDs face barriers to information to conduct their work, such as missing data and unavailability of contracts.

Intimidation and Harassment

7. When seeking this information, from both public and private sources, HRDs can become targets of

violence, intimidation and harassment, including by government officials:

a) Ms **Honey May Suazo** has been the target of continuous harassment and surveillance by local police since 2015. The most recent acts of harassment follow her involvement in providing assistance to victims of forced eviction due to the military presence in the Talaingod region, Davao del Norte Province.

b) Mr **Antonio Nercua Ablon** is a HRD and chairperson of human rights group Karapatan in Western Mindanao. He advocates for environmental rights, in particular criticising large-scale regional mining projects due to environmental concerns regarding their impact. In April 2015 and October 2015, their Southern Mindanao offices were attacked by unidentified men. Staff are subjected to frequent harassment and intimidation.

c) Ms **Erita Capion Dialang** is the chairperson of the indigenous people's organisation Kalgad, in South Cotabato province, and part of a large alliance of indigenous peoples of South Mindanao. She is also a vocal critic of a mining corporation which wants to start exploiting tribal lands. She has been subject to threats and harassment; her sister-in-law was killed in 2012, reportedly in retaliation for Ms Dialang's advocacy.

Detentions

8. ISHR has reported to the Committee on ESC Rights on the recent trend of filing trumped-up charges against indigenous leaders and HRDs and their communities to 'delegitimise and criminalise human rights work'.

9. Antonio Tolentino, better known as **Apung Tony**, is a village leader in Pampanga who sought to protect farmers' land rights to enable them to continue to cultivate land in the Hacienda Dolores area. He was involved in a dispute over contested land, which resulted in the killing of a farmer by private security personnel. Tolentino has been detained since 16 April 2014 on criminal and administrative charges filed by, respectively, a security guard and the land developer.

Extrajudicial killings

10. If HRDs persist in their work despite the threats noted above, they can become victims of extra-judicial killings. Most perpetrators of killings escape punishment, and observers note that, in light of the Duterte Administration's stance on the illegal drug trade, the perceived 'costs' of killing defenders are lower than ever before.

11. In July 2016, Ms **Gloria Capitan**, a defender fighting abuses by the coal industry and the president of the people's organisation Samahan ng Nagkakaisang Mamamayan ng Lucanin in Bataan, was killed by two unidentified men on motorcycles. At the time of her death she was leading a petition to seek the closure of open-air coal storage and stockpile in her community.[8]

12. After receiving numerous death threats to stop his work, in February 2014 community leader **Sixto Bagasala** was murdered in Malabon City. He headed Local Association of Urban Poor Communities in that city and had worked for the rights of informal settlers to acquire secure, adequate, accessible and affordable housing.

13. The situation which defenders of indigenous rights face in the Philippines continues to deteriorate. Indigenous communities are particularly vulnerable and their right to free, prior, informed consent, enshrined in the UN Declaration on the Rights of Indigenous Persons and ILO C169, is often overlooked or manipulated. This right is not recognised in domestic law. In this way, their work often intersects with land and environmental rights activists; similarly, they are often victims of extrajudicial killings, especially in Mindanao.

14. Killings of indigenous leaders include Mr **Jimmy Liguyon** of indigenous organisation Kasilo (2012) and Mr **Gilbert Paborada** chairperson of the community-based indigenous organisation Pangalasag (Indigenous Shield) which resisted the expansion of oil palm plantations (2012); Mr **Emerito Samarca**, allegedly killed by members of a paramilitary group due to his work with ALCADEV, a self-initiated school for the Lumad indigenous people.

15. Killings of community leaders in Mindanao specifically include Mr **Genesis Ambason**, the Secretary-General of Tagdumahan, a grassroots indigenous organisation that has campaigned against the entry of large-scale mining ventures (2012) as well as Mr **Lito Abion,** another member of Tagdumahan (2015); and **Ms Teresita Navacilla**, a member of Save Pantukan Movement, a network of indigenous peoples from the Pantukan region of Mindanao (2016).

WHY A LAW TO PROTECT DEFENDERS?

