

PHILIPPINES

**Impunity for torture, unlawful
killings and enforced
disappearances**

*Amnesty International
Submission to the UN Universal
Periodic Review, May-June 2012*

**AMNESTY
INTERNATIONAL**



CONTENTS

Introduction	3
Follow up to the previous review	3
Normative and institutional framework of the State	4
Executive Order No. 546.....	4
The Enforced or Involuntary Disappearance Act (Senate Bill 2817)	4
The Reproductive Health Bill (Senate Bill 286).....	4
National Human Rights Action Plan	4
Promotion and protection of human rights on the ground	4
Unlawful killings and enforced disappearances.....	5
Torture and other ill-treatment.....	5
Militias and private armed groups	5
Witness protection.....	6
Maternal health and sexual and reproductive rights.....	6
Recommendations for action by the State under review	6
Endnotes.....	8
Annex	9

INTRODUCTION

In this submission, prepared for the UN Universal Periodic Review of the Philippines taking place in May-June 2012, Amnesty International comments on the government's implementation of recommendations supported by the Philippines during its previous UPR in 2008, including recommendations concerning women's rights, torture, extra-judicial executions, and enforced disappearances.

Improvements in the human rights situation on the ground have been slow as the Philippines has struggled to implement both its existing and recently enacted laws related to the protection of human rights. Hundreds of cases of extra-judicial executions and enforced disappearances from the last decade remain unresolved, and unlawful killings and enforced disappearances continue to be reported. Despite the introduction of the Anti-Torture Act of 2009, state security forces have continued to practice or be complicit in torture. The government's continued failure to disarm and disband private armed groups places civilians at risk. Access to reproductive health information and services is restricted. Abortion is criminalized, including where pregnancy puts a woman's life at risk.

FOLLOW UP TO THE PREVIOUS REVIEW

In its first UPR in 2008, the Philippines accepted a number of recommendations made by other States, including on issues pertaining to women's rights,¹ human rights training,² torture,³ extra-judicial executions,⁴ and enforced disappearances. The Philippines also announced a number of voluntary commitments around issues such as violence against women and children, and killings of activists and media professionals.⁵

Since then, the Philippines has taken positive steps in enacting specific laws for the protection of human rights, particularly as regards women's rights. The government has made good progress with the August 2009 enactment of the Magna Carta of Women, which provides legal protection from all forms of violence and from discrimination in employment, education and training.⁶ However, while the Magna Carta of Women is a step forward in promoting women's rights, its effective implementation is yet to be seen.

Other recommendations do not appear to have been fully implemented, in particular with respect to torture, extra-judicial executions and enforced disappearances. However, some positive developments have taken place, including the introduction of the Anti-Torture Act of 2009 which identifies torture and other ill-treatment as criminal acts punishable in the most severe cases by life imprisonment and also provides for the right to a prompt and impartial investigation. In July 2010, the military leadership ordered all units to appoint a designated human rights officer, tasked with investigating allegations of human rights abuses, and with assisting victims in filing cases against alleged perpetrators. In August 2010, the military published a human rights handbook with funding from the European Union, announcing at the same time that it would provide human rights training to soldiers. In December 2010 the military announced a "paradigm shift" in its counter-insurgency policy, arguing that it was replacing previous strategies which had led to human rights violations, with a new strategy, the Internal Peace and Security Plan, which accords primacy to human rights.⁷

However, Amnesty International is concerned that state forces continue to be implicated in serious human rights violations such as torture or other ill-treatment, unlawful killings and enforced disappearances. Impunity for such violations persists. Unlawful killings and abduction by non-state actors also continue. Moreover, the Philippines has failed to sign and ratify the

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, despite having accepted a recommendation to do so.⁸

NORMATIVE AND INSTITUTIONAL FRAMEWORK OF THE STATE

EXECUTIVE ORDER NO. 546

Executive Order No. 546, issued in 2006, directs the police to support the military in counter-insurgency operations, including through the use of militias. Not only are these state-sponsored militias reported to have committed human rights violations, some of them are also used by politicians as their private armed groups. Amnesty International has repeatedly called on the government to ensure that the military exercise full control over all state-sponsored militias; or otherwise disarms and disbands them. Failure to do so risks creating an environment conducive to human rights violations.

