

1. Karapatan Alliance for the Advancement of People's Rights, an alliance of human rights organizations, desks and individual advocates in the Philippines, is submitting this alternative report on the Philippines with recommendations for the 27<sup>th</sup> session of the Universal Periodic Review in the UN Human Rights Council in 2017. The Philippines was a State Under Review in the first and second cycles of the UPR, in 2008 and 2012 respectively.

2. The Philippine government (GPH) accepted 136 out of the 191 recommendations from States during the second cycle of the UPR in 2012, stating that the administration of GPH President Benigno Aquino III will not be "blind, mute and deaf to [injustice]," and will "right the wrongs and make straight those policies that are twisted."<sup>i</sup>

3. However, reports gathered by Karapatan, in the period of review from 2012 to August 2016, present the continuing dismal human rights situation in the country, with the GPH's utter disregard of core human rights conventions to which it is party, including the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and other major UN instruments. Human rights violations by State security forces continued with impunity, through counter-insurgency program *Oplan Bayanihan (Operational Plan Shoulder to Shoulder)*, which is operational up to December 2016. Through *Oplan Bayanihan*, extrajudicial killing, enforced disappearance, illegal arrest and detention, torture, forcible evacuation and other rights abuses were committed with impunity against human rights defenders, activists, and the general population.<sup>ii</sup> Many of the recommendations of UN Special Rapporteur Prof. Philip Alston<sup>iii</sup>, and subsequent calls of UN SRs Margaret Sekaggya, Christof Heyns,<sup>iv</sup> Michel Forst, Victoria Tauli-Corpuz<sup>v</sup> and Chaloka Beyani<sup>vi</sup> on the protection of right to life, including rights of human rights defenders and internally displaced persons, remain unheeded.

4. Karapatan also noted that despite international and domestic human rights framework adopted by the GPH, there remains a glaring absence of effective and substantive implementation, tantamount to indifference and neglect. Such is the case of the Anti-Enforced Disappearance Law of 2012, Anti-Torture Act of 2009, and Republic Act 10368 or the Human Rights Victims Reparation and Recognition Act of 2013. The latter, which seeks to recognize and indemnify human rights victims of the Martial Law regime, has been fraught with delays and inefficiency, at the expense of the victims.

### **Violation on the Right to Self Determination**

5. In line with the US Pivot to Asia and driven by the US Counter-Insurgency Guide of 2009, the GPH implemented *Oplan Bayanihan* in connivance with, and with full political and financial support of, the US government, in its continuing attempt to target groups asserting independence and sovereignty and individuals tagged as members or supporters of these groups. The GPH military operations resulted in massive displacement of communities in rural areas, including ancestral lands of national minorities. Through the US-RP Visiting Forces Agreement and newly minted US-GPH Enhanced Defense Cooperation Agreement, US military troops maintained their presence and military installations in the Philippines.<sup>vii</sup> The October 2014 murder of transgender

Jennifer Laude<sup>viii</sup> is an emblematic case, a repeat of several rights abuses committed by US soldiers in Philippine territory.

### **Violation on the Right to Life**

6. At least 37 recommendations in the 2012 UPR called for the complete elimination of extrajudicial killings, the disbandment of paramilitary groups, and justice and accountability of perpetrators of civil and political rights violations.<sup>ix</sup> Yet, through the implementation of Oplan Bayanihan under the Aquino administration, there were 249 victims of extrajudicial killing (from 2012-June 30,2016), perpetrated by military and paramilitary forces and targeting peasants, indigenous peoples, workers, women, and youth; perpetrators remain scot-free from arrest, prosecution, or conviction. There were 12 documented cases of massacres, wherein 41 victims were killed in Abra, Bicol, Davao, Rizal, Bukidnon and Surigao del Sur. Among the cases documented is the September 1,2015 killing of school director Emerito Samarca and Lumad leaders Dionel Campos and Juvello Sinzo in Lianga, Surigao del Sur by paramilitary groups and soldiers, which also resulted in the forcible evacuation of nearly 3,000 individuals.<sup>x</sup> Perpetrators in the killing of Fernando Baldomero<sup>xi</sup>, first victim of extrajudicial killing under the Aquino administration, have not been arrested.

