

Karapatan Submission to the UPR May 2012

KARAPATAN, in consultation with its member organizations and other related organizations, is submitting this report on the state of human rights in the country with recommendations to the OHCHR for the 13th session of the UPR in the UN Human Rights Council in May-June 2012. (**attachment 2** - organizations supporting this submission).

The Philippines was a state under review (SuR) in the first session of the first cycle of the UPR in 2008, being a member of the 47 member-states of the Human Rights Council in 2007.

The Philippine government (GPH), in its national report, stated that it “has taken firm measures to address the problem of extrajudicial killings and enforced disappearances...addressing this most urgent concern, by bringing their perpetrators to justice and preventing such killings in future, remains a priority of Government.”ⁱ The 2008 review noted in the GPH’s national report all efforts taken to maintain its “commitment to human rights remains paramount, even amidst active insurgencies and other threats to national security.” The national report glowingly presented the GPH’s efforts to supposedly protect the human rights of its citizens.ⁱⁱ

Reports gathered by NGOs like Karapatan, however, present a contradictory and alarming picture of the human rights situation on the ground, as major breaches of the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic Social and Cultural Rights, Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and other major UN instrumentalities continue to be committed by state security forces with the implementation of the government’s counter-insurgency program dubbed as **Oplan Bantay Laya (OBL) I & II** which was operational up to end December 2010; and the new program by the present dispensation, known as **Oplan Bayanihan**.

The human rights situation remains, as it was in 2008, and continues to be alarming to this day, as violations continue to be committed with impunity. Extrajudicial executions, enforced disappearances, torture and other gross and systematic violations of human rights were, and are being wantonly committed.

In 2008, Karapatan has documented 64 victims of extrajudicial killings, eight cases of enforced disappearances, 66 victims of torture and 320 victims of illegal arrests.ⁱⁱⁱ **James Balao**, a founding member of the Cordillera People’s Alliance, was abducted by state security forces on September 17, 2008. Since then, Balao remains missing and the Philippine government has not acted to bring the perpetrators to justice.^{iv}

Impunity persisted and worsened in 2009, as 130 victims of extrajudicial killings were documented by Karapatan. These included **Rebelyn Pitao**^v, a young teacher, civilian and daughter of New People’s Army commander Leoncio Pitao. She was abducted, tortured, raped and brutally killed; **58 other civilians** including journalists and women lawyers, were **massacred in Maguindanao province** by paramilitary groups and private armies of Gov. Andal Ampatuan, a known ally of former Pres. Gloria Macapagal Arroyo.^{vi} Abduction and torture continued unabated as in the case of **Melissa Roxas**, a Filipino-American member of Bayan-USA, and her two companions, who were abducted and tortured by elements believed as members of the Armed Forces of the Philippines.^{vii}

There was no let up on human rights violations, even in the last six months of the Arroyo government and her OBL (from January-June 2010). **Benjamin Bayles**, a Karapatan member who was killed by members of the military in June 2010, was among the 18 victims of extrajudicial killings during this period (**attachment 3**). The 43 health workers (Morong 43), composed of doctors, nurses, midwives, and community health workers were illegally arrested, tortured, and detained for 10 months in 2010. They are among the 96 victims of illegal arrests and 71 victims of torture.^{viii}

During the nine-year watch of President Arroyo, Karapatan documented **1,206 victims of extrajudicial killings** and **206 victims of enforced disappearances**, while there were **2, 059 victims of illegal arrests and 1,099 victims of torture.**^{ix}

Although the government enacted an Anti-Torture law in November 2009 and abolished the Inter-Agency Legal Action Group in May 2009 as recommended by the UN Special Rapporteur Prof. Philip Alston, torture continued to be widely used. Many of Prof. Alston's recommendations were left unheeded such as taking concrete steps "to put an end to those aspects of counterinsurgency operations which have led to the targeting and execution of many individuals working with civil society organizations;" issuance of directives for "all military officers to cease making public statements linking political or other civil society groups to those engaged in armed insurgencies;" and the conviction in a significant number of extrajudicial executions. (**attachment 4**). The OBL continued; the military's vilification campaign against NGOs and human rights defenders went on; there was no conviction of any perpetrator, instead, many of them received promotions and accolades from the government.

When the nine-year rule of Arroyo ended, the Filipino people grew to hate her administration that in the 2010 elections, they cast their votes on the son of two famous Filipino democracy icons.

