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## **Progress, Stagnation, Regression? The State of Human Rights in the Philippines under Aquino**

**“I grew up in an era where human rights were often violated. My father, together with many others, was a victim. Our family and their families were victims too... We know more than anyone that the blatant disregard of liberties will only bring us further into the dark.”**

- President Benigno S. Aquino III's speech during the 62nd Anniversary of the Universal Declaration on Human Rights, Malacañang Palace, 10 December 2010.

Before he became President of the Philippines on 30 June 2010, Benigno “Noynoy” Aquino III ran on a platform that promised to reduce poverty, combat corruption, restore good governance and uphold human rights to better the lives of Filipinos.

“Human rights are a powerful weapon for social transformation” is what the policy manifesto of his Liberal Party declared. In a pre-election television interview, when asked about his biggest achievements in his political career, then Senator Aquino replied: “effectively running the Human Rights [the Human Rights Committee in Congress] and being instrumental to preventing human rights abuses from happening”.<sup>1</sup>

When describing his ascent to the presidency, President Aquino drew a parallel between himself and his late mother, former President Corazon Aquino:

“The same emotions that fuelled the EDSA revolution<sup>2</sup> in 1986 were harnessed by my people in the Philippine elections of 2010. Twenty five years ago, we stopped tanks; last year, we overcame vaunted political machineries, massive logistics, and a seemingly bottomless campaign war chest. The spirit of People Power catapulted to the presidency an opposition figure who had [sic] at first was even reluctant to run.

...This reaffirms two fundamental truths. First, that governments exist at the sufferance and authority of its people, regardless of political system. And second, that a government's strength lies in its responsiveness to its people's dreams and aspirations.”<sup>3</sup>

But one year into his presidency, has President Aquino managed to address the many human rights challenges in the Philippines? He inherited a legacy of serious human rights violations

from the previous administration. He has also tried to highlight how his presidency is unlike that of his predecessor, whose 10-year administration was marred by a culture of impunity. During President Aquino's first year in office, has the human rights situation in the Philippines progressed, stagnated or regressed?

In February 2010, after a consultation with national and local human rights groups in the Philippines, Amnesty International wrote to presidential candidates to call their attention to pressing human rights issues. Amnesty International also presented recommendations on issues that needed to be prioritised in the next government's human rights agenda. After the poor human rights record of the outgoing administration, the need for change was urgent.

Upon President Aquino's inauguration in June 2010, 18 of Amnesty International's national offices wrote to him to reiterate the call to make human rights a priority for his administration. These included national offices in Australia, Canada, Finland, Germany, Hong Kong, Japan, Malaysia, Nepal, Netherlands, New Zealand, Peru, Philippines, Spain, Sweden, Thailand, the United Kingdom, the United States and Uruguay.

This briefing revisits those recommendations and uses them as a basis to assess President Aquino's record on human rights protection in the Philippines.

**1. End political killings, unlawful arrests, secret detention, enforced disappearances, torture and cruel, inhuman and degrading treatment. Prevent the use of counter-insurgency and counter-terrorism to justify human rights violations**



Reports of political killings, enforced disappearances and torture continued during President Aquino's first year in office. At the same time, hundreds of cases of past human rights violations await effective investigation and prosecution.

On 25 August 2010, Casiano Abing, a 56-year-old political activist from Samar province, Visayas region, was shot dead by an unidentified gunman who came into his home. Prior to this attack he received a death threat from a certain "Anti-Communist Vigilante Leysam".<sup>4</sup>

In June 2010, agents of the National Bureau of Investigation (NBI) in Saranggani province, Mindanao region, arrested Sumar Abdulwahab, a former member of the Moro Islamic Liberation Front (MILF). A witness described Sumar being apprehended by NBI agents in four vehicles. They handcuffed him and showed him a warrant of arrest. When Sumar's family tried to visit him two days later, NBI personnel told them that he had escaped. The family did not have any further information on him until they heard a news report on the radio of a man's remains found inside a large industrial drum in Davao del Sur, also in the Mindanao region. His family came to check whether these were Sumar's remains. At a funeral parlour they identified him through clothes which he had worn on the day of his arrest and a picture of his child found in his pocket. Sumar's body, though already in a state of decomposition, was encased in cement, with his hands tied with a nylon wire and his teeth extracted. A post-mortem report showed that he had a 5.2cm wound at the back of his ear, a contusion on his right cheek and a skull fracture.<sup>5</sup>

In August 2010, Philippine media broadcast a video of a plainclothes police officer in a Manila police station torturing Darius Evangelista, a suspect apparently held for petty theft, while uniformed police officers looked on. The footage showed the suspect naked, being yanked by a cord tied to his genitals and whipped with a rope. The video prompted the authorities to suspend all 11 police officers involved. Police

Senior Inspector Joselito Binayug, the man identified committing the act of torture in the video, was dismissed in January 2011. He is currently appealing this dismissal.

Despite legislative attempts to address torture, notably the 2009 Anti-Torture Act, to date none of the police officers has been prosecuted for the torture of Evangelista.

In the first month of President Aquino's term, six reported cases of extrajudicial executions occurred. In his first State of the Nation Address in July 2010, President Aquino said that his government had investigated and filed cases against suspects in five of these six cases. He also stated that his administration needed to do more to ensure that these cases lead to trial and conviction.

During President Aquino's first year, dozens of cases of extrajudicial executions have been reported in the Philippines. While it is positive that his administration has put significant attention on political killings that happened since he took office, President Aquino must also put substantial effort in ensuring that cases of political killings that happened during the previous administration—a vast majority of them unresolved—are expedited. While members of the state security forces have been implicated in violations of human rights, no one has been convicted under the Aquino administration.

- **Issue an executive order that clearly states your administration's commitment to stop the practice of enforced disappearances in the country. In particular, establish a presidential commission that will review all cases of extrajudicial executions and enforced disappearances during the last decade, in co-operation with independent bodies, with the aim of enabling speedy prosecutions**



In his first executive order in July 2010, President Aquino established a Truth Commission. But unlike earlier truth commissions established around the world, President Aquino's commission was given no mandate to address human rights violations. The Truth Commission was solely tasked to investigate graft and corruption allegations against associates of President Aquino's political opponent, former President Arroyo. In December 2010, the Supreme Court declared the Commission unconstitutional as it violated the equal protection clause by singling out certain individuals.

