

## Briefing Note

### Philippines

**Following a mission of contact with civil society in the Philippines, from 20 to 26 January 2007, FIDH wishes to draw the attention of the international community on the serious human rights violations taking place in the country.**

2005 and 2006 have been black years indeed for human rights in the Philippines. Politically motivated extrajudicial killings have reached unprecedented levels, and very few - if any - have been prosecuted and condemned for such acts.

The exact number of extrajudicial killings varies according to different sources, but all converge to denounce the high number of killings, the fact that they are politically motivated, and in their immense majority thought to be perpetrated most often by members of the military, by the police, or by groups linked to them. The number of cases is clearly on the rise since 2005. In addition, with the coming election for the Congress in May 2007, local groups expect a further increase of violence.

According to Karapatan, 206 civilians were killed in 2006 (189 in 2005). Among them, 165 were affiliated with various peaceful and legal left organisations (Bayan and Anakpawis in particular), while 17 human rights defenders, members of Karapatan, are also among the victims.

PAHRA and FIDH compiled a list of 50 cases of extrajudicial killings committed between January and July 2006, which they submitted to the UN Special Rapporteur on extrajudicial killings last August; PAHRA fully documented 12 cases of politically motivated extra-judicial executions against members of non-governmental and peoples' organizations in 2006 and 2 cases of persons mistakenly identified as belonging to the Moro Islamic Liberation Front.

The main victims of the killings are members and leaders of legal organisations (peasant and fishermen organisations, teachers' associations, women's groups, workers unions, etc), perceived by the authorities as close to the Communist Party of the Philippines (CPP) and its armed wing, the New People's Army (NPA)<sup>1</sup>.

During the few days that the FIDH delegation was in Manila, several extrajudicial killings were reported: Karapatan reported that Ananias Burce, member of Albay People's Organisation (a local human rights group) was killed on 21 January 2007 in Tabaco City, Albay. He was reportedly shot by assailants on two motorcycles. PAHRA reported that Ruben Ermino, member of the political party Bayan Muna, and Demetrio Imperial, member of Sorsogon People's Organisation, were both shot on 23 January, one at noon and the other in the evening, in the province of Sorsogon. Ruben

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<sup>1</sup> The NPA is an insurgent armed group of Marxist inspiration fighting the government for more than 37 years.

Ermino was shot dead by two men riding a motorcycle, while Demetrio Imperial was shot in front of his wife and child, while he was having dinner at home.

In 2006, there have also been several cases of extrajudicial killings of farmers in connection with agrarian reform<sup>2</sup>. In those cases, the police investigations were extremely flawed – and the landlords belonging to powerful families enjoy total impunity. This has been the case regarding the killing of Ka Eric Cabanit, on 24 April 2006. He was a UNORKA farmer leader. His killing took place an hour after a Department of Agrarian Reform dialogue concerning notably the land redistribution involving the banana plantations owned by the Floirendo family in Davao del Norte (Mindanao). The negligence – if not cover-up – of the police in investigating the case has been reported in detail by local groups<sup>3</sup>.

### Current Political Context

In February 2006, President Gloria Macapagal Arroyo adopted Decree 1017, whereby she declared a State of emergency in the country<sup>4</sup>. Following the national and international outcry, the President put an end to the state of emergency one week later.

However, mass arrests have taken place during and after the emergency, the government accusing part of the military and the so-called extreme left of together staging a coup attempt. Among those arrested are members of the Armed Forces of the Philippines (AFP), but also Senator Crispin Beltran, member of the opposition (Anakpawis), deprived of liberty since February 25, 2006<sup>5</sup>. In addition, cases of rebellion and of obstruction of justice<sup>6</sup> were filed by the Department of Justice against more than 50 personalities of the left. They are still at a stage of preliminary investigation, and the charged seem largely groundless and politically motivated as regards the left leaders<sup>7</sup>.

The maximum penalty for the crime of rebellion is life imprisonment. Those cases filed against opposition leaders and high level personalities are a Damocles sword, most probably aimed at paralysing or silencing them.

In December 2006, the House Speaker attempted to push for a constitutional change (also called “chacha” - Charter Change) by convening the House of Representatives and the Senate into a Constituent Assembly or “con-ass” (one of the three modes whereby the 1987 Constitution can be amended). The amendments would notably reduce the powers of the Senate, whose composition is currently not favourable to the government. Left wing groups, but also the Catholic Bishops Conference of the Philippines oppose the charter change, as do sections of the business community, and the One Voice movement<sup>8</sup>. They consider that such amendments only aim to strengthen the Executive and that the timing for constitutional amendments is not appropriate.

