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Philippine Universal Periodic Review Watch Executive Summary

In 2017, the observance by the Philippine Government of the international conventions and protocols on human rights that it has agreed to be party to, will be under the microscope as the United Nations Human Rights Council conducts the 3rd cycle of the Universal Periodic Review (UPR). The UPR provides a forum for other states to raise questions as to how the Philippines has met its obligations under international human rights norms and to make recommendations for action by the Philippine government.

The UPR comes at a critical time when the Philippine president himself has attempted to assert that on human rights he is only accountable to the Filipino people. This is seemingly a misplaced understanding of human rights since when a country agrees to be a party to international conventions and protocols, that country also agrees to make itself accountable to the community of nations as to how it observes and implements those commitments. Human rights and the violation or respect of human rights are properly the concern of every person and every nation without respect to the borders and boundaries of nation states, simply because they are “human” rights, the rights inherent in being a member of the human community.

Human rights are universal in that they belong to every person without distinction. Those who hold particular political views or opinions, who are identified as religiously, ethnically or racially different, or who are accused of crimes of any kind without having been subject to the due process of law, have the same inherent human rights as every other person and the state has an obligation to respect, protect and defend their rights. In the Philippines it is those who are among the landless farmers, urban poor, indigenous communities, organized workers, women, and political and environmental activists who have been particularly vulnerable to the abuse of their human rights. Increasingly, as the Philippine government pursues a ‘war on drugs’ those who have been accused of drug offenses but without benefit of the due process of law to ascertain their guilt or innocence have become the victims of extrajudicial/vigilante killings, excessive police violence, invasions of privacy and warrantless searches, and subjected to overcrowded and inhumane prison conditions.

The UPR provides an opportunity for grassroots and people’s organizations to present reports for consideration in the UPR process. Twenty-two civil society groups in the Philippines¹, belonging to the Philippine UPR Watch, submitted 16 individual and 4 joint alternative reports in September 2016.

The submissions show that following the first (2008) and second (2012) Universal Period Reviews of the Philippines and despite the commitment by the Philippine government to implement many of the

¹ Please refer to Appendix A for list of organizations

recommendations put forward by other countries (In 2008 the Philippine government agreed to 12 out of 17 recommendations, in 2012 the Philippine government agreed to implement 63 out of the 88 recommendations), many of these recommendations have not been implemented fully and there has been little change in the overall human rights situation in the Philippines. The submissions highlight different types of human rights violations that have mostly occurred after the second UPR under the government of then President Benigno Simeon C. Aquino III and the first few months of the term of current President Rodrigo Roa Duterte. Under President Benigno Aquino III for the period January 2012 to June 2016, there were 249 extra-judicial killings, 501 cases of frustrated extrajudicial killings, 17 victims of enforced disappearance, 144 cases of torture, 8 cases of rape, 891 illegal arrests, and 191,029 cases of threats/harassments/intimidation and numerous other cases involving communities and thousands of individuals as documented by the human rights group Karapatan.

Most notorious of the killings and violations have been against indigenous people and poor farmers. From July 2010 to June 2016, during the administration of President Aquino, there were at least 102 extrajudicial killings against Indigenous People, 87 of whom were indigenous Lumad from Mindanao. These killings continued under the Duterte administration and from July to October 2016 there are already 9 indigenous people extra-judicially killed and 8 of them were Lumad. Common among the victims is that they were vocal opponents of destructive mining projects, palm oil plantations, militarization or had criticized government neglect and corruption.

An example is those who have been extra-judicially killed in the Tampakan Gold and Copper project site in southern Mindanao. The Armed Forces of the Philippines created the Task Force KITACO under the 1002nd Infantry Brigade (IBde) composed of the military, paramilitary and private security forces to protect the areas of the Tampakan mining project and against the B'laan people's *pangayaw* (tribal protest) against Xstrata-SMI. The 26th IBPA strafed the home of B'laan woman leader, Juvy Capion, killing her and her two sons on 18 October 2012. Three months later, Kitari Capion, another leader of the B'laan tribe was killed by members of the 1002nd IBde. A few months later, Datu Anting Freay and his son Victor (16 years old) died when the 39th IB strafed their home.