After learning that President Aquino's Truth Commission would not address extrajudicial killings, Justice Secretary Leila De Lima in July 2010 created a "superbody" that would address the killings, saying that the existing task forces were not proactive and merely collated data and monitored investigations.<sup>6</sup>

According to the Philippines' National Press Club (NPC) in December 2010, President Aquino said that he was drafting an Executive Order for this "superbody". In his speech on the same month, President Aquino said that he was studying the possibility of putting together a "special presidential team" focusing on expediting the progress in court of cases of extrajudicial killings.<sup>7</sup>

However, Amnesty International is not aware of any further information about this special presidential team, nor has the President mentioned it in subsequent speeches in 2011. In a media interview, a spokesperson from the NPC said, "the orders issued to constitute task forces were visible signs that the 'superbody' proposal of the NPC was already shelved."<sup>8</sup>

- **Initiate legislation that specifically criminalizes enforced disappearances and extrajudicial executions**

≈ LITTLE CHANGE

President Aquino has not yet endorsed any human rights legislation as a priority. However, the Enforced or Involuntary Disappearance Act of 2011 (Senate Bill No. 2817), was passed by the Senate in June 2011, before Congress adjourned. When Congress re-opens in July, the House of Representatives will review the Senate Bill. Numerous bills to criminalize enforced disappearances have been filed in Congress since 1992.

- **Introduce a national quick response hotline for families of victims of arbitrary or warrantless arrests and enforced disappearances to gain immediate recourse**

≠ FAILED

President Aquino's administration has not introduced a practical mechanism for immediate recourse for families of those who have been arbitrarily arrested or forcibly disappeared. As time is of the essence when a person is disappeared or when someone is arrested under a "john doe" warrant,<sup>9</sup> a quick action hotline would be helpful for families to be able to report the matter to the authorities.

- **Review the government's counter-insurgency policies, such as Oplan Bantay Laya 2, and revoke those policies which infringe on human rights protection and do not comply with international humanitarian law (IHL)**

≈ LITTLE CHANGE

In December, during the run-up to the resumption of the government's formal peace talks with both the MILF and the National Democratic Front (NDF), the Armed Forces of the Philippines (AFP) launched its Internal Peace and Security Plan (IPSP), locally known as *Bayanihan* (communal unity).

According to the military, this plan was a "paradigm shift", replacing the previous administration's widely condemned counter-insurgency policy, *Bantay Laya 1 & 2*, which had resulted in serious human rights violations against civilians. The IPSP states that "President Aquino's security agenda focuses on the people and calls for a multi-stakeholder approach to peace and security and the protection of our rights and civil liberties."<sup>10</sup>

The IPSP document states that *Oplan Bayanihan* "puts primacy to human rights"<sup>11</sup> and is guided by two strategy imperatives: (1) adherence to human rights and international humanitarian law, and (2) adherence to the rule of law and involvement of all stakeholders.<sup>12</sup> Moreover, the document has been made available to the public, unlike previous counter-insurgency policies.

The counter-insurgency plan was described as having a "holistic notion of human security"<sup>13</sup> and being a "people-centred security strategy,"<sup>14</sup> which means that it sees protection of civilians, not defeating the enemy "as an end itself"<sup>15</sup> and that "more than the absence of violent conflict, human security means the protection and respect for human rights and good governance."<sup>16</sup>

In his speech on the 75<sup>th</sup> anniversary of the AFP, President Aquino said that the new IPSP attests to the military's recognition of the primacy of protecting the human rights of every Filipino.<sup>17</sup> The IPSP states that "the greatest hindrance to stronger civilian-military co-

operation is the continued perception of human rights violations allegedly committed by military personnel.”<sup>18</sup> But to protect human rights, the AFP leadership must acknowledge human rights violations committed by state security forces, and hold their forces accountable for them.

Despite the AFP’s new human rights discourse, state security forces continue to be implicated in grave human rights violations. Civilians suspected of supporting the insurgents are still subject to extrajudicial executions and enforced disappearances.

## 2. Establish control and accountability over the military, police and other state-sponsored forces, and ensure witness protection

± STAGNANT

“In the past... no one was ever punished. It was as though the standard was to be blind, mute and deaf to these things. This is why those who were supposed to have been brought to justice were able to go in and out of the country, and those who were meant to hold them accountable lazily drag their feet. This will not happen in my administration. This time, we will right the wrongs and make straight those policies that are twisted. We have a mandate to fulfil. Justice must not be trampled upon by the futility of some people.”<sup>19</sup>

- President Aquino’s speech, Philippine Military Academy Commencement Exercises, March 2011.

In early 2011, the Senate held hearings on allegations of corruption by military officials. Numerous military officials and AFP personnel were interrogated in publicized hearings in the Senate, momentarily quieting down after a former Defense Secretary who was implicated in one of the cases committed suicide. Political pressures and a general loss of confidence in the Ombudsman prompted her to resign. None of the accused have been prosecuted, and Filipinos are still waiting for military and police officers to be held to account for their abuses.

Combating abuse of power by government officials and military officers, particularly through corruption, has been the cornerstone of President Aquino’s move to “clean up the system”. When he delivered his speeches to graduating cadets, new soldiers and policemen, high ranking military officials and the general membership of the AFP in different events in the past year, President Aquino did not fail to mention each time that his administration will hold accountable those that abused their power. President Aquino must put the same effort in combating human rights abuses, which is also an abuse of power.

- **Revoke Executive Order 546 (E.O. 546), which directs the Philippine National Police (PNP) to support the military in its counter-insurgency work, including through the use of militias and paramilitary groups. Ensure that the military exercises full control over all state-sponsored militias and paramilitary groups and that the Department of National Defense clearly defines and differentiates their purposes, particularly the Citizens’ Armed Forces Geographical Unit (CAFGU), Special CAFGU Active Auxiliary (SCAA), Civilian Volunteer Organization (CVO), police auxiliaries, *barangay* defense forces, chain of command and accountability mechanisms, or otherwise disarm and disband them**

≠ FAILED

Three days after the November 2009 massacre of at least 57 media workers and others in Maguindanao province, then Senators Aquino and Roxas issued a statement demanding the “immediate revocation of Executive Order No. 546”. Later, in the Aquino-Roxas Mindanao Peace and Development Agenda for the election, Aquino vowed, “I will revoke E.O. 546. Never again will public funds be used to support and maintain a private security force.” However, 18 months later, President Aquino has still not revoked the order.

