



Philippines

6 August 2010

Open letter to the President : Commitments to justice and human rights require concrete actions

The Honourable Mr Benigno Aquino III President, Republic of the Philippines Malacañang Palace J.P. Laurel St., San Miguel Manila, NCR, 1005 Philippines

Paris - Manila, August 6, 2010

Subject: Commitments to justice and human rights require concrete actions

Your Excellency,

From July 5-9, the International Federation for Human Rights (FIDH) and the Philippine Alliance of Human Rights Advocates (PAHRA) jointly conducted a mission of political dialogue with representatives of the newly elected administration to discuss the progress of the implementation of relevant United Nations human rights mechanisms' recommendations. FIDH and PAHRA welcome the commitments made by your administration to address the human rights situation in the Philippines, in a context of ongoing grave violations of human rights, in particular extrajudicial killings, torture and enforced disappearances, and of a persistent culture of impunity.

We appreciate the cooperation of the authorities throughout the mission. The delegates were able to meet with officials from a number of bodies including the Department of Justice, Department of Interior and Local Government, the House of Representatives, the Armed Forces of the Philippines (AFP), the Philippines National Police (PNP), the Supreme Court and the Presidential Human Rights Commission. These meetings provided valuable opportunities for focused discussion on the country's human rights records and performance.

A noted progress is the passage into law of both the Anti Torture Act in 2009 and the Republic Act 9851 which covers crimes against International Humanitarian Law, genocide, and other crimes against humanity. Our organisations urge the government of the Philippines to adopt as soon as possible the implementing rules and regulations of the Anti Torture Act, in close consultation with civil society and in accordance with the guidance provided by the Istanbul Protocol to ensure the Act's effective implementation. We encourage the government of the Philippines to ratify the Rome Statute of the International Criminal Court and the Optional Protocol of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). We also call on the government to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty. These actions will further demonstrate the government's determination to promote and protect universal human rights at the national level.

In view of the many lives lost to extra-judicial killings, we call on your government to improve its compliance with the recommendations made by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, considering there have already been at least six known cases of such killings since your inauguration. In this regard, our

organisations welcome the commitments you made in your first State of the Nation Address to seek justice for victims of extra-judicial killings and to "hold murderers accountable". We also take note of a recent announcement by the Secretary of Justice of the possible merger of existing Task Forces into one body that would primarily focus on media killings, before being extended to other types of extra-judicial killings. This body should be part of the necessary comprehensive reforms, conduct its investigation in an impartial and transparent manner, and be given a strong mandate and adequate funding.

In the course of the mission, our delegates have met with victims of grave violations of human rights, and we support their call on the authorities to hold accountable the alleged perpetrators of these crimes. The commitments made on justice and accountability must be backed up by concrete actions. Ensuring accountability requires above all the strengthening of the justice system and of its capacity to respond to complaints of human rights violations. The government should provide training and adequate funding, particularly at the regional level, to investigators, prosecutors and judges to ensure prompt, impartial and efficient investigations and prosecutions of serious human rights violations. Judges, especially those at the local level, should be made more aware of the use of writs of amparo to prevent enforced disappearances and extra-judicial killings.

Based on testimonies and evidence collected, it has become clear to us that many of the alleged perpetrators of serious human rights violations are members of the Armed Forces of the Philippines (AFP) and the Philippines National Police (PNP), institutions within which the culture of impunity is widespread. There is thus a need to further expand and enhance the human rights training programmes for members of the AFP and PNP at all levels. However, education alone will not be effective. Independent accountability mechanisms must be put in place within and outside the AFP and PNP. Cases with high possibilities of breaking through impunity should be given priority assistance to obtain speedy resolutions.

Independent accountability mechanisms should include assured access to information regarding the whereabouts of detainees, in accordance with Section 7 of the Anti Torture Act, the use of proper disciplinary measures against those accused or convicted of human rights violations, the establishment of external independent complaint investigation procedures, and a requirement obliging the AFP to report all arrests to the PNP promptly and that persons arrested by the AFP are medically examined immediately once they are transferred to the PNP. Besides, the allegations of crimes committed by members of the AFP or the PNP should be investigated by an independent body.

The ability of independent bodies to effectively investigate human rights abuses is also important in enhancing accountability. We strongly recommend that the administration strengthen its financial support to and broaden the investigative mandate of the Commission on Human Rights (CHR) while ensuring the plurality of its composition and its independence and impartiality. To this end, we urge you to select and appoint the next Chairperson of the CHR in a transparent, inclusive, and participatory process, in close consultation with civil society and consistent with the Paris Principles, in order to ensure the credibility of the body. The administration should also reinstate the membership of civil society and human rights organizations in the Presidential Human Rights Committee (PHRC).

Our mission has also identified the lack of adequate protection for survivors of human rights abuses and witnesses as another persistent obstacle to justice and accountability. We are therefore deeply troubled by the assassination of Suwaid Upham, a key witness of the Maguindanao massacre, and the utter lack of effective witness protection leading up to his killing. Upham was shot and killed by an unknown gunman in Parang, Maguindanao, on June 14, 2010. This latest killing reveals the serious inadequacies of the Victims and Witness Protection Programme. We welcome the commitment made in the State of the Nation Address to strengthen witness protection and call on the government to investigate and prosecute allegations of witness intimidation; promptly relocate victims, witnesses and their families who are under threat; establish clear procedures of protection to ensure its immediate and timely provision; and provide adequate training to protection personnels.

The case of the Maguindanao Massacre encompasses many of the areas in which inadequacies and the need for strengthening have been identified. It thus represents an important test of the new administration's commitment and will to effectively investigate and, where there is sufficient evidence, prosecute those responsible for grave human rights violations with due and equitable regard for fair trial rights and standards. Furthermore, the resolution of the case of six workers known as The PICOP 6 allegedly killed by the military in Agusan del Sur could gauge your determination as Commander-in-Chief to instill justice in the ranks of the AFP.

Your administration has come into office on a platform of positive change and your articulation of the importance of justice, accountability and good governance during your campaign and in your public addresses as president is widely welcomed. Our organisations sincerely hope that your words will be given substance by concrete actions and that you will seriously take into consideration our recommendations.

Thank you very much for your attention.

Sincerely yours,

Souhayr Belhassen (FIDH President)

Max M. de Mesa (Chairperson, PAHRA)

Copied to:

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<http://www.fidh.org/Open-letter-to-the-President-Commitments-to>