16. A law on the recognition and protection of HRDs[9] would guide States to develop national laws, policies and institutions to support the work of HRDs. As part of a safe and enabling operating environment, this law would also reaffirm the right to freedom of expression and to access information necessary for their work. It would also aim at protecting them from reprisals and attacks[10] and provide them with an effective tool to advocate for a stronger legal recognition of their work on the ground. Finally, it can assist in efforts to seek accountability and bring perpetrators to justice. This would be an important step in a country such as the Philippines.

17. This is not an impossible task. There is growing interest internationally in the adoption and development of defender protection laws. Various UN bodies have supported the development and implementation of national laws for the recognition and protection of HRDs.[11] These bodies include the former UN Special Rapporteur on Human Rights Defenders,[12] the UN High Commissioner for Human Rights,[13] the UN Human Rights Council,[14] and the African Commission on Human and Peoples' Rights.[15] There is growing consensus that defenders protection laws are also part of countries' commitments and obligations to promote and protect human rights, outlined in the UN Declaration on Human Rights Defenders.

RECOMMENDATIONS TO THE GOVERNMENT OF THE PHILIPPINES:

- guarantee the establishment of a safe and enabling environment for the work of human rights defenders, specifically through the adoption of a law for the protection and recognition of human rights defenders.
- refrain from creating or enforcing laws or policies that seek to criminalise the legitimate activities of human rights defenders, including those advocating for economic, social and cultural rights and rights related to land and the environment.
- provide a safe and enabling environment for meaningful civil society participation in the development and implementation of public policies, in particular that guarantee the free, prior and informed consultation of communities affected by economic and development projects.
- combat impunity for the crimes committed against human rights defenders through prompt, impartial and transparent investigations into crimes against human rights defenders, including in the context of anti-drug policies, and through ensuring effective remedy for victims.

ABOUT THIS BRIEFING PAPER

ISHR, MAG and PAHRA encourage States to consult UPR submissions by local activists and make recommendations to the Philippines regarding the protection of HRDs. This paper is a result of compiling public information and direct contact and experience of MAG and PAHRA in the protection of HRDs. Readers should consult sources cited for additional information.

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[1] Report of the Working Group on the UPR of the Philippines. A/HRC/21/12.
[2] Country visit of the Special Rapporteur on the Right to Food A/HRC/31/51/Add.1
[3] Briefing paper to the Committee on Economic, Social and Cultural Rights on the Philippines – ISHR (2016): The Situation of Human Rights defenders http://www.ishr.ch/sites/default/files/article/files/philippines_update.pdf p.5.
[4] Global Witness – Deadly Environment : https://www.globalwitness.org/en/campaigns/environmental-activists/deadly-environment/ and How many more : https://www.globalwitness.org/en/campaigns/environmental-activists/how-many-more/.
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[6] ISHR CESCR Briefing Paper, p.5.
[7] Global Witness, 2016.
[8] The Medical Action Group, 2016 : http://magph.org/news/205-human-rights-group-condemns-the-killing-of-woman-human-rights-defender-appeals-to-duterte-for-justice.
[9] ISHR, 'A Model Law for the recognition and protection of human rights defenders', 2016. Available at https://www.ishr.ch/sites/default/files/documents/model_law_full_digital_updated_15june2016.pdf.
[10] Ibid.
[11] Ibid.
[12] ISHR, 'Developing A Model Law', 2016. Available at http://www.ishr.ch/news/developing-model-national-law-protect-human-rights-defenders.
[13] Office of the High Commissioner for Human Rights, 'Human Rights Defenders: Protecting the right to defend human rights: Fact Sheet No 29', p 33, available at http://www.ohchr.org/Documents/Publications/FactSheet29en.pdf, and OHCHR report 'Practical recommendations for the creation and maintenance of a safe and enabling environment for Civil Society', A/HRC/32/20.
[14] See A/HRC/RES/31/32, 'Protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights.
[15] ISHR, 'From Restriction to Protection', 2014. Available at http://www.ishr.ch/sites/default/files/article/files/research_report_on_legal_environment_for_hrds_upload.pdf p.7.