In September 2010, Reynaldo Labrador, a 39-year-old peasant activist, was shot dead inside his home in Davao City, Mindanao region, in front of his wife and three young children. Two men, including one who was identified as a member of the CAFGU, came to his house looking for Labrador. Once they found him, they shot him at point blank range.<sup>20</sup>

In November 2010, President Aquino announced that he had no plans to revoke E.O. 546, which was issued by his predecessor. President Aquino also said he had no plans to disband the paramilitary groups that act as “force multipliers” for the military and police, including the CAFGUs, SCAA, CVO, police auxiliaries and *barangay* defense forces.

President Aquino argued that these paramilitary groups were the cheaper alternative to recruiting more soldiers and police as the government cannot afford to fund pensions of more military personnel.

Instead, President Aquino said that his government would “professionalize” these paramilitary groups. The AFP leadership has also been quoted several times saying that they actually need to recruit more CAFGU. There are reportedly 50,000 members of these state-sponsored paramilitary groups augmenting the estimated 120,000 soldiers<sup>21</sup> who are in active service. With a CAFGU member receiving only US\$2 of subsistence allowance a day, is the cheaper option the best option to ensure that civilians are secure and their rights are respected?

President Aquino said that he wanted the military to ensure that these paramilitary forces have a system of accountability and that they be “insulate[d] from political forces” in their local areas.<sup>22</sup> Despite being dubbed civilian forces by the government, these groups are armed and perform security and military functions. The AFP must establish a clear chain of command by military officers over paramilitary forces. Commanders also have command responsibility for serious violations of human rights and IHL by paramilitary forces under their command.

- **Disarm and disband all private armies**



“Under my watch, I will ensure that all security forces will be insulated from partisan politics. I will implement the Defense Reform Program... aimed to build a professional AFP. A professional AFP along with a professional PNP committed solely to defend the Constitution and uphold the law is the key to the dismantling of private armies and implementing the [sic] gun control.”

- President Aquino’s pledges on Mindanao, posted on his presidential campaign website.

During the election campaign and in his first year as president, President Aquino repeatedly vowed that he would disarm and disband all private armed groups in the country. However, he has failed to take even preliminary steps to achieve this. As of November 2010, the President was still “assessing” the confidential report of the Commission Against Private Armies. Moreover, the mandate of this commission which was created under Arroyo was not extended under the Aquino administration.

In the Autonomous Region in Muslim Mindanao (ARMM), local elections are still postponed. The presence of private armies in the restive region is one of the key reasons for this, according to the Department of Interior and Local Government.<sup>23</sup>

- **Ensure that the PNP and the AFP incorporate human rights and IHL standards as integral and permanent components of training for police, military and their auxiliaries, militias and paramilitary groups. Ensure that the police and the armed forces develop and implement human rights-based policies in their rules of engagement and operating procedures, including practical information such as rights-based procedures for arrest and detention, appropriate use of force, interrogation of criminal suspects without using**

**torture and other ill-treatment under any circumstances, and appropriate sanctions for those who are found to have committed human rights violations**

≈ LITTLE CHANGE

In August 2010, the military launched the Armed Forces of the Philippines Human Rights Handbook<sup>24</sup> as a manifestation of its “commitment to institutionalize human rights protection in its approach to warfare.”<sup>25</sup> The launch of the handbook was coupled with an announcement by the AFP leadership that it will provide human rights education to soldiers, saying that human rights was essential to the accomplishment of their mission.

However, on closer inspection, the human rights handbook focuses on instructing soldiers how to avoid being investigated for human rights violations, rather than focusing on how to avoid committing them in the first place. In setting out its mission, the book states: “It is imperative that soldiers are conversant with the HR [human rights] standards in order to survive the ordeals of investigation in cases when he becomes involved in a HR violation.”

Rights cannot be protected unless there is accountability. But the AFP’s handbook omitted a fundamental part of this equation: the military’s responsibility to hold soldiers accountable for human rights violations. This omission reflects the core problem of impunity for violations committed by the security forces.

The same month the military’s human rights handbook was launched, the first case of politically motivated torture under President Aquino’s administration was also reported:

On 3 August 2010 at 9:30pm, police officers arrested Lenin Salas, Jerry Simbulan, Daniel Joseph Navarro and Rodwin Tala on suspicion of being members of the armed wing of the Marxist Leninist Party of the Philippines. Salas said that he and his two companions were already restrained on the ground when more police officers arrived. He said the police superintendent hit and kicked them. According to Salas, the police officers beat him with a gun, kicked his genitals, and burned lit cigarettes on his neck and body. He reported that while in custody, a bag was placed over his head to suffocate him, and that while he was blindfolded, police clicked a gun near him to further threaten and terrify him. He also said that he and his companions were deprived of food. The next day, they were taken to the prosecutor’s office and charged with illegal possession of firearms, ammunitions and explosives.<sup>26</sup> The Commission on Human Rights (CHR) of the Philippines filed the case with the Department of Justice (DOJ) prosecutor and the result of a preliminary investigation was submitted for resolution in January 2011, but as of June 2011, the case is still not in court.

In December 2010, the PNP also launched its Human Rights Desk Operations Manual,<sup>27</sup> which provides information and operational procedures to police officers responsible for PNP human rights desks. In a speech addressed to police human rights desk officers in July 2010, PNP Chief Jesus Versoza said, “Viewed in the proper perspective, upholding human rights is essentially about professionalism and competency in law enforcement... With professional competency, we can avoid operational lapses... we do not need to take shortcuts in our work.” He also highlighted that “Reforms in the PNP and in the security sector as a whole must go beyond policy development, capacity building, and investments in technology, equipment and facilities.”<sup>28</sup>

While such initiatives by the police and military are welcome, it is imperative that all members of the security forces adhere to international standards with regard to law enforcement to prevent torture and other human rights violations from occurring.



