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菲利普·奥尔斯顿的报告 *

增 编

国别建议后续行动——菲律宾 **

* 迟交。

** 本报告的内容提要以所有正式语文分发。报告本身载于内容提要之后的附件，仅以英文分发。

内容提要

本报告分析菲律宾在落实法外处决、即审即决或任意处决问题特别报告员于 2007 年 2 月 12 日至 21 日访问菲律宾后所作建议(A/HRC/8/3/Add.2)的情况。落实特别报告员建议的进展令人感到喜忧参半。特别报告员访问之后，谋杀左翼活动分子的事件减少很多。最高法院颁布并改进了两个重要法案的实施方式。达沃行刑队还在行动，记录在案的行刑队杀人事件数量也在增加。旨在从体制上按部就班地减少杀害左翼活动分子和其他人的事件、并旨在确保指挥官员对于侵权行为承担责任的改革未能推展。对证人的保护仍然严重不够，对法外凶杀事件有罪不罚的现象也仍然十分普遍。同样，菲律宾共产党和新人民军没有改进其行动来减少他们应承担责任的法外处决事件。

Annex

FOLLOW-UP REPORT SUBMITTED BY THE SPECIAL RAPPORTEUR ON EXTRAJUDICIAL, SUMMARY OR ARBITRARY EXECUTIONS, PHILIP ALSTON, REGARDING HIS VISIT TO THE PHILIPPINES (12-21 February 2007)

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
I. METHODOLOGY	1 - 5	4
II. INTRODUCTION	6 - 11	5
III. THE KILLINGS OF LEFTIST ACTIVITISTS	12 - 17	6
A. The need for institutionalized reform	12 - 16	6
B. Command responsibility.....	17	6
IV. DEATH SQUAD KILLINGS	18 - 23	7
A. Davao City	18 - 22	7
B. Indications of the spread of death squads	23	8
V. ACCOUNTABILITY FOR PERPETRATORS	24 - 25	8
VI. KILLINGS BY THE COMMUNIST PARTY OF THE PHILIPPINES/NEW PEOPLE'S ARMY/NATIONAL DEMOCRATIC FRONT	26 - 27	8
VII. KILLINGS IN WESTERN MINDANAO	28	9
VIII. THE INTER-AGENCY LEGAL ACTION GROUP AND THE OMBUDSMAN	29 - 30	9
IX. WITNESS PROTECTION PROGRAMME	31 - 34	10
X. CONGRESSIONAL OVERSIGHT	35	10
XI. COMMISSION ON HUMAN RIGHTS	36	10
XII. SUPREME COURT INITIATIVES	37 - 42	11
XIII. CONCLUSIONS	43	12
Appendix - Summary of follow-up to each recommendation		13

I. METHODOLOGY

1. This report analyses the progress made by the Philippines in implementing recommendations made by the Special Rapporteur on extrajudicial, summary or arbitrary executions following his visit to the Philippines from 12-21 February 2007 (A/HRC/8/3/Add.2).
2. In accordance with past practice,¹ the follow-up report was compiled based on information provided by the Government concerned, as well as through consultation with domestic and international civil society, and by reference to publicly available reports and materials.² The Special Rapporteur requested from the Government and from civil society actors information on what steps had been taken to implement the recommendations of the Special Rapporteur. Information on the non-implementation of recommendations was also sought. In addition, information was sought on the current state of the phenomenon of extrajudicial executions in the country, and particularly on whether and how the situation had improved, deteriorated or remained static since the Special Rapporteur's visit.
3. This follow-up report and the follow-up report on Guatemala (A/HRC/11/2/Add.7) constitute an important component to one of the principal working methods of the Special Rapporteur - conducting country visits to investigate allegations of violations of the right to life. Country visits provide an opportunity for the Special Rapporteur to ascertain the facts on a first-hand basis, to analyse in detail the forms and causes of unlawful killings, and to engage in constructive dialogue with the country concerned. Following the visit, the Special Rapporteur prepares a detailed report on his findings, including recommendations directed at reducing unlawful killings and promoting accountability. Country visits can only achieve their full potential if Governments give real consideration to these recommendations. Accordingly, the Commission on Human Rights requested States to carefully examine recommendations and to report to the Special Rapporteur on actions taken on the recommendations (res. 2004/37).
4. In order to assess the extent to which States had implemented recommendations, in 2006, the Special Rapporteur initiated follow-up reports on visits conducted. The first follow-up report (E/CN.4/2006/53/Add.2) concerned the recommendations made by his predecessor, Ms. Asma Jahangir, on her visits to Brazil, Honduras, Jamaica, and Sudan. In 2008, a follow-up report (A/HRC/8/3/Add.3) was issued on the first two missions conducted by Special Rapporteur Philip Alston to Sri Lanka and Nigeria.

¹ E/CN.4/2005/7, para. 30; E/CN.4/2006/53/Add.2, para.4; A/HRC/8/3/Add.3, para 5.

