

## Falling Far Short: Aquino's First Year and Human Rights

June 30, 2011

As a presidential candidate, Benigno Aquino III made strong promises on human rights protection. He repeatedly emphasized the importance of justice for rights violations and promised to dismantle so-called private armies that are used by politicians and other powerbrokers. Since taking office on June 30, 2010, he has continued to draw on his family's own experience when, in 1983, assailants linked to the Marcos government assassinated his father at the airport that now bears his name. As a victim of human rights abuses, President Aquino has said he would not tolerate them.

One year on, while a number of positive reforms have been undertaken, genuinely effective measures to investigate and prosecute those responsible for serious human rights violations by the military and police have fallen far short. Killings and enforced disappearances have continued since Aquino took office, and despite strong evidence of military involvement in several cases, police investigations have stalled, the military persists in making blanket denials, and arrest warrants against alleged perpetrators go unexecuted. Aquino maintains that the government is "working overtime" to prevent new cases of human rights violations and to continue to resolve previous cases, and has pleaded for patience.

Human Rights Watch recognizes that the Philippines faces multiple insurgencies from the New People's Army and other armed groups that have been responsible for many serious abuses. In addressing these insurgencies it is crucial that the government does so in a manner that is fully in keeping with its legal obligations under international human rights and humanitarian law.

Human Rights Watch issued a [comprehensive set of recommendations](#) to Aquino last July that laid out the steps his administration should take to ensure accountability for extrajudicial killings and other abuses and to enhance respect for human rights. Now, one year into the Aquino administration, Human Rights Watch has assessed the government's rights record and the effectiveness of its reforms. We make recommendations to the administration to better promote and protect human rights in the Philippines, many of which we have made previously.

### *Torture and Other Ill-Treatment*

In December 2010, President Aquino directed Justice Secretary Leila de Lima to drop charges against the so-called "Morong 43"—43 men and women alleged by the military to be members of the communist New People's Army—after receiving evidence that the arrests had been illegal. Soldiers and police arrested the 43 in February 2010 on firearms charges. Soldiers blindfolded the detainees for 36 hours and denied them access to lawyers. Several detainees alleged various forms of torture.

Following Aquino's order, 36 have been released; two remain in jail on other charges while five are participating in the government's rebel returnee program. Aquino's action sent a message to the security forces that criminal charges will not prevail if detainees' rights are violated. On the same day, de Lima signed the implementing rules and regulations for the 2009 Anti-Torture Law, a necessary step in the full implementation of the law. However, the government failed to order any investigation into the allegations of detainee mistreatment.

The government can only send a firm message that torture will not be tolerated by thoroughly investigating all allegations of such abuse and holding perpetrators accountable. The Aquino administration should order the National Bureau of Investigation (NBI) and police to investigate all allegations of torture in which security forces are implicated, starting with the Morong 43 case.

#### *Investigations and Prosecutions of Extrajudicial Killings and Enforced Disappearances*

Extrajudicial killings and enforced disappearances have long been a problem in the Philippines, and have continued since Aquino took office. The Philippine National Police (PNP) and Justice Department have instituted some reforms to improve investigation and prosecution of these crimes. The PNP has developed new manuals on crime scene investigations and case management and is training investigators with the aim of training at least two investigators at each police station by the end of 2011. The Justice Department created a task force that it says has a broader mandate than former-President Gloria Macapagal Arroyo's task force against political violence, Task Force 211. The new task force will review all reported and unsolved cases of extrajudicial killings and enforced disappearances, with the intention of speeding up the resolution of cases with sufficient evidence as well as reinvestigating cases in which the trail of evidence has gone cold. The Justice Department has taken several steps to enhance the performance of prosecutors including creating a code of conduct in December 2010, which establishes an internal affairs unit to deal with administrative complaints, and creating an electronic case management system.

However, police investigations are still fraught with delays and impediments. In the past 12 months the justice system has failed to hold anyone accountable for a political killing, and Aquino has done little to address underlying causes of security force abuses. No member of the military has been arrested for killings or "disappearances" perpetrated since Aquino took office. And no commanders have been actively investigated for their role in these abuses.

The Supreme Court in a landmark decision and a national Commission on Human Rights report have named soldiers and military officers behind the enforced disappearance of four leftist activists in 2006 and 2007—Sherlyn Cadapan, Karen Empeño, Manuel Merino, and Jonas Burgos. But still the government has not brought charges against them. Rather, the families have been left to do so.

The Aquino administration should implement the justice reforms highlighted in our July 2010 letter. President Aquino should issue an executive order directing police and NBI investigators to vigorously pursue crimes allegedly committed by government officials, and members of the military, police, and paramilitary groups, including by executing arrest warrants, or themselves be subject to disciplinary measures for insubordination or a criminal investigation for obstruction of justice or graft and corruption. The Aquino administration, in cooperation with Congress and the Philippine National Police, should create hotlines or comparable lines of communication to receive anonymous information on extrajudicial killings and other human rights abuses. As an important immediate step, prosecutors should work with police investigators to pursue charges against named soldiers and military officers in the landmark enforced disappearance cases.