7. The GPH has yet to disband paramilitary groups and repeal Executive Order 546, which allows the creation and use of paramilitary forces, despite several UPR recommendations and a European Parliament resolution<sup>xii</sup>. Worse, Aquino legitimized the creation of investment defense forces to protect interests of mining corporations. With this, human rights violations instigated by paramilitary forces continued during Aquino. Of the 332 political killings documented under Aquino's six-year presidency, 94 were committed by, or in collaboration with, paramilitary groups, including the killing of anti-mining activist Juvy Capión and her two sons<sup>xiii</sup>; of Italian missionary Fr. Fausto Tentorio<sup>xiv</sup>; of indigenous people's leader Jimmy Liguyon<sup>xv</sup>, among many others. Despite countersuits and warrants of arrests, the military and paramilitary groups continued their killing sprees. UN Human Rights Committee recommendations on the killing of human rights activists Benjaline Hernandez,<sup>xvi</sup> Eden Marcellana and Eddie Gumanoy<sup>xvii</sup> and calls for the invitation of UN independent experts to conduct probes remained largely ignored by the Aquino administration.

### **Violation of the Right Against Torture and Cruel, Inhuman Or Degrading Treatment Or Punishment**

8. Despite the Anti-Torture Law and UPR recommendations to prevent torture and all forms of ill-treatment, Karapatan documented 244 victims of torture under the Aquino administration, including the case of security guard Rolly Panesa, who was arrested and tortured by the military and police on October 5,2012 on false allegations that he was a high-ranking leader of the New People's Army (NPA).<sup>xviii</sup> After ten months in jail, the Court of Appeals granted his petition for the writ of habeas corpus, leading to his release. Panesa filed criminal and civil charges against the military and police on September 2013, but snail-paced court proceedings have not resulted to conviction of said perpetrators. To date, despite reported incidents of torture, there has been no effective implementation of the Anti-Torture Law, as torture remains a prevalent practice of State security forces.

## **Violation of Rights Against Arbitrary Arrest And Detention and Criminalization of Political Offenses, Attacks Against Human Rights Defenders and the Right to Freedom of Expression and Association**

9. The filing of trumped up criminal charges against activists and human rights defenders was extensively conducted by the Aquino administration in an attempt to silence opposition. Of the 526 political prisoners in the country, 307 were arrested during Aquino's term. All were charged with non-bailable criminal offenses. Defective warrants, perjured testimonies of military-backed witnesses, questionable preliminary proceedings, and planted evidence, all violating the right to due process of individuals, characterize the trumped-up criminal charges filed against human rights defenders, activists and common folk.

10. Leaders of people's organizations in Negros, Cagayan Valley, Davao City, and Sarangani, including those supporting indigenous peoples who forcibly evacuated due to military operations, were falsely charged with criminal offenses such as kidnapping and trafficking.<sup>xix</sup> Drought-affected farmers who sought calamity assistance from the government were met with violence in Kidapawan, North Cotabato on April 1, 2016. Police personnel, upon orders of local and national government officials, indiscriminately fired at the protesters and slapped 82 farmers, including pregnant and elderly women, with trumped up cases of direct assault <sup>xx</sup>.

11. The arrest of 15 peace consultants covered by the Joint Agreement on Safety and Immunity Guarantees (JASIG), a previously signed agreement between the GPH and the National Democratic Front of the Philippines shows the Aquino administration's insincerity in the peace negotiations and the lack of intent to address the roots of the armed conflict in the country. Though the Anti-Subversion Act of 1992 was repealed<sup>xxi</sup>, mere association or allegation of membership to the Communist Party of the Philippines (CPP) or NDFP merits the tag "enemy of the state" from the military and legitimizes gross human rights violations against activists and leaders of people's organizations. In 2012, the Department of National Defense (DND) and Department of Interior and Local Government (DILG) released a memorandum with a list of more than 200 names of alleged "communist personalities" who are targets of arrest for reward money amounting to PHP466million<sup>xxii</sup>. The list was used to illegally arrest several individuals and became a money-making scheme by military officials.

