

HUMAN RIGHTS WATCH

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July 17, 2013

His Excellency Benigno S. Aquino III
President, Republic of the Philippines
Malacanang Palace, Manila
Via facsimile
Via email

Re: State of the Nation Address and Human Rights

Dear President Aquino,

Congratulations on the completion of the first half of your six-year term in office as the President of the Republic of the Philippines. We look forward to working with your administration to improve human rights protections in the Philippines during your remaining three years in office.

Human Rights Watch commends you for progress in some key areas in the past three years. We note that your administration enacted important legislation on human rights, among them the laws on reproductive health, enforced disappearances, reparation for human rights victims under the Marcos dictatorship, and protecting the rights of domestic workers.

The second half of your term gives you an opportunity to take meaningful action against serious, ongoing human rights violations. We urge you to use your State of the Nation address to explicitly make human rights protection and prosecutions a policy priority over the next three years.

The International Covenant on Civil and Political Rights and other human rights treaties to which the Philippines is a party, as well as the Universal Declaration of Human Rights, require states to provide an effective remedy for human rights violations. International law also places an obligation on states to investigate and punish serious violations of human rights.

We believe that a meaningful State of the Nation address on July 22, 2013, should include specific initiatives designed to tackle these serious, ongoing human rights violations.

These initiatives should include the following:

1. End impunity for extrajudicial killings and enforced disappearances

The number of serious human rights violations by the military has significantly declined since you took office in 2010. Nevertheless, the victims of killings and enforced disappearances, which numbered in the hundreds in the previous decade, have not obtained justice and few perpetrators have been prosecuted. Despite your promises of reform and accountability, a damaging climate of impunity persists within the military and other state security forces. Human Rights Watch is aware of only two perpetrators of serious human rights abuses who have been convicted during your administration. One was the result of a confession, neither involved military personnel, and the masterminds in each case remain at large.

The public rhetoric on human rights by senior military officers has improved since you took office, but this has not resulted in better military cooperation with investigating authorities or comprehensive internal investigations of implicated military personnel. Further, the military continues to deny outright the vast majority of allegations of soldiers participating in extrajudicial killings and enforced disappearances of leftist activists, environmentalists, and clergy.

While the number of abuses is down, the military's efforts to establish policies and practices to address human rights concerns have not yet changed the institutional culture of the military, which fosters abuses committed with impunity. Your government has yet to successfully prosecute a member of the military for an extrajudicial killing or enforced disappearance. Some officers implicated in serious abuses have instead received promotions. Moreover, military spokespeople continue to issue statements that malign outspoken civil society activists as enemies of the state or communist operatives – which threatens physical attacks by military personnel.

One challenge to military accountability is the internal investigation structure, which should operate to discipline members of the military for committing rights violations, while referring appropriate cases to the civilian criminal justice system. The challenge is for the armed forces to show that it is willing and able to prosecute both rank-and-file soldiers and officers for serious violations.

As a result of long-term failures of military justice in the Philippines, the government should ensure that military personnel who commit serious abuses against civilians, such as retired Gen. Jovito Palparan, are prosecuted in civilian courts. Currently, military personnel can only be prosecuted in civilian courts if the victims themselves file such cases against them, often at high risk to their personal safety. Palparan, who remains at large, was also reportedly protected from capture by military personnel.

Non-state armed groups such as the New People's Army and Islamist militants have also committed serious abuses, including deliberate killings of civilians. However, abuses by one side never justify abuses committed by the other side.

In order to end impunity for extrajudicial killings, enforced disappearances, and other violations, we urge you to use the occasion of your State of the Nation address to commit to the following measures:

- Issuance of a public order to all forces in the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP) directing them to respect civilian immunity and not target civilians, including civil society activists, unionists, politicians, and journalists.
- Directing the AFP and the PNP to fully assist authorities in apprehending members of the armed forces, regardless of rank, implicated in extrajudicial killings and other serious human rights violations.
- Suspending military personnel or other members of the security forces implicated in extrajudicial killings, enforced disappearances, or other human rights violations while an investigation is ongoing.
- Ending the routine denial by AFP of involvement in reported cases of human rights abuses, such as extrajudicial killings and enforced disappearances.
- Ordering the AFP's inspector general and the provost marshal to promptly and impartially investigate human rights abuses and publicly disclose the results of these investigations.
- Directing the AFP and the PNP to fully comply with all inquiries by investigative bodies, including legislative committees and public officials.
- Ordering the AFP and the PNP to work with the civilian authorities to ensure that military personnel implicated in serious abuses against civilians be tried in civilian courts. Publicly announce that military personal who assist criminal suspects in the security forces or do not cooperate with civilian investigatory authorities are obstructing justice and subject to disciplinary action or prosecution.