The Aquino administration has not pushed for legislation to prohibit and protect against enforced disappearances. President Aquino should without delay sign and urge the Senate to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

#### *Witness Protection*

The Aquino administration has commendably increased funding for the Justice Department's witness protection program. However, it has not instituted the necessary reforms to enhance this program and hold those who intimidate witnesses accountable. The penalty for intimidating a witness is still only a 3,000 peso (US\$65) fine or up to a year's imprisonment.

President Aquino should make the investigation and prosecution of those intimidating witnesses a priority and prompt Congress to increase the penalties for this offense and expand it to include intimidating witnesses' relatives. Justice Secretary de Lima should work to enhance the program to provide protection for witnesses from the onset of a police investigation until after the trial for as long as necessary. This should include, where needed, relocation and change of identity of witnesses at the conclusion of the trial. De Lima should also institute measures for witnesses to offer testimonies safely, while protecting the rights of defendants, for example by using video-conferenced testimonies, closed courtrooms, or depositions.

#### *“Private Armies” and Paramilitary Forces*

Aquino made a campaign promise to dismantle “private armies” and to revoke Executive Order 546, which local officials cite to justify the provision of arms to their militias. One year later, Executive Order 546 remains in force. While Interior Secretary Jesse Robredo has claimed that the Aquino administration has dismantled almost half of the private armies in the Autonomous Region in Muslim Mindanao, he has not presented any evidence of this. Aquino continues to defend the use of poorly trained and supervised paramilitary forces that have long been implicated in serious abuses to fight New People's Army insurgents and Islamist armed groups.

The most egregious atrocity in recent years implicating a local ruling family, the November 23, 2009 Maguindanao massacre, in which 58 people including more than 30 media workers were killed, was carried out by a private army consisting of government-endorsed paramilitary force members, as well as police officers and soldiers. The trial of senior Ampatuan family members is ongoing, with the former governor of Maguindanao, Andal Ampatuan, Sr., arraigned on June 1, 2010. However, over half of the 195 accused remain at large and only 57 have been arraigned. Aquino actively supported efforts to televise the Maguindanao massacre trial, enhancing transparency and public awareness.

President Aquino should address a key underlying cause of the Maguindanao massacre by crafting a staged approach for disarming and dismantling all private armies and paramilitary forces, and instead enhancing and professionalizing the military and reserve forces.

The Aquino administration has failed to address the proliferation of military weaponry throughout the country, which strengthens abusive private armies. An immediate, long overdue step should be to revoke Executive Order 546.

In addition, Aquino should issue an executive order requiring all government officials to report firearms acquired for professional or personal use, and order the Commission on Audit to investigate whether the Peace and Order fund or other public monies have been used to fund private armies. He should also submit a priority bill to Congress to prevent local government officials from using the selection or dismissal of police chiefs in their jurisdiction for private purposes, require that reasons be provided for the selection, and mandate local government officials to disclose any relationship or affiliation with proposed candidates.

### *Government Involvement in “Death Squads”*

The Aquino administration has not acted to dismantle so-called death squads, which continue to operate in Davao City and other cities targeting mostly poor and marginalized victims, such as alleged petty criminals, drug dealers, gang members, and street children. President Aquino should publicly denounce extrajudicial killings and local anti-crime campaigns that promote or encourage the unlawful use of force, starting in Davao City, and pledge that government officials who are found to be involved or complicit in such killings be fully prosecuted. Aquino should order the NBI to commence thorough investigations into alleged death squad killings in Davao City, General Santos City, Digos City, and Tagum City. National-level investigators should be used, and the role of local police and other authorities in such crimes should be a particular focus. And he should order the Commission on Audit to investigate whether public monies have been used directly or indirectly for death squad activities in the aforementioned cities.

### *Commitment to Reproductive Rights*

In the face of vehement opposition from the Catholic Bishops Conference of the Philippines, President Aquino has remained publicly committed to the reproductive health bill, which aims to provide universal access to contraception and maternal health care. The bill, which goes some way to enhancing protection of sexual and reproductive rights and the right to the highest obtainable standard of health, but still makes abortion a criminal offense, remains before the Congress. The Aquino administration should take the necessary action to lift bans and restrictions on modern contraceptives, such as the Manila City Executive Order and several *barangay* orders.

### *Domestic Workers’ Rights at Home and Abroad*

The Philippines has long been a leader in advocating for the protection of its migrant workers abroad, including in chairing the final negotiations for the new International Labour Organization Convention on Decent Work for Domestic Workers, adopted on June 16, 2011. President Aquino should commit to protecting the rights of domestic workers both at home and abroad by promptly signing the convention and transmitting it to the Senate for ratification and by finalizing and urging Congress to enact the Domestic Workers’ Bill.

### *Promoting Human Rights in Burma*

When democracy leader Aung San Suu Kyi was released from house arrest last year, Aquino lauded the move and called for the release of Burma’s remaining 2100 political prisoners and more action towards democratization. Aquino should go further by publicly supporting the establishment of an international Commission of Inquiry into violations of international humanitarian law and human rights law in Burma. An international inquiry would be a significant step toward justice.