The Benigno Simeon Aquino III Presidency (July 1, 2010 – October 2011)

In the first ever automated elections in the country in May 2010, **Benigno Simeon Cojuangco Aquino III**, the only son of martial law hero, former Senator Benigno "Ninoy" Aquino and former President Corazon Aquino, was elected as the **15th President of the Republic**.

In his campaign, he promised to "resolve the cases of extrajudicial executions and other violations of human rights."^x But when he assumed office on July 1, 2010, human rights was clearly not on the agenda of the new President. He set his fight against corruption in government. There was no mention for the previous administration and known military officers to account for the human rights violations they committed.^{xi}

President Aquino ignored OBL's bloody record and even extended it on his first six months in office (July to end December 2010). Thus, five days after his oath of office (July 5, 2010), an elected local government official, **Fernando Baldomero**, of Bayan Muna partylist, was shot dead by motorcycle-riding assailants in front of his 12-year old son in Panay. Four days after (July 9, 2010), **Pascual Guevarra**, a 74-year old farmer-leader in Nueva Ecija, was gunned down in his home.^{xii} In January 2011, President Aquino announced the implementation of **Oplan Bayanihan**, his administration's version of the OBL. (**attachment 5**). Thus, the killings continue and a disturbing human rights situation remains to this day.

Some observers say that human rights is given a push under the Aquino presidency. The President already signed and endorsed to the Senate the Optional Protocol to the Convention Against Torture as promised in the 2008 UPR Review; the government acceded on 30 August 2011 to the Rome Statute that signified its ratification of the International Criminal Court; and enacted a law on violations on International Humanitarian Law.^{xiii} But even these did not improve the human rights situation under the present dispensation. The Aquino government has not even ratified the International Convention for the Protection of All Persons from Enforced Disappearance and has not yet enacted an enabling law on enforced disappearances; and, on the protection of human rights defenders. The oft-repeated promise of a law compensating victims of rights violations during martial law remains a promise to this day as victims become sick and many are dying of old age and other ailments.

Karapatan asserts that continuing violations of the ICCPR are committed with impunity under this "popular" administration of President Benigno Simeon "Noy" Aquino III.

Right to Self-Determination (Article 1)

Consistent with the US “war on terror”, the Aquino government continues its military offensives in Mindanao, targeting the members of the Moro Islamic Liberation Front (MILF), which is engaged in the struggle for autonomy and is holding peace talks with the government. Government’s military operations result to massive displacement and loss of livelihood of the Moro people in the militarized areas. US military troops, allowed to return to Philippine soil through the Visiting Forces Agreement, are reportedly involved in several military combat operations in Muslim communities. Joint military exercises between the US and Philippine military are conducted despite various rights abuses by both US and Filipino military personnel. **(attachment 6)**

Right to Life (Article 6)

Disregard of the right to life continues, as extra-judicial killings of activists and other civilians by state security forces continue. From July 2010 to October 31, 2011, there are already **60** victims of EJK. Aside from Baldomero and Guevarra, among the notable victims were **Leonardo Co**, the country’s finest ethnobotanist/taxonomist, and his teammates, who were killed by the military while on fieldwork;^{xiv} **Antonio Homo**, an urban poor leader, was gunned down during the height of the urban poor’s campaign against demolition;^{xv} and recently, **Fr. Fausto Tentorio**, an Italian missionary based in the Philippines and a vocal critic of corporate mining and the implementation of Oplan Bayanihan in Mindanao, was killed. Fr. Tentorio’s killing is attributed to paramilitary groups under the AFP’s 57th Infantry Battalion. Various religious, civic and human rights groups and the Vatican expressed condemnation over the killing of Tentorio. **(attachment 7)**

Right Against Torture And Cruel, Inhuman Or Degrading Treatment Or Punishment (Article 7 and 10), Arbitrary Arrest And Detention (Article 9), Equality Before the Courts and Tribunals (Article 14), Rights Against Criminalization of Political Offenses (Article 15)

Survivors of abductions in various areas nationwide attest to the culpability of the military in the violation, using government property and facilities to carry out the crimes. From July 2010 to June 2011, Karapatan, in spite of the law against torture, R.A.9745, documented 29 victims of torture. These cases are also clear violations of Republic Act 7438, which defines the rights of a person arrested or detained and the duties of the arresting or detaining officers.