- **Provide sufficient resources and mandate to the human rights offices of both the military and the police in order for them to be able to promptly and effectively conduct detailed and impartial investigations of credible allegations of human rights violations. In particular, it is crucial that these investigations are no longer undertaken by personnel in the same regional command as the alleged perpetrators. For high profile cases, such investigations should be conducted in co-operation with the CHR, to ensure transparency and credibility. Reports produced from such investigations should be made available to the public**

≈ LITTLE CHANGE

During President Aquino's first year some inroads have been made to provide more resources to the AFP Human Rights Office (AFPHRO). In July 2010 then Chief of Staff General Ricardo David directed that the AFPHRO be upgraded into a full department, with a rank of General to lead it.

He also ordered all units to have a designated human rights officer, down to the battalion level in the army and in their counterpart levels in the navy and air force. These human rights officers are tasked to receive and process complaints of human rights violations against military personnel, including allegations raised through the media. In addition, they are also tasked to monitor allegations of human rights abuses by non-state actors and assist victims to file cases against them.

The deputy commander of every unit, according to the new policy, will now also act as a human rights officer in their respective units. However, under the doctrine of command responsibility, the deputy commander holds responsibility for serious violations of human rights and IHL by his subordinates. This means in practice that the deputy commander is directly accountable for any human rights violations by his subordinates. While it is incumbent on him to exercise vigilance in preventing, monitoring and reporting on such violations, this structure presents a conflict of interest. Therefore, while the act of mainstreaming human rights violations monitoring within the AFP is a welcome gesture, a more independent monitoring system within the battalions should also be put into place.

- **Review the Witness Protection Act with a view to introducing provisions that enable a more sustainable protection for witnesses enrolled in the program, including resettlement of witnesses to a different region in the country, a realistic start-up package for witnesses leaving the program after the completion of their case/s and a change of identity for witnesses in exceptional cases**

✓ SOME PROGRESS

Criminal convictions in the Philippines are heavily reliant on witness testimony, given limited capacity for effective investigations, including forensic investigation. Since its creation in 1991, the Witness Protection Program (WPP) under DOJ has provided protection for witnesses and families of victims of crime, including human rights violations, when their cases are undergoing trial in court. While a separate witness protection program under the CHR was created in 2010, at least on paper, no budget has been allocated for it.

In February 2011, the President endorsed the amendment of the Witness Protection, Security and Benefit Act (RA 6981) as one of the administration's 23 priority bills sent to Congress and the Legislative Executive Development Advisory Council. There are currently several amendments to the Witness Protection Act being proposed both in the Senate and the House of Representatives.

The proposed amendments include having a separate witness protection program for witnesses in investigations conducted by the Senate to help them draft new legislation and additional



medical and education benefits for the witnesses and their children. As of this writing, the proposed amendments are still pending.

While these proposed amendments, if passed by Congress, could benefit witnesses, they do not address crucial reforms needed in the WPP: (1) providing an interim protection mechanism for persons awaiting the decision of the DOJ regarding their application to be enrolled into the program; (2) ordering a limit on waiting times for the DOJ to make a decision on a witness application for enrolment to the WPP; and (3) improving the support system provided by the WPP for the financial needs of witnesses, who may need to be in the WPP for many years.

President Aquino increased the 2011 budget of the DOJ Witness Protection Program by 68 per cent to 141 million Philippine pesos (approximately US\$3.3 million).

- **Establish and provide resources for, under the CHR, a specialized program for witness protection and sanctuary for families of victims, for cases involving grave human rights violations, including but not limited to extrajudicial executions and enforced disappearances, particularly when the suspected perpetrators are members of the armed forces, police, or other officials**



In early 2010 during the final months of the Arroyo administration, the CHR under then Chair Leila de Lima adopted its own protection program to protect the lives of witnesses in cases of human rights violations. Establishing a separate witness protection program under an independent body could encourage witnesses of human rights violations cases to come forward. Currently, many witnesses in human rights cases opt to go to non-governmental organizations for temporary sanctuary, instead of enrolling themselves in the WPP under the DOJ.

The CHR's witness protection program is similar to that of the DOJ: witnesses in human rights violations cases are provided with a secure housing facility, food, clothing and other daily necessities. They are also provided with health care and a security escort to and from the place of the hearing, be it in court or other investigating bodies. The guidelines state that protection can also be provided to the spouse and children of the witness. A survivor or witness of a human rights violation who has testified or is willing to testify and his/her immediate family may be admitted into the program.<sup>29</sup>

Despite President Aquino's public announcements that he would improve witness protection, his administration passed the 2011 budget with no allocations to the CHR for the protection program for witnesses in human rights cases. The CHR had earlier proposed a budget of 10 million Philippine pesos (US\$232,000) to cover for the cost of safe houses, security, subsistence allowance and medical necessities for witnesses and victims of human rights violations. Currently, the CHR is only able to provide protection for a handful of witnesses, using funds reallocated from other departments in the commission.

- 3. Ensure the safe and voluntary return of the displaced, and embed human rights protection in the peace process**



"How many lives have been wasted? How many communities have been displaced? Filipinos are tired of the fighting.... We understand that this predicament is rooted in a deluge of social problems: corruption, poverty, absence of justice, violations against human rights, bad governance, among others. This is why we do not endeavour for ceasefire alone; we are also working towards an end to corruption, poverty, violence and abuse of power. Instead of putting all our efforts solely on going after armed rebels, we ought to do more to address the needs of the people and mitigate the effects of the armed conflict on their livelihood. Instead of

allowing the problem to become even bigger, we will study it and find a peaceful solution.”<sup>30</sup>  
– President Aquino’s speech during the “Light Up for Peace” ceremony, Quezon Memorial Circle, February 2011.

For decades, intermittent armed conflict and related human rights abuses have led to the displacement of hundreds of thousands of civilians in the Philippines. In 2008, as many as 750,000 people were temporarily displaced after armed conflict resumed in the southern region of Mindanao.