In May 2007, an election will be held for the National Assembly and the Senate. In this regard, one

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<sup>2</sup> Agrarian reform, launched in 1988, is supposed to be finished by 2008. According to local observers, powerful and extremely wealthy landlords opposed to redistribution of land in favour of the landless farmers are trying to protract the process. By doing so, they probably hope to avoid the redistribution of their land because the time limit for such redistribution will have elapsed.

<sup>3</sup> See notably the public statements of by UNORKA, PEACE and PARRS: December 8, 2006, Agrarian Reform and Human Rights Violence Upsurge: Government and Hacienderos, accountable!; December 13, 2006, Police Apparent Cover up on Cabanit Murder Investigation: Surfaced in Melo Commission Hearing.

<sup>4</sup> [http://www.fidh.org/article.php3?id\\_article=3098](http://www.fidh.org/article.php3?id_article=3098)

<sup>5</sup> He is currently detained in the Philippine Heart Center of Manila. See Amnesty International, “Political Killings, Human Rights and the Peace Process”, ASA35/006/2006, p.11 for more details on the successive charges brought against Senator Beltran.

<sup>6</sup> Because they had supposedly harboured a fugitive, Lieutenant Mr. Antonio Trillanes IV (see note 7).

<sup>7</sup> The only ground for the suits is reportedly an affidavit of a former member of the military, Navy Lieutenant Antonio Trillanes, who staged a rebellion in 2003, was condemned to a prison sentence but escaped in 2006. He was arrested again later the same year, and signed an affidavit mentioning a list of people he said he met while he was free.

<sup>8</sup> <http://onevoice.com.ph/>

has to recall that President Gloria Macapagal Arroyo was re-elected in 2004, although there were accusations of fraud<sup>9</sup>. The coming election is consequently an important test case for her administration, since her legitimacy may be put in question by the polls. In addition, under the Constitution, the President may be impeached if one third of the members of the House of Representatives and two thirds of the members of the Senate so decide<sup>10</sup>.

The legitimacy of the President has been largely questioned and the support of the Military is consequently important for her at this stage. All observers met by FIDH converge to consider that the AFP influence in the Philippine's political life is therefore on the rise.

### A Schizophrenic Policy

Bayan, an umbrella mass organisation ideologically close to the CPP, and its members (left political parties, trade unions, etc) are legal organisations in the Philippines; however, they are regularly designated as "fronts of the NPA" in the speeches of high level military and government officials<sup>11</sup>. Such statements make them legitimate targets.

Indeed, the Armed Forces of the Philippines (AFP) openly assimilate the legal organisations with the NPA and consider them as "enemies of the state"<sup>12</sup>. In the provinces, it is reported by various sources that the military exert harsh pressure on civilians, inducing them not to support those groups if they want to avoid repression.

It has been reported on several occasions to FIDH that a propaganda film entitled "Knowing the enemy" has been broadcasted several times on TV in 2006, after the issuance of the February State of Emergency, in order to discourage people to belong to the legal left organisations, accusing the latter of being infiltrated or targeted for infiltration by the CPP-NPA (BAYAN and its affiliated organizations). This tape is reportedly also used by the military in the provinces to dissuade citizens from supporting those parties and movements.

This situation is paradoxical since those groups, unions, parties and NGOs are legally entitled to operate in the Philippines. That amalgam clearly contributes to the fact that the leaders, members and sympathisers of legal organisations and political parties have been victims of numerous targeted extrajudicial killings. Even if they might share the same ideology, a clear distinction should be drawn between peaceful legal parties and organisations on the one hand, and the armed groups on the other hand.

### Total Impunity

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<sup>9</sup> There has been allegations of a taped conversation between Mrs. Macapagal Arroyo and an official of the Commission on Elections, Virgilio Garcillano known as the "Garci Tapes". The conversation allegedly captured Mrs Arroyo's instruction to the commissioner to ensure her 1 million vote margin against her rival in the presidential elections in May 2004.

<sup>10</sup> According to Article 11 para. 2 of the Constitution, the grounds for impeachment are "culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust".

<sup>11</sup> As recently as on 15 January 2007, the Sun Star Manila reported that "National Security Adviser Norberto Gonzales hoped that left-leaning party-list groups that act as "front organizations" for the communist movement would be voted out by the people in the May 14 elections" (<http://www.sunstar.com.ph/static/man/2007/01/15/news/security.adviser.seeks.rejection.of.reds.front.groups.in.poll.s.html>). See also the website of the Armed Forces of the Philippines, where it is specified that "The AFP supports the statement of Sec Gonzales that communist party list groups should be voted out because they are obstructions to our country's progress." (<http://www.afp.mil.ph/0/news/plgs.php>).