As of October 31, 2011 there remain 356 political prisoners throughout the country. Of these, 35 are women, 10 are elderly and 43 are sick. About 78 of them were arrested under the Aquino government. Many of those arrested were without a warrant, and charged with criminal instead of political cases. Some 13 NDFP consultants to the peace process remain in jail despite the Aquino government’s commitment to work for their release. The Aquino government even denied the existence of political prisoners.

In April this year, village farmers **Marlon Villarmino and Nestor Marquita** were held captive for 17 days without charges by the military. They were continuously interrogated and physically beaten to admit that they are members of the New People’s Army (NPA). They were released to their mothers and Karapatan representatives after they were forced to sign a police blotter stating they were NPA surrenderees. They denied the allegation.^{xvi}

Artists, filmmakers, representatives of the National Commission on Culture and the Arts and family of **Ericson Acosta**, an artist, journalist and a cultural worker, continue to call for his immediate release after he was illegally arrested in February 2011. He was in Samar to conduct research on the human rights situation. He was subjected to interrogation and physical torture, and was slapped with charges of illegal possession of explosives after a grenade was planted in his belongings. He is currently detained at the Calbayog City Sub-provincial Jail.^{xvii}

Disappearances (Articles 6, 7, 9, 10, 15, 16)

Under the Aquino administration, there are **eight victims of enforced disappearances**, many of them are farmers. In Surigao del Sur, farmers **Agustito Ladera and Renato Deliguer** were forcibly disappeared during their evacuation due to military operations. Reports indicate that the two were arrested by the military and turned over to the police. The request of their relatives to search military and police camps and detention centers were denied. Ladera and Deliguer have joined the ranks of desaparecidos.^{xviii}

Unlawful Attacks On Honor And Reputation And Incitement To Violence Against One's Person (Articles 17 and 20), Attacks Against the Right to Freedom of Expression and Association (Article 19 and 22)

The government's persecution and vilification of activist organizations and human rights defenders is unrelenting. Criminal charges and the use of media for military propaganda hounded Karapatan workers **Kelly Delgado and Fred Cana. Health workers in the Cordillera** continue to be targets of military surveillance and threats to their lives. Indigenous women human rights defenders in Mindanao are ceaselessly threatened by paramilitary groups sowing terror in their ancestral lands. They are continuously on the run with their children.^{xix} **(attachments 8 and 9)**

Militarization In Rural And Urban Areas, Displacement, Forcible Evacuation/Reconcentration Of Civilians (Article 12)

The deployment of hundreds of uniformed and armed soldiers in rural areas and urban centers including Metro Manila resulted in massive rights violations of ordinary citizens and members of people's organizations. This resulted to cases of torture, illegal arrests and detention, harassment and intimidation, closing down of NGO-supported schools and literacy programs, indiscriminate firing resulting to injury and death, and the forced evacuation of 3,010 individuals. The actual number could be much more as many cases have not been reported. Ostensibly for "civic action" and "peace and development programs," military operations continue and have victimized ordinary citizens. **(attachment 10)**

Non-adherence to commitments and recommendations of the United Nations human rights bodies

The Philippine government's obligations, commitments and pledges to protect and promote human rights are very much wanting. The Filipino people are still subjected to continuing gross and systematic human rights violations amidst impunity despite the Philippine government's avowed commitments as member of the HRC, ratification of UN instruments, enactment of legislative and executive measures, and its condemnation of extrajudicial killings, albeit, belatedly.

The government committed in the 2008 UPR to "completely eliminate torture and extrajudicial killings" and intensify its efforts for "prosecutions on extrajudicial killings and punish those responsible." Yet, the Aquino administration failed to render justice to victims and families of victims of human rights violations under the Arroyo government. In his more than one year in office, the government did not initiate filing of cases for human rights violations against known perpetrators, including former President Gloria Arroyo.

It is to the victims' and their relatives' credits that civil suits were filed against Arroyo and criminal suits against the notorious General Jovito Palparan, Jr. and other military officers. Six of the Morong 43^{xx} health workers sued for damages those responsible for their torture and illegal 10-month detention on false charges. Linda Cadapan, Concepcion Empeño^{xxi} and Edith Burgos^{xxii} are the courageous mothers who are holding the perpetrators accountable for the disappearance of Sherlyn Cadapan, Karen Empeno and Jonas Burgos, respectively. The United Church of Christ in the Philippines (UCCP)^{xxiii} followed through with a class suit against identified perpetrators of killings

and torture and illegal arrests of their flock. Raymond Manalo and Oscar Leuterio, witnesses to the Cadapan-Empeno case and both escaped desaparecidos, also filed motions to resolve their long-pending cases at the Ombudsman on their torture and abduction.^{xxiv}