2. Prosecute officials implicated in “death squad” killings

Your administration should investigate and hold accountable officials implicated in the hundreds of extrajudicial killings by assailants linked to the authorities in Davao City and other urban areas in recent years.

Last year, the Commission on Human Rights released a resolution on its investigation of the so-called Davao Death Squad. It affirmed reports of the targeted and systematic killings in Davao City mostly of suspected petty criminals, typically young men and teenagers. The commission said it verified 206 out of an alleged 375 killings between 2005 and 2009 that it had previously listed. The resolution denounced the failure by local authorities to stop the killings and to investigate and bring those responsible to justice.

Recent research by Human Rights Watch indicates that death squad killings continue to occur in Davao City, although on a much smaller scale. The local media have stopped referring to the Davao Death Squad in reporting, but the nature of these killings suggests that death squad activities continue. Instead of denouncing the killings and taking action against those responsible, the Davao City government extols a purportedly low crime rate and “peace” in the city as a sign of progress. Similar death squad-style killings have been reported in the cities of Zamboanga, Tagum, General Santos, Cebu, and Cagayan de Oro.

In your State of the Nation address, we urge that you commit to:

- Publicly campaigning against all “death squads.”
- Holding Davao City officials accountable for their failure to prevent death-squad killings.
- Instructing the National Bureau of Investigation to open an investigation into the death squad killings in Davao City and other cities.
- Calling upon the ombudsman to open an investigation into Davao City Mayor Rodrigo Duterte and other officials linked to death squad activity.

3. Stop abuses in mining areas

Your administration has enacted decrees to encourage mining investment in the Philippines but has done little to stop attacks on environmental advocates.

Human Rights Watch has documented several cases since October 2011 in which critics of mining and energy projects have been killed, allegedly by paramilitary forces under military control. The activists had been vocal in opposing mining and energy operations that they said threatened the environment and would displace tribal communities from their land.

We urge that in your State of the Nation address you commit to:

- Strengthening police investigations into attacks on environmental advocates, and prosecuting all those responsible, including members of the security forces and paramilitary groups.

4. Disband local militias and paramilitary forces

The Maguindanao Massacre brought to light the dangers posed by private armies, militias, and paramilitaries in the Philippines. While your administration claims that it has managed to reduce the number of “private armies” controlled by politicians, it has resisted calls for dismantling government-backed paramilitary forces.

Human Rights Watch continues to receive reports of abuses by such groups. Several extrajudicial killings have recently been attributed to members of the Citizen Armed Force Geographical Units (CAFGU), which the military controls and supervises, as well as the Special CAFGU Active Auxiliary, which the army trains but companies hire to protect their operations. In October 2011, you authorized these abusive paramilitary forces to protect mining investments.

Executive Order 546, issued in 2006 by then President Gloria Macapagal-Arroyo, allows the arming of militias by local officials. The Ampatuans justified the recruitment and arming of militia members, ostensibly to fight Islamist rebels but in reality to consolidate their hold on power, by citing Executive Order 546.

We urge that in your State of the Nation Address you commit to:

- Issuing an executive order banning all paramilitary and militia forces because of their long and continuing history of serious human rights violations.
- Directing the AFP to immediately disarm and disband the Special CAFGU and cease all private funding of militia.
- Rescinding Executive Order 546.

We look forward to your State of the Nation Address and working with you on these important issues. Please do not hesitate to contact me or our Manila-based researcher, Carlos Conde, to discuss these matters further.

Sincerely,

Brad Adams

Brad Adams
Director
Asia Division