Indigenous people have also been subject to the filing of trumped up charges, illegal detention, and other forms of harassment directed at communities and community leaders opposed to different forms of supposed 'development' that threaten the ancestral lands of the affected indigenous communities and who opposed the militarization that so often accompanies large scale 'development'.

Indigenous communities have also been subject to large scale forced evacuations due to repeated military operations in their communities. While this has been observed in many places across the country, the most infamous cases are those that have occurred among the Lumad in Mindanao. Between January 2016 to May 2016 Katribu monitored 54 instances of forced evacuation of Lumad involving approximately 23,262 individuals. Within the areas of indigenous communities the military has threatened schools, teachers and often established their camps within school facilities preventing the continuation of educational activities. The Children's Rehabilitation Center has monitored attacks by the military on government-run day care centers and public schools and report on the extensive nature of these violations throughout the country, but again with particularly high incidence among indigenous communities in Mindanao.

In Western Mindanao there were two infamous incidents that resulted in the violation of the basic human rights of the civilian population. These were what has been referred to as the 'Zamboanga siege' which occurred in September 2013 and the 'Mamasapano incident' in January 2015. Both were the result of military conflict initiated unnecessarily and without due regard by the Philippine government. At dawn of September 9, 2013, armed men and women of the Misuari mainstream Moro National Liberation Front (MNLF) faction massed up in Sta. Barbara village, Zamboanga City along with a number of residents – including women, the elderly and children. They were planning to hold a flag parade and then march to the city hall. Rather than negotiate, the Police blocked the marchers, arrested 11 MNLF men and a fire fight ensued. The preventable crisis lasted for three weeks with claims by the military that 100 MNLF men and five civilians were killed; 10,000 civilian houses were razed to the ground and forcibly displaced 120,000 people who were forced to stay in cramped evacuation centers. As of September 2016, more than three years after the incident 12,880 still remain in transitional sites and around 1,473 who have been displaced remain dependent on other family members (OCHA September 2016)

On 25 January 2015 the Philippine National Police – Special Action Force launched an operation in pursuit of a known Jemaah Islamiyah identified terrorist. The operation was conducted while an agreed ceasefire was in place between the Philippine government and the MILF. The operation was clandestine and the mechanisms that had been put in place to ensure the ceasefire were bypassed resulting in an encounter between the Police, the MILF and other armed groups during which 44 members of the SAF were killed. There were also civilian deaths including those of children. Again the police action wantonly put lives both of combatants and civilian in danger unnecessarily when there was already a ceasefire and ceasefire mechanisms in place.

It has been four years since the second UPR on the Philippines and the human rights situation in the country manifests little or no improvement. The climate of impunity still reigns.

Events following the assumption of Rodrigo Roa Duterte as the 16th President of the Philippines have seen changes that in some areas are encouraging and in others deeply troubling. The president's careless dismissal of human rights and publicly presenting those concerned with human rights issues as enemies, serve to create an environment that undermines respect for human rights. The thousands of people who have been killed by vigilantes and the excessive use of violence in police operations represent a troubling deterioration in the situation of human rights in the country. This is compounded by the evident lack of thorough investigation by government authorities of killings and the lack of public transparency in reporting the results of investigations. The so called "operation Tokhang" which has involved house to house visitation by the police, including warrantless searches, has also violated the rights of citizens, especially in urban poor communities. As a result of police operations, many thousands have been imprisoned in a prison system that is inadequate to cope with the large numbers and under conditions that do not meet minimum humanitarian or human rights standards.

There has also been a report of the 'war on drugs' being used as a means to detain activists on false drug related charges. On the 6 October 2016 in the province of Bulacan the homes of farmer-activists associated with the local peasant group *Karahumi Farmers Association* (KFA). The farmers were physically assaulted and their families held at gunpoint and threatened. Four (4) farmer activists were

arrested and detained for weeks, after which they were released when the charges against them were dismissed.

The more positive aspects of the current administration is related to the seriousness with which the President has committed himself to principled negotiations towards peace between the National Democratic Front of the Philippines and the government, and between Moro insurgent movements (MILF and MNLF) and the government. As of this writing there are currently ceasefire agreements in place and there are ongoing peace talks². However there are areas where the military is still active in supporting para-military organizations and there have also been incursions into communities by the armed forces under the guise of civil-military operations even while the ceasefire is in place. The Oplan Bayanihan (the signature counter-insurgency plan of the Aquino government) was continued by the Duterte government until December 2016, and has in the past been the occasion for many human rights abuses committed by state security forces.

