

REDRESS

Ending Torture. Seeking Justice for Survivors

87 Vauxhall Walk, London SE11 5HJ

Tel: +44 (0)20 7793 1777 Fax: +44 (0)20 7793 1719

Email: info@redress.org Web URL: www.redress.org

Ms Zonke Zanele Majodina
Chairperson, Human Rights Committee
Office of the High Commissioner for Human Rights
UNOG-OHCHR
CH1211 Geneva 10
Switzerland

23 December 2011

Dear Ms. Majodina

104th session of the Human Rights Committee – Country Report Task Force on the Philippines

I am writing in relation to the Country Report Task Force meeting on the Philippines which will be held during the 104th session of the Human Rights Committee (the “Committee”).

REDRESS would like to draw the Committee’s attention to an issue of serious concern in relation to the Philippines’ observance of the International Covenant on Civil and Political Rights (the “Covenant”) which it hopes may be considered for inclusion on the list of issues: namely an almost wholesale failure to implement in good faith recommendations of the Committee in individual communications brought under the Optional Protocol and to comply with its obligation to provide a remedy to those the Committee has recognised as victims of violations.

This is of particular concern to REDRESS as the representative of Mr Albert Wilson, who was found by the Committee in 2003 to have been the victim of numerous violations of the Covenant by the Philippines. The Committee recommended that the Philippines undertake a comprehensive and impartial investigation and that Mr Wilson be provided with compensation taking into account both the seriousness of the violations and the damage caused to him. Despite efforts in the Philippines on Mr Wilson’s behalf, including a petition currently pending at the Supreme Court, more than eight years since the issuance of the Committee’s views, he has still not received any remedy.

This is an issue which goes beyond Mr. Wilson’s case. The failure to provide a remedy to those who the Committee has recognised as victims of violations of the Covenant is a much broader, systemic, issue. It concerns the Philippines’ good faith implementation of the Convention and its Protocol as a whole. As such, REDRESS submits that this is an issue that the Committee should raise with the state party when it examines its record next year.

PATRONS:

Lord Archer of Sandwell QC
Professor Michael Bazzyler (*USA*)
Lord Crickhowell
Dato’ Param Cumaraswamy (*Malaysia*)
Edward Datnow FRCS
François de Vargas (*Switzerland*)
Dowager Countess of Dundonald
Anthony Foulger
Viscount Gage
Sandy Gall CBE
Dr Inge Genefke MD, D.M.Sc.h.c. (*Denmark*)
Earl of Haddington
Judge Rosalyn Higgins DBE QC
Lord Judd
Lord Lester of Herne Hill QC
Ms Caroline Moorehead CBE
The Rt Rev the Lord Harries of Pentregarth
Lord Prosser
Lord Richard QC
Professor Dinah Shelton (*USA*)
John Simpson CBE
Professor Theo van Boven (*The Netherlands*)
Professor David Weissbrodt (*USA*)
Professor Graham Zellick

TRUSTEES

Sir Emyr Jones Parry (Chair)
Michael Birnbaum QC
Professor Bill Bowring
Sherman Carroll Ph.D, MBE
Sir Robin Christopher
Leah Levin OBE
Frances Pinter, Ph.D
Jennifer White (Hon. Treasurer)

LEGAL ADVISORY COUNCIL

Professor Michael Bazzyler (*USA*)
Sir Geoffrey Bindman
Professor Kevin Boyle
Owen Davies QC
Joanna Glynn QC
Professor David Harris CMG
Professor Geraldine Van Bueren
Professor Colin Warbrick
Professor David Weissbrodt (*USA*)

FOUNDER

Keith Carmichael

THE REDRESS TRUST

Registered Charity Number 1015787 A Limited Company Registered in England Number 2274071
Incorporated as a Not-for-Profit corporation in the State of New York (No. 13-4028661)

During the course of this year, REDRESS has collected information on the extent to which recommendations made by the Committee have been implemented in each of the twelve individual communications brought against the Philippines where violations have been found. As part of its research it has been in contact with many representatives of authors of the communications, as well as referring to publicly-available materials including the Committee's own annual reports.

REDRESS plans to release a detailed report outlining its findings and its recommendations for reform in the first half of next year. However, our initial findings (as set out in the attached Appendix) show that:

- in nine out of the twelve cases, no effective remedy in line with the Committee's recommendation has been provided;
- the only remedy which has unequivocally been provided in any case is commutation of the death penalty (four cases), in connection with the general abolition of the death penalty in the Philippines in 2006;
- in four of the twelve petitions the Committee recommended investigations and prosecutions of suspects in relations to violations of the rights to life, liberty and freedom from torture, but not one case displays evidence of an impartial investigation or has yet resulted in a successful prosecution;
- in eight of the twelve petitions the Committee recommended the provision of compensation to the author/s, however there is no evidence of compensation having been provided in any case;
- victims attempting to seek a remedy through the courts following the issuance of the Committee's views continue to face severe delays;
- the government has on more than one occasion reopened the merits of cases when victims have attempted to obtain redress for violations found by the Committee.

These findings suggest that there are no clear, established or effective mechanisms at the domestic level to give effect to Human Rights Committee views or any political will to ensure that recommendations are carried out. The government's stance is demonstrated by the position it has taken in the ongoing Supreme Court proceedings in Mr Wilson's case, where it has argued that the Covenant and the Optional Protocol do not form part of the laws of the Republic of the Philippines, and the Philippines government is under no obligation to enforce or implement the Committee's decisions or determinations. When victims have sought to use the Committee's views in proceedings within the domestic legal system to obtain a remedy, those views have not, to date, been given any weight. This frustrates the Covenant's objectives and leaves victims without any realistic prospect of obtaining redress.

There is a need to establish clear, transparent and effective legal frameworks, institutional arrangements and procedures to ensure that those who have been recognized as victims of human rights violations by the Human Rights Committee obtain the remedy to which they are entitled. We trust that this is an issue that the Committee will find worthy of consideration with the state party in the examination of its record.

We hope that this information will be useful for the Country Report Task Force in preparing the list of issues. Please do not hesitate to contact us should you require any further details.

Yours sincerely



Carla Ferstman
Director