President Aquino took office when a ceasefire (albeit volatile) between the government forces and the MILF was already in place. This ceasefire had allowed most of those displaced during the 2008 conflict to return home. Nonetheless, thousands remain displaced, and many of those who returned home are economically worse off than those who remained displaced long-term in government evacuation centres (internally displaced person camps), or with their relatives in other villages.

- **Order the relevant departments and agencies in government to evaluate the current situation of the estimated 125,000 long-term internally displaced population in Mindanao, and ensure that displaced families are able to return to their homes safely and are given resettlement and rehabilitation support. This includes access to adequate healthcare and basic education, assistance to recover their means of livelihood, and the restoration of their land and property including establishment of effective mechanisms for resolving land disputes**



According to the June 2011 report of the Internal Displacement Monitoring Centre, as many as 5,000 displaced families remain in government camps in Mindanao, mostly in Maguindanao province.<sup>31</sup> However, government data does not include many of those who have set up informal settlements elsewhere or live with their relatives.

Reliable comprehensive data on these people displaced by conflict is not available. Amnesty International has called on the Aquino administration to establish an effective tracking program so that government agencies can identify and assist those displaced by the conflict.

While the majority of the displaced have either returned home or resettled elsewhere, many need support to help them rebuild their homes and lives. Most of those who returned have had limited access to education, healthcare, water and sanitation, and livelihood opportunities. Many accumulated significant debts as a result of displacement and can not afford to replace the tools or livestock they lost.

In November 2010, President Aquino announced: “For internally displaced persons and communities, we will ensure that appropriate intervention is immediately targeted and sent to highly impoverished and vulnerable areas. Mindanao will be at the core of our social development and poverty alleviation programs, such as the Conditional Cash Transfer Program, which is already targeting substantial coverage areas within the ARMM [Autonomous Region in Muslim Mindanao]. Aside from immediate intervention, we will also set long-term programs for the internally displaced persons....”<sup>32</sup>

In the last quarter of 2010, the Aquino administration launched a three-year peace building, reconstruction and development initiative that covers all conflict-affected areas in the Philippines. The programme, which is managed by the Office of the Presidential Adviser on the Peace Process, includes provisions to assist internally displaced persons. Concrete results from this program remain to be seen in the next two and a half years.

Apart from those displaced in the 2008-2009 hostilities, tens of thousands of people in Mindanao have been displaced due to clan feuds, locally known as *rido*. According to reports,

between January and March 2011, for example, clan feuds and fighting between rival armed groups temporarily displaced at least 20,000 in North Cotabato and Maguindanao provinces.<sup>33</sup>

- **Integrate human rights principles in any peace process with armed opposition groups. Specifically, include provisions on mutual co-operation for human rights protection and joint investigations on credible allegations of violations of human rights and IHL committed in the context of armed conflicts**

± STAGNANT

“Human rights form the most convincing path to peace between people, as well as between states. Today’s debate on human rights does not principally revolve around their overall right to recognition, but is centred on the question of how they can be implemented to the greatest extent possible. Whether human rights are worthy of support is no longer the issue, but rather how they are to be achieved. Politics – including the politics of human rights – is always about making genuine improvements to actual conditions.”

- ‘Policies for the New Century’, a pre-election policy manifesto by President Aquino’s Liberal Party.

In the early months of 2011, the Aquino administration successfully re-opened peace talks with the MILF and the NDF. However, in its peace talks with the NDF, the government said it made human rights a “side issue” in order to avoid derailing progress to a peace accord.<sup>34</sup>

The Aquino presidency began with significant human rights-related agreements between the government and the MILF already in place. In 2009, the two parties signed an agreement to create a Civilian Protection Component as well as an International Contact Group which included monitors from national and international non-governmental organizations. In 2010 the two parties also signed an agreement to ban the use of landmines and the MILF agreed to help in demining operations.

In January 2011, the European Union and Norway sent four monitors to take part in the Civilian Protection Component of the International Monitoring Team, whose objective includes “to establish a functional system and effective mechanisms for monitoring, verifying and reporting of the compliance and non-compliance of the Parties to their commitments under international and national humanitarian laws and human rights laws.”

Human rights issues, including investigation of allegations, bringing perpetrators to justice, redress for victims (or their families), and agreeing on and implementing protection mechanisms to protect civilians in the peace talks agenda are crucial. Justice is a necessary component for a lasting peace. Human rights abuses, which have contributed to the intermittent armed conflict in the Philippines, need to be addressed within the framework of the peace process.

- **Ensure the implementation of agreements such as the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) and the Joint Agreement on Safety and Immunity Guarantees (JASIG)**

± STAGNANT

The CARHRIHL, which the government and NDFP reached in 1998, remains in place. The Joint Monitoring Committee, established under the agreement, continues to receive allegations of human rights and IHL violations from both parties. Although the JMC can recommend that a party investigate a violation of human rights or IHL which it has allegedly committed, it lacks a mandate to request prosecutions. Because of this, it appears that both parties that have submitted cases do so only for documentation purposes.

In February 2011, Philippine authorities arrested Alan Jazmines, a Communist Party of the Philippines leader. He was charged with murder and rebellion, but claimed immunity as an NDFP peace consultant under the JASIG, which the government and the NDF signed in 1995. Amnesty International emphasized that the accord, which was designed to facilitate peace talks, can not be used to provide immunity from prosecution for credible allegations of grave human rights abuses. At the same time Amnesty International also cautioned the government against using politically motivated charges to target opponents.

#### 4. Make human rights a priority integrated across government bodies

≈ LITTLE CHANGE

“We need to build the necessary infrastructure for human rights advocacy in our society from the local to the national levels, whether these be governmental or non-governmental. A liberal government shall always adhere to, defend, respect, promote and preserve the human rights of all its citizens.”

- 'Policies for the New Century', a pre-election policy manifesto by President Aquino's Liberal Party.

Human rights are still not mainstreamed in the civilian sectors of government. Human rights remain largely compartmentalized in the DOJ and the CHR. The state security forces, which include both the armed forces and the police, have actively used human rights language in their public documents and policies, but the actual “paradigm shift” is not yet felt on the ground.