Thus, the wanton disregard for human rights remains unabated. The Children's Rehabilitation Center (CRC) reported cases of children being subject to extra-judicial killing by the military. One tragic example is the case of Roque Antivo, an 8 year old boy who was heading home together with his brother and uncle (all minors) when fired at by elements of the 71st Infantry Battalion Philippine Army (IBPA) on 3 April 2013 in the Compostela Valley, Mindanao. Also on 18 August 2015 the pursuit operations of the military against the NPA conducted close to civilian communities in Pangantucan, Bukidon resulted in the death of 17 year old Elmer Somina and 14 year old Noramn Samia. CRC also reported cases of rape and sexual assault against children by members of the security forces, as well as 18 instances of children being falsely branded by the military as New People's Army (NPA) child soldiers. Also included in the report are the attacks on schools in indigenous communities by elements of the Armed Forces of the Philippines (AFP) and para-military groups. Both children and adults within indigenous communities are also being recruited to join Citizens' Armed Forces Geographical Unit (CAFGU) and other para-military groups, to help augment military forces in their fight against insurgency in the countryside.

Karapatan, National Council of Churches in the Philippines, Promotion of Church People's Response, and the National Union of People's Lawyers have taken note and continue to monitor and document cases of extra-judicial killings, enforced disappearances, arbitrary arrests and detention and various other violations of human rights under the Aquino government.

Violations of economic, cultural and social rights

Violations of civil and political rights are perpetrated alongside violations of economic, social and cultural rights to stem people's resistance to government policies and programs that do not contribute to better economic situations.

Control of the economy is still monopolized by a few. According to Ibon, in 2012 the poorest half (50%) of Filipino families accounted for just 23.5% of total income compared to the richest fifth (20%) which

² President Rodrigo R. Duterte announced his government's withdrawal to the formal peace talks the night of February 4, 2017 following the statement of the Central Committee of the Communist Party of the Philippines and the National Operations Command of the New People's Army that they will terminate their unilateral ceasefire effective Feb. 10.

accounted for 46.7%; the income of the richest 10% of household is over 10 times that of the poorest 10% of households.

Net income of the Top 1,000 corporations in the Philippines rose more than 41% since 2010 to P1.1 trillion in 2014, in contrast to the real value of the average daily basic pay of wage; and the income of salaried workers rose by just 5.3% between 2010 and 2015.

Trade and investment liberalization policies since the 1980s have caused Filipino production to collapse. This is the main reason why the economy has not generated decent work, livelihoods, and means of subsistence for millions of Filipinos. The share of manufacturing in GDP has fallen from 27.6% of GDP in 1980 to 23.2% in 2015; this is virtually unchanged from the late 1950s and much smaller than the nearly 30% share in the early 1970s. The share of agriculture has also fallen over the same period from 23.5% to 9.5%, which is the smallest in the country's history.

The Government still continues to promote labor-export policies instead of generating jobs at home. More Filipinos found work abroad than jobs that were generated domestically; in 2015 - some 4,994 Filipinos went abroad every day to look for work compared to 1,775 new jobs created domestically. The report by Migrante International records some of the human rights violations encountered by Filipinos abroad including being unjustly detained and convicted, and draws particular attention to the neglect by the Philippine government in representing and defending the rights of overseas workers.

According to the Center for Women's Resources, Filipino women experienced no significant compliance by the Philippine government despite member states' recommendations in 2012, as well as to obligations inscribed in the international laws such as CEDAW and national laws such as the Magna Carta of Women.

Women workers are burdened by the unfavorable economic climate being cultivated by the government's policies. Based on the July 2015 Labor Force Survey of the Philippine Statistics Authority, around 1.03 million or 37.9% of 2.72 million unemployed Filipinos were women. Women's labor participation remained low at only 49%. Out of the 15.29 million employed women in 2014, only 55% were wage and salary workers. The rest were self-employed (27%) and unpaid workers (16%). A big majority of the wage and salary workers were service workers, laborers and unskilled workers. This included 1.6 million women working in private households as house help, cleaners, and nannies, among others.