Like Arroyo, the Aquino government has not acted on the views and recommendations of the UN Human Rights Committee on the cases of **Eden Marcellana, Eddie Gumanoy and Benjaline Hernandez** which were filed by their relatives and Karapatan in 2006. Eight years have passed since the killing of Marcellana and Gumanoy, but the government has yet to indict, prosecute or bring the perpetrators to justice. In fact, in the government report for the upcoming HRC review, the government acts unaware of the results of the Marcellana-Gumanoy cases in the HRC when it only mentioned that Karapatan filed a case with the HRC for the Marcellana-Gumanoy families. (**attachments 11 and 12**). In the Hernandez case, the military perpetrator was absolved and set free by the Court.

Karapatan also notes that the Philippine government has not extended invitations to UN special procedures and mandate holders who have requested to officially visit the Philippines such as the Special Rapporteur on Human Rights Defenders, Special Rapporteur on the promotion and protection of human rights while countering terrorism, UN Independent Expert on Cultural Rights, among others.

In the light of government inaction on the past recommendations of Karapatan, we would like to reiterate the following recommendations also for the consideration by this Council (Please see attachment 13 for recommendations)

ATTACHMENT 1

Submission by the Non-Government Organization KARAPATAN Alliance for the Advancement of People's Rights Related to the PHILIPPINES for the UPR Thirteenth Session May 2012

ENDNOTES/REFERENCES:

- ⁱ Philippine National Report to the Human Rights Council for the Universal Periodic Review <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/114/11/PDF/G0811411.pdf?OpenElement>
- ⁱⁱ Report of the Working Group on the Universal Periodic Review The Philippines <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/136/75/PDF/G0813675.pdf?OpenElement>
- ⁱⁱⁱ Karapatan 2008 Year-End Report on the Human Rights Situation <http://karapatan.org/node/275>
- ^{iv} <http://www.interaksyon.com/article/13317/missing-ibaloi-activists-kin-disappointed-with-pnoys-inaction>
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- ^v <http://www.abs-cbnnews.com/special-report/03/14/09/killing-too-far-rebelyn-pitao>
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- ^{vi} The Ampatuan Massacre: A map and timeline <http://www.gmanews.tv/story/177821/the-ampatuan-massacre-a-map-and-timeline>
- ^{vii} Karapatan's 2009 Year-End Report on the Human Rights Situation <http://karapatan.org/2009-HR-Report>
- ^{viii} Resources on Free the 43 Health Workers Campaign: <http://freethehealthworkers.blogspot.com/>, <http://www.bayan.ph/freethe43.php>
- ^{ix} Karapatan's 2010 Year-End Report on Human Rights Situation <http://karapatan.org/2010-human-rights-report>
- ^x Aquino vows closure to human rights killings <http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20100601-273180/Aquino-vows-closure-to-human-rights-killings>
- ^{xi} Inaugural Speech of President Benigno S. Aquino III in English <http://www.philstar.com/Article.aspx?articleid=589090>
- ^{xii} <http://karapatan.org/karapatan-monitor-julsept2010>
- ^{xiii} <http://www.un.org/apps/news/story.asp?newsid=39416&cr=international+criminal+court&cr1>
- ^{xiv} Karapatan's 2010 Year-End Report on Human Rights Situation <http://karapatan.org/2010-human-rights-report>
- ^{xv} http://karapatan.org/files/Karapatan%20Monitor_1st%20Quarter_Jan-Mar2011.pdf
- ^{xvi} <http://karapatan.org/Karapatan-Monitor-2ndQuarter-April-Jun2011>
- ^{xvii} <http://freeacosta.blogspot.com/>
- ^{xviii} <http://karapatan.org/karapatan-monitor-julsept2010>
- ^{xix} <http://www.apwld.org/uncategorized/philippine-government-stop-the-violence-and-killings-in-indigenous-peoples-communities-by-paramilitary-groups/#more-1258>
- ^{xx} <http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20110405-329398/6>
- ^{xxi} http://services.inquirer.net/print/print.php?article_id=20110505-334665
- ^{xxii} <http://www.gmanews.tv/story/222968/nation/raps-filed-vs-army-officers-linked-to-jonas-burgos-abduction>
- ^{xxiii} <http://www.philstar.com/Article.aspx?publicationSubCategoryId=63&articleId=696900>
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