<sup>12</sup> Armed Forces of the Philippines press release, "Emerging CPP/NPA Propagandists", which reads: "The CPP/NPA finds good allies and propagandists in the person of Roman Polintan [Bayan], Fabian Hallig [Alliance of Concerned Teachers – ACT] and Aurora Broquil [Kilusan Para sa Pambansang Demokrasya]. BAYAN is no doubt a Communist front organization. In fact, it is an organ directly under the Communist Party of the Philippines. This is the same organization where party-list representatives Satur Ocampo came from before BAYAN-MUNA was organized." (<http://www.afp.mil.ph/0/news/propagandists.php>).

The perpetrators of the extrajudicial killings are rarely identified by the police and never brought to justice. No high level military has ever been put on trial for involvement in human rights violations. According to various testimonies, the lawyers taking up cases against members of the army or the police are generally harassed and threatened. The witnesses and the relatives of the victims are also threatened, if not killed<sup>13</sup>. There is no meaningful witness protection programme in the Philippines, in spite of the existence of the Witness Protection, Security and Benefit Act of 1991<sup>14</sup>.

Human rights defenders face huge risks in order to document the violations and assist the victims. The tribute they paid in 2006 is particularly heavy. The Observatory for the Protection of Human Rights Defenders, a joint programme of FIDH and OMCT, recorded 23 cases of extrajudicial killings of human rights defenders in 2006 alone<sup>15</sup>.

In July 2006, in her State of the Nation Address, President Gloria Macapagal-Arroyo declared "In the provinces under the jurisdiction of the 7<sup>th</sup> Division, Jovito Palparan is fighting the enemy. He will not retreat until people are free from the terror of the night and are able to see the dawn of justice and freedom"<sup>16</sup>. This was interpreted by local human rights groups as a green light for further human rights violations against civilians by the Army since Jovito Palparan is well known for being involved, directly or through henchmen, in numerous cases of disappearances, torture and extrajudicial killings of civilians<sup>17</sup>.

The authorities explain the high number of extrajudicial killings as being the result of an internal purge within the CPP<sup>18</sup>. Such purges have indeed taken place in the 1980s and in the beginning of the 1990s, when the CPP arrested, tortured and even killed many of its own supporters, accusing them of being agents of the military. Since the mid-1990s, certain target killings have taken place of left leaders who decided to leave the armed struggle and compete for the elections instead<sup>19</sup>.

However, all local human rights groups concur to definitely reject such an explanation for today's large number of killings. Such an explanation is also contradicted by the fact that the so-called left groups fiercely denounce those killings.

Following the national and international indignation at the high number of extrajudicial killings over the past year, the government established the Melo<sup>20</sup> Commission in August 2006, through the Presidential Administrative Order 157. That Commission is a special Commission of Enquiry to

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<sup>13</sup> A striking example is the case of the relatives of two brothers, Raymond and Reynaldo Manalo, kidnapped in February 2006 by unidentified armed men, among whom someone belonging to the AFP was recognised by a witness, decided to file a Habeas Corpus case to the Court of Appeal in May 2006. After the kidnapping, the two brothers had disappeared and their parents did not know if they were still alive. Since the case has been filed and while hearings are taking place, members of the military reportedly came five times to ask the relatives of the two brothers to drop the suit if they wanted their sons back home. The military came every time with the two brothers, to demonstrate that they were still alive.

<sup>14</sup> Republic Act N<sup>o</sup>. 6981, April 24, 1991.

<sup>15</sup> See annual report of the Observatory for the Protection of human rights defenders, 2006 (to be published in March 2007).

<sup>16</sup> 2006 State of the Nation Address of President Gloria Macapagal-Arroyo, July 24, 2006,

<sup>17</sup> See Citizen' Council for Human Rights – Task Force Central Luzon Fact-Finding Mission Report, April 24- 26, 2006, <http://www.philippinehumanrights.org> ; see also <http://www.ahrchk.net/ua/mainfile.php/2006/1573/> ; see also his alleged implication in the killing of two Karapatan members, Eden Marcellana and Eddie Gumanoy, on <http://stopthekillings.org/?q=node/10&PHPSESSID=5d84f9134ba7679d9480856f87e8ad28>. In 2005, six members of the opposition tabled a resolution in the House of representatives (Committee on Human Rights) directing the Committee to conduct an investigation on « the series of extrajudicial killings, frustrated killings, enforced disappearances, torture, harassment and other forms of human rights violations believed to be committed by elements of the 8th Infantry Division under the command of M/Gen Jovito S. Palparan, Jr., see <http://www.bayanmuna.net/legislation/reso/822.htm>.