Women agricultural workers also felt the worsening economic challenges. Thousands of women toiled as farm workers in big plantations and agro-corporations of corn, pineapple, coconut, banana, and other export products. In 2014, more than 3.5 million farmers, including 701,000 women, were employed as wage and salary workers in the agriculture and fishing sector. Women in this sector received wage that was a peso lower than their male counterparts.

The government's mining sector development plan targets 9.5 million hectares of the Philippine land area "with high mineral potential", equivalent to nearly one-third (32%) of the country's total land area. The majority of targeted mining projects are identified ancestral lands of indigenous people and already outlined above have been examples of instances where conflict over resources, defense of ancestral

domain, and resistance to commercial development have resulted in the militarization of communities and massive human rights violations against indigenous people.

The right to unionize is guaranteed under law yet workers continue to experience severe labor repression when they try to uphold their rights. From July 2010 to June 2016 there were at least 780 monitored incidents of violations of workers' rights affecting at least 20,000 workers. The reports by COURAGE and the Center for Trade Union and Human Rights (CTUHR) provide concrete experiences of worker repression, harassment and the denial of basic rights to workers.

Government inaction with regards to the UPR recommendations

A total of 63 recommendations were accepted by the Philippine government during the 2nd cycle of the UPR. Among those accepted but remains unaccomplished or marginally accomplished are the following as noted by UPR Watch:

1. *Cessation of extrajudicial killings and disappearances and punishment of the perpetrators (South Korea, Singapore, Holy See, Germany, France, Trinidad and Tobago, Spain, United States, Sweden, Timor-Leste).*
2. *Effective protection of journalists and human rights defenders (France).*
3. *Effective implementation of the Anti-Torture Law (Ireland, Mexico, Denmark).*
4. *Further elaboration and immediate publication of a National Action Plan for Human Rights (Palestine, Qatar).*
5. *Immediate establishment of a national prevention mechanism against torture as specified in the Optional Protocol to the Convention against Torture (OPCAT) (France, New Zealand, Denmark).*
6. *Disbandment of all private armies (Chile).*
7. *Reform of the judicial sector to combat impunity (Spain, South Korea, The Netherlands).*
8. *Implement into national law all obligations arising from the ratification of the Rome statute of the International Criminal Court (Belgium, Latvia, Liechtenstein, Slovakia, Slovenia, Switzerland).*
9. *Intensify its efforts to protect the rights of other vulnerable groups, especially minorities and indigenous people so as to allow them equal access to social, educational, health and other services (Thailand).*
10. *Effective implementation of the Magna Carta of Women in all fields, inter alia, labour relations, access to justice and health care, including aspects of sexual and reproductive health; and sexual violence (Spain).*
11. *Extend standing invitations to all special procedures of the Human Rights Council (Austria, Latvia, Madagascar, Mexico, Norway, Portugal, Slovenia, United Kingdom, Uruguay)*

Recommendations by the Philippine UPR Watch:

1. Put an end to extrajudicial killings (including those related to the "war on drugs"), enforced disappearances, illegal arrests and detention, torture, harassment and other human rights violations.
2. Stop the implementation of counter-insurgency programs that target human rights defenders and civilians. 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. Dismantle and disarm the paramilitary groups.