THE ENFORCED OR INVOLUNTARY DISAPPEARANCE ACT (SENATE BILL 2817)

The Enforced or Involuntary Disappearance Act was passed by the Senate in June 2011, but remains pending in the House of Representatives. The Philippines has not yet ratified the Convention for the Protection of All Persons from Enforced Disappearances.

THE REPRODUCTIVE HEALTH BILL (SENATE BILL 286)

The Reproductive Health Bill has the potential to make a significant contribution to the realization of sexual and reproductive rights in the Philippines, which has a high maternal mortality rate and a high rate of unplanned pregnancies.⁹ A first version of this bill, which aims to help women avoid unplanned, mistimed and unwanted pregnancies, was tabled in Congress in 1999; to date it has not yet been passed. If enacted, it would remove obstacles to accessing information and services related to sexual, reproductive and maternal health, including women and children living in poverty.

NATIONAL HUMAN RIGHTS ACTION PLAN

A national human rights action plan, promised before the 2008 review, has yet to materialize. As a consequence, there has been little substantive progress in the development and implementation of policies and mechanisms to protect and promote human rights and ensure the integration of human rights across all government bodies.

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Improvements in the human rights situation on the ground have been slow as the Philippines has struggled to implement both its existing and recently enacted laws relating to the protection of human rights. The pace of effective investigations, prosecutions and trials of persons suspected of perpetrating crimes involving human rights violations has either been very slow or has stalled. Many cases of alleged human rights abuses have never been brought to court. The climate of impunity in the Philippines has yet to change.

UNLAWFUL KILLINGS AND ENFORCED DISAPPEARANCES

Hundreds of cases of extra-judicial executions and enforced disappearances from the last decade remain unresolved. The perpetrators have not been brought to justice and almost none of the victims' families have received reparations.

Some of the killings have been linked to armed groups whose members are reported to also be members of government-established civilian militias. The full impact of the government's tacit support for the private armed groups of local politicians became starkly clear on 23 November 2009, when 57 people travelling in an elections convoy were massacred in Maguindanao in what has been described as the world's largest ever single attack on journalists. The alleged primary suspects include state officials, including a regional governor and a provincial governor, and their private armed groups. It is further alleged that they acted with the complicity of other government officials, military and police officers. Government prosecutors have identified 197 people as suspects, and at least 93 of them have been arrested. The trial of some of the suspects is currently ongoing. At least one person, who was willing to testify as a state witness, was killed before he was able to enrol in the witness protection program. Families of some victims have complained of being offered large sums of money in exchange for dropping the case.

Unlawful killings and enforced disappearances continue to be reported, with local journalists, political dissidents, activists and perceived supporters of communist or Muslim insurgent groups being at continued risk. Few perpetrators of such human rights violations are known to have been brought to justice.

TORTURE AND OTHER ILL-TREATMENT

In its Concluding Observations on the Philippines in 2009, the Committee against Torture said that it was "deeply concerned about the numerous, ongoing, credible and consistent allegations... of routine and widespread use of torture and ill-treatment of suspects in police custody".¹⁰ Despite the introduction of the Anti-Torture Act of 2009, state security forces have continued to either practice or be complicit in torture. One of the first cases likely to go to court under the Anti-Torture Act is a 2010 caught-on-camera incident of a criminal suspect being tortured by a police officer in Manila while other police officers watched. The Justice Department recommended the filing of criminal charges against seven police officers 11 months after the video was made public. There have also been several reports of suspected terrorists being tortured by soldiers to confess involvement with the Moro Islamic Liberation Front (MILF) or the Abu Sayyaf Group in Mindanao.