² Some of the information received by the Special Rapporteur was provided in private correspondence; however, he also consulted a number of public reports, including: Amnesty International, *Philippines: Witnessing Justice - Breaking the Chain of Impunity*, (29 August 2008); Asian Human Rights Commission, *The State of Human Rights in the Philippines - 2008*, (10 December 2008); Human Rights Now, *Report on Extrajudicial Killings and Enforced Disappearances in the Philippines - Fact Finding Mission of Human Rights Now to Philippines* (April 2008); Human Rights Watch, *World Report: 2009* (14 January 2009); Human Rights Watch, *Scared Silent: Impunity for Extrajudicial Killings in the Philippines* (27 June 2007); Human Rights Watch, *You Can Die at Any Time: Death Squad Killings in Mindanao*, (April 2009); Lawyers for Lawyers Foundation, *Initial Findings of the International Verification and Fact Finding Mission 2008*, (12 November 2008).

5. The Special Rapporteur is grateful to officials of the Office of the High Commissioner for Human Rights, and to Sarah Knuckey, Joanna Edwards, and Wade McMullen from New York University School of Law, for their assistance in the preparation of these reports.

II. INTRODUCTION

6. The Special Rapporteur visited the Philippines from 12 to 21 February 2007, and published his findings and recommendations on 16 April 2008. After conducting extensive interviews in Manila, Baguio, and Davao, he reported that extrajudicial executions were widespread, and included government sanctioned killings of members of civil society groups, and vigilante killings of suspected criminals by a death squad in Davao. He also reported on killings of those found guilty by the “people’s courts” of the New People’s Army (NPA), an armed group controlled by the Communist Party of the Philippines (CPP), which also controls the National Democratic Front (NDF) civil society organization.

7. The Special Rapporteur’s recommendations identified specific measures required to improve the situation in the Philippines with respect to these problems. Many of the findings and recommendations were challenged by the Government of the Philippines. Nevertheless, the number of killings of leftist activists decreased dramatically shortly after the Special Rapporteur’s visit. The highest documented numbers of executions of leftist activists were 94 in 2007 and 64 in 2008, compared with 220 in 2006. While current levels are significantly lower than before, they still remain a cause for great alarm, and reflect the failure to make the recommended structural reforms.

8. Davao City continues to be a hotbed of extrajudicial killings, and the vigilante-style death squad killings in Davao have significantly worsened since 2007. Both federal and local government continue to vehemently deny the existence of the death squad, despite reliable reports of up to 28 such killings within the first month of 2009 alone.

9. While an important informal message was clearly sent to the military, most of the Government’s formal actions in response to the Special Rapporteur’s recommendations have been symbolic, and lack the substantive and preventive dimensions necessary to end the culture of impunity.

10. Since 2007, the Government has successfully prosecuted just one perpetrator of an extrajudicial execution. And not a single member of the armed forces has been convicted for killing leftist activists. In its own defence the Government says it needs to take its time and not “force quick convictions simply for the sake of announcing achievements”. However, the Government simultaneously notes its ability to progress quickly and effectively on other prosecutions, citing cases involving the killings of journalists.

11. The lack of prosecutions and convictions can be attributed to many factors. Information received by the Special Rapporteur for the purposes of this follow-up report indicates that Congressional measures to strengthen the witness protection programme have stalled, Presidential orders have lacked substance, the Commission for Human Rights (CHRP) has only recently begun to play a more substantial role (under new leadership), and crucial reforms of relevant government agencies have yet to take place. Additionally, neither the Armed Forces of

the Philippines (AFP) nor the Philippine National Police (PNP) have significantly stepped up their investigations of the killings of leftist activists. Impunity for past killings, combined with a green light for future killings, will prevail unless there is a sharp change in course in efforts to implement the Special Rapporteur's recommendations.

III. THE KILLINGS OF LEFTIST ACTIVISTS

A. The need for institutionalized reform

12. The decline in the number of killings of alleged leftists since the Special Rapporteur's visit has been accompanied by encouraging statements by some senior AFP officers. However, the AFP has not, to the Special Rapporteur's knowledge, changed its counterinsurgency techniques in such a way as to eliminate the likelihood that leftist activists will be killed. Moreover, forced disappearances and illegal detentions remain all too common, as does the bringing of trumped up charges against Filipino activists and human rights abuse victims.

13. AFP Chief of Staff, General Yano, has emphasized respect for human rights and vowed to hold military personnel accountable for violations. But despite these good intentions, numerous statements continue to be made via print, television, and broadcast media by other military officials identifying and vilifying members of civil society organizations. Such statements continue to be justified by reference to President Arroyo's order that the AFP should end the insurgency "once and for all" by 2010. Whatever may have been conveyed in private, the Special Rapporteur is not aware of any public statement by the President instructing the security forces to stop the targeting and public labelling of political and civil society organizations as fronts for NPA operations.