Abuse of human rights is one example of abuse of power. In the past, officials both in the military and civil service have been appointed or promoted despite being implicated in human rights violations. If it is truly serious about curbing abuse of power within the government, the Aquino administration needs to establish an institutional system of human rights vetting for service both in military and civilian posts.

The seriousness of the Aquino administration's commitment to human rights could be directly manifested through the effective adoption and implementation of a national human rights action plan as well as the development and implementation of policies and mechanisms which promote and ensure the integration of human rights across government bodies.

- **Declare as a presidential priority bill the charter of the Commission on Human Rights of the Philippines, facilitating its approval in both legislative branches**

± STAGNANT

During President Aquino's first year, the administration's 23 priority bills did not include a measure to strengthen the charter of the CHR.

In May 2011, Senate Bill 2818 “An Act Strengthening the Functional and Structural Organization of the Commission on Human Rights, and for Other Purposes” was slated to be tabled for consideration in the Senate plenary. The bill proposes that the CHR receive prosecutorial powers, including the power to issue restraining orders and mandatory protection orders. It also proposes to expand its mandate to investigate economic, social and cultural rights.

A similar version of the bill is filed in the House of Representatives under House Bill 1141.

- **Integrate binding obligations to respect, protect and fulfil human rights into the Medium Term Development Plan**

**± STAGNANT**

In March 2011, the Aquino administration released the Philippine Medium Term Development Plan, which presents the achievement of the Millennium Development Goals (MDGs) as one of its key targets. This includes: 100 per cent participation of school-age children in primary education, 1:1 ratio of girls to boys in primary education, 50 per cent share of women in non-agricultural wage employment, a 26.7 mortality rate for children under five (per 1,000 live births), a maternal mortality rate of 52 per 100,000 live births, and zero prevalence of malaria and tuberculosis. However, the targets set by the MDGs in some cases ask governments to do less than they are already required to under international human rights law.

Socioeconomic Planning Secretary Cayetano Paderanga said that the Plan adopted a human rights-based approach in development planning. However, the MDGs are a set of development goals, not a legally binding human rights treaty.

The MDGs represent targets that governments have pledged to reach by 2015 in their efforts to tackle poverty. They have helped to put the fight against poverty firmly on the world's agenda. However, the MDGs do not fully reflect the promise in the Millennium Declaration where countries pledged to strive for the protection and promotion of all human rights. Despite this promise, states' human rights obligations are not adequately reflected in the MDGs, despite the importance of human rights – including economic, social and cultural rights – for improving the lives of people living in poverty.<sup>35</sup>

Putting human rights at the heart of the MDGs means addressing discrimination and advancing equality; giving adequate focus to those who are most marginalized and excluded; ensuring that everyone has at least minimum essential levels of healthcare, housing, food, water, sanitation and education; addressing human rights violations that undermine progress on the MDGs, and enabling the effective participation of communities in the decisions that affect their lives. Governments will not make equitable and sustainable progress on critical issues such as preventing maternal deaths for example, unless their efforts also focus on tackling gender discrimination, gender-based violence in all its forms, and violations of women's sexual and reproductive rights.<sup>36</sup>

Amnesty International calls on the Philippine government to commit to making its MDG policies and strategies consistent with its human rights obligations. Respecting and promoting human rights is not separate from actions to fight poverty – it is central to those efforts.

To ensure that its development plans protects the full range of human rights, the government will need to establish accountability for violations of civil and political rights which fuel poverty. Furthermore, that the economic, social and cultural rights of the people will not be sacrificed in favour of economic advancement remains to be seen in the implementation of this plan.

- **Commit to a realistic and practicable timeline in resolving the most serious cases of human rights violations by independent and efficient investigations and, where warranted, prosecutions that lead to convictions of the perpetrators, sustained protection for witnesses and reparations for the victims and their families**

**≈ LITTLE CHANGE**

Some progress has been made in a handful of highly publicized human rights cases, while the majority of human rights cases stagnated due to inconclusive investigations, lack of evidence or witness testimonies, and delays in court.

In September 2010, the trial of the suspected perpetrators of the 2009 Maguindanao massacre began after significant delays. At least 83 suspects were arrested and charged, including at least 16 policemen and members of the powerful political Ampatuan family. More than 100 suspects in the massacre are estimated to be still at large.

In April 2011, Justice Secretary De Lima ordered the Prosecutor General to review the CHR investigation report on the case of Jonas Burgos, an activist and farmer who was abducted in Quezon City in 2006, whose fate and whereabouts are still unknown. De Lima also instructed the NBI to find out about the participation of a military intelligence group in the enforced disappearance of Burgos. She ordered the Witness Protection Program to co-ordinate with the CHR regarding the possible admission of two witnesses into the program.

However, the Aquino administration has taken no effective steps to address thousands of other cases of serious human rights violations which remain unresolved. The Justice Secretary, formerly the Chairperson of the CHR, established a number of task forces and panels to investigate or re-open high profile cases, including those that involve “political violence” and violations of human rights. While this is a welcome development, Amnesty International calls for the same level of attention to be given to other credible reports of cases of human rights abuses.

#### 5. Ratify key treaties on human rights and IHL

± STAGNANT

“The Philippines, as a signatory to most of the major international human rights treaties and instruments, must live up to its commitments. In contrast to the dark era that once engulfed us, we are now making certain that our commitments to these treaties do not remain paper promises because for the first time in nearly a decade, we have a government that is indeed serious about human rights.”

- President Aquino's speech during the 62nd Anniversary of the Universal Declaration on Human Rights, Malacañang Palace, 10 December 2010.

In May 2011, the Philippines was once again elected to the United Nations Human Rights Council. However, it has yet to demonstrate to the international community its leadership in human rights protection by ratifying all of the human rights treaties and ensuring compliance to those that it has already acceded to.

The Philippines has not yet ratified the Convention for the Protection of All Persons from Enforced Disappearances and the optional protocols for the International Convention on Economic, Social and Cultural Rights and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

In addition, the Philippines has not ratified the Rome Statute of the International Criminal Court, nor has it ratified Additional Protocol I to the Geneva Conventions, relating to the protection of victims of international armed conflicts.