3. Render justice to victims of human rights violations by providing adequate compensation, indemnification, restitution and rehabilitation and establishing mechanisms for this purpose.
4. Enforce the implementation of the laws on Anti-Torture and Anti-enforced Disappearance.
5. Reform the criminal justice system to address the pervading climate of impunity centered in particular on the enhancement and protection of human rights through the speedy investigation, arrest, prosecution, trial and conviction of perpetrators. Institute special laws, procedures, remedies and courts that would effectively prosecute cases of extrajudicial killings, enforced disappearances, illegal arrests, detention and torture carried out by state forces.
6. Fully implement the recommendations of former Special Rapporteur on extrajudicial, summary or arbitrary killings, Mr. Philip Alston.
7. 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.
8. Improve the jail management and penology system in the country. Ensure that the conditions under which people are imprisoned meets international humanitarian standards and that the treatment of prisoners respects fundamental human rights.
9. Conduct a review of the implementation of the Magna Carta on Women, particularly in the workplace and establish a systematic and comprehensive monitoring and evaluation mechanism for compliance particularly in the private sector. Undertake massive information campaigns on the Magna Carta and other pro-women laws among women workers and employees in both the public and private sectors.
10. Ratify the Optional Protocol on the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) to provide workers and other stakeholders another avenue for remediation to hold violators to account.
11. Respect and guarantee the right of workers to a living wage and stop the policy of contractualization. Guarantee the basic union rights to self-organization, collective bargaining and right to strike.
12. Resolve all pending agrarian reform cases. Immediate review of past orders issued on land exemption, exclusion, retention, conversion and cancellation of titles given to beneficiaries must be done. File appropriate cases against illegal and premature land conversion. Prioritize the review of agribusiness permits, leasehold and stock distribution arrangements between landowners and tenants. Support (through condonation) farmer beneficiaries with unpaid bank penalties.
13. Give land access to all qualified tenant farmers, paying attention to women-headed households. Ensure greater state support for women farmers and food security for Filipinos.
14. Adequate protection must be given to the country's food producers. Immediate review of Philippines' engagement with World Trade Organization's (WTO) Agreement on Agriculture must be done to reverse the damaging effects of liberalization in agriculture, which permits importation of agricultural products and consequently kills off the livelihood of farming families.

15. Ensure the implementation of a new and genuinely redistributive land reform program that is based on social justice.
16. Implement the recommendations of the Special Rapporteur on the right to food, Ms. Hilal Elver, in her country visit to address the issues related to landlessness and hunger of poor peasants, lack of comprehensive social protection and services, and the dire impacts of climate change.
17. Protect indigenous people's inherent, prior, existing and inalienable right to their ancestral territories and its indivisible, inter-related and interdependent right to self-determination, rights which are already integrated in the domestic law and several international declarations and conventions.
18. Implement the recommendation of the of former Special Rapporteur on the human rights of internally displaced persons, Mr. Chaloka Beyani in his country visit to address the complex causes of the displacement of indigenous people including militarization, natural or man-made disasters and resource development.
19. Review the broadened definition of "child soldiers" under the Paris Principles and Paris Commitments which, in the context of the Philippines, is used by State armed forces to further violate children's rights.
20. Ensure the defense of the rights of overseas workers in compliance with the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
21. 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.
22. Unconditionally free all political prisoners.
23. Continue its peace negotiations with the National Democratic Front of the Philippines and with rebel groups in Mindanao (Southern Philippines) struggling for self-determination. It has been pointed out that the government's counter-insurgency program is the cause of many human rights violations against human rights defenders and principled negotiations to address the roots of the armed conflict can help mitigate these violations.
24. Issue invitations to UN special procedures mandate holders, including pending requests.

Appendix A: List of Organizations of the Philippine UPR Watch (Alphabetical)

1. Bagong Alyansang Makabayan (BAYAN) (New Patriotic Alliance)
2. Center for Trade Union and Human Rights (CTUHR)
3. Children's Rehabilitation Center (CRC)
4. Confederation for Unity Recognition and Advancement of Government Employees (COURAGE)
5. Cordillera People's Alliance
6. GABRIELA-Militant Women's Movement in the Philippines
7. Center for Women's Resources (CWR) [submitted a report in partnership with Gabriela]
8. IBON Foundation
9. IBON International
10. Initiatives Peace Mindanao (InPEACE Mindanao)

11. KALUMARAN- Kusog sa Katawhang Lumad sa Mindanao (Alliance of Indigenous Peoples in Mindanao)
12. Karapatan (Alliance for the Advancement of People's Rights)
13. KATRIBU- National Alliance of Indigenous Peoples' Organizations (Submitted a joint report with Cordillera People's Alliance, KALUMARAN, Stop the Killings of Indigenous People Network or SKIPNet, TUMANDUK)
14. Kilusang Magbubukid ng Pilipinas (KMP) – Peasant Movement of the Philippines
15. Migrante International
16. Moro-Christian Peoples' Alliance
17. National Council of Churches in the Philippines
18. National Union of Peoples' Lawyers
19. Promotion of Church People's Response
20. Ramento Project for Rights Defenders-Iglesia Filipina Independiente
21. SALINLAHI Alliance for Children's Concerns
22. United Church of Christ in the Philippines
23. KAWAGIB- Alliance for the Advancement of Moro Human Rights (submitted a report in partnership with MCPA)