<sup>18</sup> See e.g. Armed Forces of the Philippines press release, "CPP/NPA Covers Up Its Activities", 4 September 2006 (<http://www.afp.mil.ph/0/news/cncov.php>).

<sup>19</sup> As recently as at the end of 2004, Walden Bello and Loretta Rosales, members of Akbayan, were placed on a list of "traitors" established by the CPP, and therefore seriously threatened to be killed. See Annual Report of the Observatory for the Protection of Human Rights Defenders (FIDH/OMCT), 2004, p. 218.

<sup>20</sup> Its name derives from its President, former Justice Secretary Melo.

address media and activists' killings<sup>21</sup>. Its composition has been largely criticised by local human rights groups as resulting in a lack of credibility and impartiality. In addition, it could not compel witnesses to testify; it did not have a witness protection programme; and the Melo Commission announced that it would achieve its work by the end of December 2006, which constituted a very short timeframe. In addition, the Melo Commission invited military and police officials to testify first, instead of inviting victims beforehand. This demarche has further strengthened the diffidence of civil society towards the Commission.

Since the appointment of the Commission, the extrajudicial killings have continued unabated. At the end of January 2007, the Melo Commission had achieved its report but has not yet made it public. This should of course be done as a matter of urgency.

On 31 January 2007, after it received the Melo Commission's report, President Gloria Macapagal-Arroyo "urged the Supreme Court (SC) to form a special court that will conduct a speedy trial of all cases of extrajudicial killings in the country"<sup>22</sup>. The President also "ordered newly appointed Defense Secretary Hermogenes Ebdane Jr. and Armed Forces Chief of Staff General Hermogenes Esperon Jr. to come up with an updated document on the principles of command responsibility focusing on the alleged involvement of retired Maj. Gen. Jovito Palparan in extrajudicial killings".

FIDH recalls that the State has a duty to protect the rights to life and to physical integrity. It should consequently prevent, but also investigate and prosecute the perpetrators of such human rights violations. A "special court" conducting "a speedy trial" does not seem an appropriate response to the extrajudicial killings.

General Palparan's involvement in extrajudicial killings and other human rights violations against civilians supposedly close to the left has been demonstrated in the past. If the Melo Commission's report itself points to his responsibility in such acts, he should immediately be brought to justice. Only prosecution of high level officials for human rights violations will send a signal to the authors of extrajudicial killings that such behaviour will not be tolerated anymore.

## Conclusion

The large number of extrajudicial killings combined with the systematic impunity of the perpetrators obviously generates a climate of fear, particularly detrimental to democracy. There are credible reports that members of the security forces are often involved in the extrajudicial killings, or did not intervene to prevent them. The fact that the victims are by large found among the leaders and members of so-called left groups gives credit to those who denounce the existence of a concerted plan to neutralise those opposition groups. The various declarations by high level military and even government officials blurring the line between legal organisations and illegal armed groups are of utmost concern in that regard. Beyond eliminating them, the objective of such policy may also be to bring those groups back in the clandestine armed struggle, which would further justify a strong militarization in the country.

By its unwillingness or incapacity to investigate and prosecute effectively the authors of the killings of the peaceful activists and their leaders, the government ruins peace efforts and fuels violence.

FIDH consequently addresses the following recommendations to the government of the Philippines:

- Make public the full text of the Melo Commission's report
- ensure that a fully independent body be in charge of the investigation of the cases of extrajudicial killings
- put in place a meaningful programme of protection of victims and witnesses before, during

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<sup>21</sup> In May 2006, a special police unit had already been created, the Task Force Usig, in order to coordinate investigations of political killings at national level.

<sup>22</sup> <http://www.gov.ph/news/?i=17131>

- and after the enquiry and the judicial procedures
- drop the charges of rebellion filed against civilians belonging to the opposition in the absence of meaningful evidence against them, and free Congressman Crispin Beltran
  - publicly and unambiguously denounce attacks on legal left groups, and put an end to allegations of collusion between peaceful opposition groups and illegal armed groups
  - Ensure that there is no intrusion of the military into civil administration
  - Adopt the Bill on torture implementing the UN Convention Against Torture, ratified by the Philippines
  - Ratify the First and Second Optional Protocol the UN Convention Against Torture, allowing respectively for individual complaints and for visits to detention facilities by independent bodies
  - Ratify the newly adopted UN Convention on Enforced Disappearances and adopt an implementing legislation