- **Immediately sign the Optional Protocol of the International Convention on Economic, Social and Cultural Rights to facilitate the process of ratification within the new administration's term**

≠ FAILED

- **Certify as urgent for ratification by the Senate the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)**

≠ FAILED

President Aquino has not certified the OPCAT as urgent for Senate concurrence. The Optional Protocol requires states parties to set up a preventive mechanism that monitors all places of detention, inspects facilities and makes recommendations for the prevention of torture and other ill-treatment. Apart from two committee hearings on it in the Senate, there has been almost no movement toward the ratification of the protocol despite the enactment of a national law against torture and other cruel, inhuman or degrading treatment or punishment in 2009. In 2008, then President Arroyo signed the instrument for ratification of the OPCAT after the Philippines underwent Universal Periodic Review in the United Nations.

- **Immediately sign the International Convention for the Protection of All Persons from Enforced Disappearances as a step towards ratification**

≠ FAILED

The International Convention for the Protection of All Persons from Enforced Disappearances entered into force in December 2010, but the Philippines has not ratified it even though its government has stated that it does not tolerate the practice of enforced disappearance. In the past 40 years there have been more than 2,000 enforced disappearances reported in the country, including new cases during the Aquino administration.

- **Immediately transmit to the Senate the instrument of ratification of the Rome Statute of the International Criminal Court for their deliberations.**

✓ SOME PROGRESS

During the visit of the President of the International Criminal Court in March 2011, President Aquino signed the Rome Statute and announced that his office has transmitted the instrument of ratification to the Senate for their deliberations. As of May 2011, the Senate confirmed that it has indeed received the instrument of ratification, but its timetable for the deliberations is not known. The Philippines had signed a Bilateral Immunity Agreement with the United States in 2003.

### **Economic, Social and Cultural Rights**

Although Amnesty International did not include these in its 2010 recommendations for the president's human rights agenda, it has also monitored the progress of the Aquino administration on sexual and reproductive health rights.

- **Right to Sexual and Reproductive Health**

≈ LITTLE CHANGE

One of the most contentious human rights issues in the first year of the Aquino administration relates to the right to sexual and reproductive health. The Reproductive Health (RH) Bill aims to guarantee universal access to contraceptives and information on reproductive healthcare. The contentious element of the bill is the provision that government funds will be allocated for the widespread distribution of various forms of contraception and information about them, and sexuality education in schools.

After much public debate, and the Philippine Catholic Church's opposition to the RH Bill, President Aquino made his position clear:

"The five-point position on "responsible parenthood" of President Benigno S. Aquino III:

1. I am against abortion.



2. I am in favor of giving couples the right to choose how best to manage their families so that in the end, their welfare and that of their children are best served.
3. The State must respect each individual's right to follow his or her conscience and religious convictions on matters and issues pertaining to the unity of the family and the sacredness of human life from conception to natural death.
4. In a situation where couples, especially the poor and disadvantaged ones, are in no position to make an informed judgment, the State has the responsibility to so provide.
5. In the range of options and information provided to couples, natural family planning and modern methods shall be presented as equally available."<sup>37</sup>

Amnesty International recommends that the President declares the RH Bill as priority legislation when the Congress re-convenes in July 2011.

### **Going beyond lip service: the next years ahead**

Before the election of President Aquino, his Liberal Party announced as part of its platform: "The immediate task is to establish the conditions for a genuine a human rights regime in the country."

In the past year, President Aquino has made many assertions about his administration's commitment to human rights protection. But these verbal statements have not brought justice for victims of serious human rights violations such as enforced disappearances, torture and political killings. Nor have President Aquino's remarks ensured the prosecution of a single military or civilian official for human rights violations.

A year on, President Aquino has not yet been able to curb political killings, enforced disappearances and torture. However, the government's resumption of peace talks with the two main armed political groups in the country could be a step towards avoiding further human rights violations, which proliferate in times of armed conflict.

Amnesty International calls on President Aquino to make human rights the centrepiece of his administration's legacy. This means not only making human rights reforms in law and policy a priority, but also a commitment to ensure that these reforms are implemented fully through concerted action.

Reform is only genuine when significant improvements are seen and felt by the people. "Transformational change," the catchphrase of President Aquino's presidential campaign, will only be achieved if human rights protection becomes a priority for the Aquino administration in the next five years.

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## **ACRONYMS USED IN THE BRIEFING**