MILITIAS AND PRIVATE ARMED GROUPS

In May 2010, the Independent Commission Against Private Armies reported that there were at least 72 active private armed groups in the country, and that another 35 had already been dismantled by the police and military.

Many members of government-established, armed "force multipliers" – including Civilian Volunteer Organizations, police auxiliary units, and the Citizens' Armed Forces Geographical Unit – are also members of private armed groups.

Amnesty International is concerned at reports that members of the Citizens' Armed Forces Geographical Unit are responsible for arbitrary detention, torture, and killings of local community leaders. Trained and armed by the military trains, the Citizens' Armed Forces Geographical Unit, along with other civilian militias such as the Civilian Volunteer Organization, police auxiliaries, and *barangay* (village) defense forces, are sometimes hired out to private companies, including mining firms. The deployment of such militias in remote mining areas may put Indigenous Peoples at risk.

In November 2009, after the Maguindanao massacre, President Aquino (then a senator) issued a statement demanding the immediate revocation of Executive Order No. 546, vowing to “never again [use] public funds to support and maintain a private security force”.¹¹ Two years later, however, he announced that he no longer intended to revoke it, and instead would “professionalize” the militias. The military leadership has also been quoted by media as saying that they want to recruit more of such forces. As of early 2011, there were reportedly 50,000 members of such state-sponsored militias, in addition to an estimated 120,000 soldiers in active service.¹²

After the Maguindanao massacre, the government established an Independent Commission against Private Armies to dismantle private armed groups under the control of local politicians. The mandate of the commission ended in 2010, and their report has not been made public. Under the Aquino administration, private armed groups continue to operate.

WITNESS PROTECTION

Lack of effective forensic investigations makes prosecution in the Philippines highly dependent on witness testimony. In early 2010, the national Commission on Human Rights adopted its own protection program for witnesses testifying in human rights cases; however, the 2011 national budget does not appear to maintain the funding for the witness protection program.

MATERNAL HEALTH AND SEXUAL AND REPRODUCTIVE RIGHTS

In the Philippines access to reproductive health information and services is restricted. Abortion is criminalized, including where pregnancy puts a woman’s life at risk. “Natural” family planning methods are publicly encouraged over other methods of contraception.¹³ In February 2011, a local government council in Manila passed an ordinance which bans sex education, condoms, contraceptive pills and other contraceptive devices. The local ordinance stipulates that people can only buy condoms if they present a doctor’s prescription and penalizes anyone who advertises birth control plans or sells contraception without a prescription.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of the Philippines:

Normative and institutional framework:

- Revoke Executive Order No. 546 on police support for the military in counter-insurgency operations;
- Ensure that the Enforced or Involuntary Disappearance Act (Senate Bill 2817) and the Reproductive Health Bill (Senate Bill 286) are enacted and implemented without delay;
- Develop and implement a National Human Rights Action Plan immediately.

Unlawful killings and enforced disappearances:

- Provide sufficient resources to bodies, particularly the Philippine National Police and the National Bureau of Investigation, to ensure that allegations of politically-motivated unlawful killings and enforced disappearances are investigated promptly, independently, impartially and effectively. Cases of human rights violations should be brought before civilian courts in proceedings which meet international standards of fairness;
- Provide sufficient resources to the Department of Justice, particularly to government prosecutors, to ensure that cases involving human rights violations are vigorously prosecuted;

- Ratify the International Convention on the Protection of All Persons from Enforced Disappearance and enact domestic legislation to penalize enforced disappearance as defined in that Convention.

Torture and other ill-treatment:

- Implement recommendations by the Committee Against Torture in 2009, including taking immediate steps to prevent acts of torture and ill-treatment; announcing a policy of total elimination of torture and ill-treatment by State officials; and ensuring that all allegations of torture and ill-treatment are investigated promptly, effectively and impartially, and the perpetrators brought to justice;
- Ratify the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and to establish an independent, professional and well-resourced National Preventive Mechanism.