12. Karapatan documented 191,029 victims of threat, harassment, and intimidation, including the series of harassment in 2013 and 2015 against trade unionists of the Confederation of Unity of Recognition and Advancement for Government Employees<sup>xxiii</sup> and Kilusang Mayo Uno<sup>xxiv</sup> and development workers of the Children's Rehabilitation Center<sup>xxv</sup> and Health Action for Human Rights.

13. HRD victims of extra-judicial killings reported several incidents of surveillance and other forms of harassment before they were killed. Out of the 249 EJK victims from 2012 to June 30, 2016, 101 are human rights defenders, mostly from peasant and indigenous people's organizations. Karapatan human rights workers are also among the victims including Romeo Capalla, William Bugatti, Teodoro Escanilla, and Romualdo Palispis.<sup>xxvi</sup> All four received death threats prior to their killings, with Bugatti identified as number 21 in an order of battle list by the military.

14. The Human Rights Defenders' Protection Bill continue to languish in congress<sup>xxvii</sup>, while laws that curtail freedom of expression and assembly, such as Batas Pambansa 880 (on rallies and public assemblies) and the Anti-Terrorism Law continue to be enforced. The Anti-Cybercrime Law is the most recently enacted legislation that has provisions criminalizing libel, curtail press freedom and freedom of speech and expression in general<sup>xxviii</sup>.

## **Disappearances**

15. Despite the passage of the Anti-Enforced Disappearance Act in 2012, Karapatan documented 29 victims of enforced disappearances (ED) during the Aquino administration, with 17 desaparecidos in the period under review. Immediately after the passage of the law in December 2012, two victims were documented by Karapatan in January 2013 – Muslim scholar Sheikh Bashier Mursalum and Muin Kahal Hamja.<sup>xxix</sup> Though Hamja was eventually found – albeit tortured – in Camp Crame, Philippine National Police (PNP) Headquarters, Mursalum remains missing. The abduction of activists such as trade union leader Benjamin Villeno<sup>xxx</sup> and indigenous activist John Calaba<sup>xxxi</sup> shows that the practice of enforced disappearances perpetrated by State security forces continued.

16. The cases of disappeared activists Jonas Burgos, Sherlyn Cadapan and Karen Empeno, remain stark proof of the prevailing impunity in the country. Retired Major General Jovito Palparan, responsible for the disappearance of Empeno and Cadapan, though arrested on August 2014 due to strong national and international campaigns, remains to be convicted and enjoys detention in a military camp instead of a civilian detention facility. Gen. Eduardo Año, responsible for the disappearance of Burgos, was promoted and is currently Philippine Army chief. Instead of prosecution and conviction, special treatment and promotions were accorded by the Aquino administration to perpetrators of disappearances. The Aquino government has yet to sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED).

## **Military Operations in Civilian Communities, Displacement, Forcible Evacuation Of Civilians**

17. Through Aquino's Oplan Bayanihan, military operations in civilian communities continued, especially in Mindanao where foreign and local mining and other agro-industrial businesses operate. Deployment of armed soldiers and paramilitary forces, under the guise of "peace and development" operations resulted in massive human rights abuses, such as military occupation of schools, forcible evacuation, among others. Karapatan documented 103,337 victims of forced evacuations due to military operations, particularly affecting indigenous communities, including 3,000 indigenous evacuees in Surigao del Sur and more than 1,000 evacuees in Davao City<sup>xxxii</sup>, who were unable to return to their communities for months due to continuing military operations.

18. In January 25, 2015, the Mamasapano botched operation and its aftermath resulted to the killing of 44 members of the Special Action Forces (SAF), 17 MILF fighters and 8 civilians. The Autonomous Region in Muslim Mindanao's Humanitarian Emergency and Action Response Team (ARMM-HEART) documented at least 72,585 persons displaced across 11 municipalities in Maguindanao<sup>xxxiii</sup>.