**AFP:** Armed Forces of the Philippines

**AFPHRO:** Armed Forces of the Philippines Human Rights Office

**CAFGU:** Citizens Armed Forces Geographical Unit

**CARHRIHL:** Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law

**CHR:** Commission on Human Rights of the Philippines

**CVO:** Civilian Volunteer Organization

**DOJ:** Department of Justice

**IHL:** International humanitarian law

**IPSP:** Internal Peace and Security Plan

**JASIG:** Joint Agreement on Safety and Immunity Guarantees

**MDGs:** Millennium Development Goals

**MILF:** Moro Islamic Liberation Front

**NBI:** National Bureau of Investigation

**NDF:** National Democratic Front

**NPC:** National Press Club

**OPCAT:** Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

**PNP:** Philippine National Police

**SCAA:** Special CAFGU Active Auxiliary

**WPP:** Witness Protection Program

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## END NOTES

- <sup>1</sup> Then Senator Aquino's response to a media panel interview on television program 'Kandidato', 21 April 2010.
- <sup>2</sup> The EDSA People Power Revolution is one of the world's first peaceful revolutions, toppling the dictatorship of Ferdinand Marcos which lasted more than two decades.
- <sup>3</sup> President Aquino's speech during the 'Leadership in Asia Public Lecture Series', Singapore Management University, Singapore, 11 March 2011.
- <sup>4</sup> Case documented by Task Force Detainees of the Philippines – Visayas, 2010.
- <sup>5</sup> Case documented by Task Force Detainees of the Philippines – Mindanao, 2010.
- <sup>6</sup> "DOJ issues memorandum, creates super body to address killings", The Philippine Chronicles Online, 17 July 2010.
- <sup>7</sup> President Aquino's speech during the 25th Anniversary of the Philippine Daily Inquirer and Launching of the coffee table book, 'From Ninoy to Noynoy: 25 Years of The Philippine Daily Inquirer', Makati, 1 December 2010.
- <sup>8</sup> "Press club gives Aquino grade of 80% in running after journalists' killers", GMA News Online, 17 December 2010.
- <sup>9</sup> A "john doe" warrant is one where the name of the person arrested is not indicated in the warrant and in lieu of his name "john doe" is put in place. In this case there is no proof that the warrant of arrest served is directed specifically to the person being arrested. This type of warrant of arrest could be easily abused.
- <sup>10</sup> Internal Peace and Security Plan *Bayanihan*, December 2010, p. v.
- <sup>11</sup> Internal Peace and Security Plan *Bayanihan*, December 2010, p. 3.
- <sup>12</sup> Internal Peace and Security Plan *Bayanihan*, December 2010, p. vi.
- <sup>13</sup> From the footnote in the actual IPSP copy: Human Security, as used in this document, is based on the UN broad conceptualization, and not based on the view of the Philippine Human Security Act of 2007 (RA 9372).
- <sup>14</sup> Homan, Kees, *The Military and Human Security. Security and Human Rights*, 2008. No. 1
- <sup>15</sup> Internal Peace and Security Plan *Bayanihan*, December 2010, p. 3.
- <sup>16</sup> Internal Peace and Security Plan *Bayanihan*, December 2010, p. 25.
- <sup>17</sup> President Aquino's speech during 75th Anniversary of the Armed Forces of the Philippines GHQ Grandstand, Camp Gen. Emilio Aguinaldo, Quezon City, 21 December 2010.
- <sup>18</sup> Internal Peace and Security Plan *Bayanihan*, December 2010, p. 8.
- <sup>19</sup> President Aquino's speech during the 106th Commencement Exercises of the Philippine Military Academy *Lakas Tipon-Alagad ng Bayan* "Laon-Alab" Class of 2011 Fort Gen. Gregorio H. Del Pilar, Baguio City, 6 March 2011. The excerpt from the speech was translated by Amnesty International. The original text in Filipino: "*Dati, namayani ang sistema kung saan... wala naman pong napaparusahan. Tila naging uso ang pagbubulag-bulagan, ang pagbibingi-bingihan at pananahimik. Kaya naman ang mga dapat na hinahabol ng batas, labas-pasok sa ating bansa... Ang mga dapat na nagpapatupad ng batas, pinapairal ang katamaran, at nagpapalaki lamang ng tiyan. Hindi ito mangyayari sa ating administrasyon. Ngayon, itatama natin ang mali, at itutuwid natin ang mga baluktot na patakaran... May mandato tayong dapat nating isakatuparan. May hustisya tayong hindi natin hahayaan yurakan ng kapalpakan ninuman.*"
- <sup>20</sup> "A broken and lawless nation – killing in front of families", Asian Human Rights Commission public statement, 27 October 2010.
- <sup>21</sup> "Oban starts promised reforms in Armed Forces", The Manila Times, (no date available in text, but likely published March 2011).
- <sup>22</sup> "Aquino thumbs down abolition of militia forces", GMA News Online, 23 November 2010.
- <sup>23</sup> "DILG wants private armies disbanded before ARMM elections are held", Philippine Information Agency press release, 17 May 2011.
- <sup>24</sup> With funding support from the EU Justice Assistance Program (EPJUST).
- <sup>25</sup> "A Milestone for Human Rights", Armed Forces of the Philippines press release, 3 August 2010. The quote is that of Lt.Gen. Ricardo David, AFP Chief-of-staff.
- <sup>26</sup> Salas et al. documentation from Task Force Detainees of the Philippines – Luzon, fact sheet from the Kilusan para sa Pambansang Demokrasya (KPD).
- <sup>27</sup> With funding support from the German Hanns Seidel Foundation
- <sup>28</sup> Chief PNP Director General Jesus Versoza's speech during the Opening Ceremony of the Workshop for PNP human rights desk officers, 15 July 2010, Quezon City.
- <sup>29</sup> "CHR adopts own witness protection program", Philstar.com, 24 May 2010.
- <sup>30</sup> President Aquino's speech during the 'Light Up For Peace' candle lighting ceremony, Quezon City Memorial Circle, 8 February 2011. The excerpt from the speech was translated by Amnesty International. The original text in Filipino: "*Ilang buhay na ang nasayang; ilang pamayanan na ang napilitang lumikas. Sawa na ang Pilipino sa bangayan... Batid nating naka-ugat ang suliraning ito sa mas malalaking deluhyo: kurapsyon, kahirapan, kawalan ng hustisya, paglabag sa karapatang pantao, tiwaling pamamahala, at iba pa. Kaya naman hindi lamang basta tigil-putukan ang hangad natin. Tigil-kurapsyon, tigil-kahirapan, tigil-karahasan, at tigilan ang pang-aabuso sa kapangyarihan. Sa halip na tugisin natin nang tugisin ang mga armadong rebelde, higit nating tututukan ang pangangailangan ng mga mamamayan at ang epekto ng mga kaguluhang ito sa kanilang kabuhayan. Imbes na palakihin natin ang problema, masusi nating pag-aaralan ito, at mapayapang hahainan ng solusyon.*"
- <sup>31</sup> 'Philippines: Durable solutions still out of sight for many IDPs and returnees in Mindanao', Internal Displacement Monitoring Centre, 10 June 2011.
- <sup>32</sup> President Aquino's speech during the Presentation of the Mindanao 2020 Peace and Development Framework and Oath Taking Ceremonies of Mindanao Officials, Malacañang Palace, 30 November 2010.
- <sup>33</sup> 'Progress reports on armed conflict in Kabacan, North Cotabato', National Disaster Risk Reduction and Management Council update, 15 March 2011.
- <sup>34</sup> "Philippines start new peace talks with Maoists", Reuters and Abs-cbn News, 15 February 2011.
- <sup>35</sup> 'From Promises to delivery – putting human rights at the heart of the Millennium Development Goals', Amnesty International, 9 June 2010.
- <sup>36</sup> 'From Promises to delivery – putting human rights at the heart of the Millennium Development Goals', Amnesty International, 9 June 2010.
- <sup>37</sup> "President Aquino's stand on responsible parenthood", Official Gazette of the Office of the President, 18 April 2011.