Militias and private armed groups:

- Ensure that the military exercises full control over all state-sponsored militias and that the Department of National Defense defines their purpose, chain of command and accountability mechanisms; or disarm and disband them;
- Disarm and disband private armies;
- Make public the findings of the Independent Commission against Private Armies and take decisive action to penalize state officials that continue to use private armies.

Witness protection:

- Establish and provide resources, under the Commission on Human Rights, for a specialized program for witness and victim protection, including for families of victims, in cases involving serious human rights violations, particularly when the alleged perpetrators are soldiers, police or state officials.

Maternal health and sexual and reproductive rights:

- Ensure that a comprehensive reproductive health education program is included in the national school curriculum. Age-appropriate materials should be developed so that adolescents, regardless of their level of education or marital status, can fully access information on the prevention of unwanted pregnancies and sexually transmitted diseases;
- Remove barriers in access to health care services and to guarantee equitable distribution of health facilities, services and resources, including safe contraception and other reproductive health services and information.

ENDNOTES

¹ Report of the Working Group on the Universal Periodic Review of the Philippines, 23 May 2008 (A/HRC/8/28) paragraph 58.1 (New Zealand).

² A/HRC/8/28, paragraph 58.2 (Canada).

³ A/HRC/8/28, paragraphs 58.4 (Slovenia, Mexico, United Kingdom and the Netherlands), 58.5 (Slovenia) and 58.6 (Holy See).

⁴ A/HRC/8/28, paragraph 58.6 (Holy See, Switzerland and the Netherlands).

⁵ A/HRC/8/28, paragraph 60. The Philippines pledged (a) To continue to develop a gender-responsive approach to issues on women and children, including in the judicial system and on violence against women and children; (b) To continue to develop domestic legislation for further protection of the rights of the child; (c) To maintain the momentum on addressing killings of activists and media professionals; and (d) To continue and find additional measures to answer the basic needs of the poor and other vulnerable sectors.

⁶ The Magna Carta of Women includes provisions for comprehensive health care and information for women, and equal treatment before the law in matters relating to marriage. It also provides a national framework for the implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women.

⁷ Previous to the Internal Peace and Security Plan, the Armed Forces of the Philippines had deployed two strategies known as *Bantay Laya 1 & 2* in its counter insurgency policy. Under these strategies, members of the state security forces have been accused of unlawful killings, enforced disappearances, torture and other ill-treatment and arbitrary arrests.

⁸ A/HRC/8/28, paragraph 58.4 (Slovenia, Mexico, UK and the Netherlands).

⁹ "Meeting Women's Contraceptive Needs in the Philippines", Guttmacher Institute and Likhaan, 2009.

¹⁰ Concluding Observations of the Committee against Torture on the Philippines, UN Doc: CAT/C/PHL/CO/2, 29 May 2009, paragraph 7.

¹¹ Aquino-Roxas Mindanao Peace and Development Agenda for the 2010 elections.

¹² "Oban starts promised reforms in Armed Forces", *The Manila Times*, (no date available in text, but likely published March 2011).

¹³ Periodic abstinence or withdrawal.

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE¹

The Philippines should commit to international justice, 7 March 2011, Index: ASA 35/001/2011.

Philippines' Candidacy for Election to the UN Human Rights Council: Open letter, 18 May 2011, Index: ASA 35/003/2011.

Progress, Stagnation, Regression? The State of Human Rights in the Philippines under Aquino, 30 June 2011, Index: ASA 35/002/2011.

End Acosta's detention without trial, 12 August 2011, Index: ASA 35/004/2011.

Philippines: Senate approves Rome Statute, 23 August 2011, Index: ASA 35/005/2011.

Aquino should rescind plan to deploy militias in mining areas, 14 October 2011, Index: ASA 35/006/2011.

Voices of victims: Testimonies from victims of enforced disappearance, 9 November 2011, Index: IOR 51/009/2011.

¹ All of these documents are available on Amnesty International's website: <http://www.amnesty.org/en/region/philippines>