19. UN Special Rapporteur Chaloka Beyani urged the GPH to give necessary attention to internally displaced persons, whether the cause is militarization or development projects, especially indigenous communities who have long been the victims of displacement and forced evacuation. Instead of protecting rights of the evacuees, the Aquino government remained callous to their needs and calls for mechanisms for their safe return, through the pull-out of armed soldiers in communities.

### **Duterte's First Two Months**

20. On June 30, 2016, Rodrigo Duterte was inaugurated as the 16<sup>th</sup> President of the GPH. Karapatan welcomed the Duterte administration's thrust towards the resumption and continuation of the peacetalks with the Moro Islamic Liberation Front, Moro National Liberation Front, and NDFP, and its expression of reaffirmation of previously signed agreements with these groups. The release of 21 political prisoners, many peace consultants, is also an expression of respect for agreements such as the JASIG and Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL). The withdrawal of trumped-up charges against 15 human rights defenders in Davao<sup>xxxiv</sup> and the pull-out of the military in Lianga, Surigao del Sur enabling 2,000 evacuees to return home are also positive efforts<sup>xxxv</sup>.

21. However, threats to communities and human rights violations continue, while Oplan Bayanihan remains operative. On August 2016, military battalions launched six aerial bombings in several communities in Compostela Valley, resulting in the evacuation of around 300 individuals<sup>xxxvi</sup>. Military units continue to encamp in public facilities such as schools and municipal halls, through "civil military operations." Karapatan has documented that the killing of peasants, numbering to 13 in Duterte's first two months, illegal arrests and fabricated charges against leaders and members of progressive organizations still continue.

22. The Duterte administration launched what it calls "war on drugs" which, according to the Philippine National Police, resulted in the killing of 1,105 drug users and traffickers from July 1 to September 14, 2016 and to the arrest of 17,319 individuals. <sup>xxxvii</sup> The spate of killings of alleged drug users, mostly from poor communities, has alarmed human rights and people's organizations. Karapatan condemned the drug-related killings, which violate rights to life and to due process, and maintains that drugs can be eliminated without curtailing rights. Karapatan also called on President Duterte to put people's and human rights at the core of his policies by the provision of basic social services and improvement of the lives of the Filipino people through secure jobs with living wages, education, healthcare and an effective land reform policy, through which the people can gradually repudiate the use and trade of illegal drugs.

### **Karapatan's recommendations:**

23. Stop the implementation of Oplan Bayanihan and similar counter-insurgency programs that target human rights defenders and civilians;

24. Disband paramilitary groups, through the repeal of Executive Order 546 and other similar policies;
25. End extrajudicial killings (political or drug-related killings), enforced disappearances, torture and other gross and systematic violations of human rights committed with impunity;
26. Stop military operations in communities and immediately pull-out military units. End military's practice of using schools, municipal halls, and public facilities as military camps and detachments;
27. Effect laws, procedures, and remedies that would effectively protect human rights including the speedy investigation, arrest, prosecution, trial and conviction of perpetrators;
28. Continue and build on the peacetalks which commenced between the GPH and parties to the armed conflict, as well as adhere to and implement previously signed agreements;
29. Repeal legislative, administrative, executive and judicial acts that violate human rights including those on warrantless searches and arrests and sanctioning saturation drives, allowing the filing of common crimes with respect to political offenses, restricting and controlling the right to peaceful assembly, among others. Effectively address and immediately prosecute and punish acts of terrorism and human rights violations by agents of the State;
30. Stop criminalization of political offenses and actions in pursuit of one's political beliefs, illegal arrest and detention, and the practice of filing trumped-up criminal charges against activists and human rights defenders; enact the Human Rights Defenders Bill;
31. Unconditionally free all political prisoners, whether those arrested, charged, prosecuted, tried or convicted of political crimes or, as is the practiced by the government, common crimes but with clear or convincing evidence that such are politically-motivated;
32. Stop labeling of national liberation movements, progressive people's organizations and patriots as "terrorists" both in the national and international forums; and
33. Render immediate and substantive justice to all victims of human rights violations, victims of human rights violations under the Marcos dictatorship, through adequate compensation, indemnification, restitution and rehabilitation; Stop all forms of political rehabilitation of the Marcoses and other human rights violators during the past administrations.

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