14. The Government should be encouraged to institutionalize any positive change in counterinsurgency policies and to increase transparency by making such changes public. Greater transparency is also urgently needed in relation to the "orders of battle" and other lists or databases maintained by the military establishment in relation to the targeting of leftist groups.

15. Measures such as the creation of an AFP Human Rights Office in 2007, set up to improve internal mechanisms and promote human rights, are positive initial steps that need to be buttressed by further action in order to consolidate reforms. Regrettably, the AFP's Human Rights Office has yet to successfully investigate accusations of extrajudicial killings perpetrated by members of the military.

16. While some public statements have been made, the Special Rapporteur has not received evidence of any institutional reforms by the Government designed to prevent the targeting and execution of civil society activists. Deeper reforms thus remain essential in order to pull back the curtain of impunity that has existed for many years, and to prevent a return to those policies.

B. Command responsibility

17. General Yano's predecessor, General Esperon, indicated that the principle of command responsibility had been integrated into AFP policy. However, the details of any such policy statement have not been made public. Attempts by civil society organizations to obtain information on the policy and its implementation have been frustrated by the AFP. Transparency

in this regard is all the more important given that no relevant legislation has been introduced to amend the criminal code and other existing laws. It is thus impossible to conclude that the principles of command responsibility have yet been appropriately institutionalized and enshrined in the law. Moreover, reports of the proposed appointment of former General Palparan to the Drug Enforcement Board suggest that command responsibility is not a high priority for the current Administration.³

IV. DEATH SQUAD KILLINGS

A. Davao City

18. Perhaps the most troubling development over the past two years has been the rise in death squad killings in Davao City. Reliable information indicates that, in 2008, such killings were almost a daily occurrence in Davao City, jumping from a reported 116 in 2007 to 269 in 2008. The killings have clear patterns - similarly described perpetrators, victims and methods - and are rarely the subject of successful police investigations.

19. The practice of barangay officials submitting names of suspected criminals for inclusion on law enforcement watch lists has yet to be abolished. Persons included on the list are first warned to stop suspected activities or to leave Davao City, and if they do not, then they are abducted or killed on sight. According to credible information provided to the Special Rapporteur, while barangay officials may deny the existence of such lists, this practice is an "open secret" in the local area, and such lists are maintained to this day.

20. The Special Rapporteur is not aware of a single conviction for a death squad killing in Davao. As a result, death squad members operate with complete impunity. Killing for hire is on the rise as death squad members become bold enough to sell their services, and some reports indicate that a killing only costs about 5,000 pesos (about US\$ 100). Impunity also means that although killings take place in broad daylight, witnesses are not prepared to testify against the perpetrators.

21. The Mayor of Davao City has done nothing to prevent these killings, and his public comments suggest that he is, in fact, supportive. Mayor Duterte responded to the reported arrest and subsequent release of a notorious drug lord in Manila by saying: "Here in Davao, you can't go out alive. You can go out, but inside a coffin. Is that what you call extra-judicial killing? Then I will just bring a drug lord to a judge and kill him there, that will no longer be extra-judicial."⁴ One positive development, however, has been that Mayor Duterte relinquished his post at the National Police Commission (NAPOLCOM) and his control over the local police Task Force Davao on 31 March 2009, amidst the CHRP investigations into the death squad.

³ Jovito Palparan Jr. was implicated by the Melo Commission, the body created by President Arroyo in 2006 to investigate the spate of extrajudicial killings, as the prime military suspect with command responsibility for numerous extrajudicial killings.

⁴ *Police Told: Solve Drug Problem or Be Fired*, Sun.Star Network, Davao, at: <http://www.sunstar.com.ph/davao/police-told-solve-drug-problem-or-be-fired>.

22. The most encouraging development was the launch of independent investigations by the CHRP in March 2009. The CHRP should be supported in its investigations of the death squad, and encouraged to do so without reliance upon its own regional representatives, since the latter appear to share the same fear of death squad retaliation as other local residents.

B. Indications of the spread of death squads

23. Impunity has also encouraged death squad killings to sprout up in other cities beyond Davao. Since 2007, numerous patterns of death squad killings have been reported by media and civil society organizations in other cities in the region such as General Santos City, Digos City, and Tagum City, and even in Cebu, the Philippines' second largest city.

V. ACCOUNTABILITY FOR PERPETRATORS

24. According to the Government, the Philippines has seen only one conviction in the period 2007-2008 in cases involving extrajudicial executions. The recent arrest of Private First Class De la Cruz, accused of murdering activist Ricardo Ramos in 2005 is a positive step in the right direction, even though De la Cruz continued to serve in the AFP for two and a half years after the incident. Through the efforts of Task Force 211, the inter-agency task force against political violence created by the President in November 2007, there has also been progress in investigations and charges filed in at least four recent cases involving killings of members of the media. These efforts do not, however, provide evidence of a good faith effort on behalf of the Government to address the myriad of extrajudicial killings by the military. To date, there has still not been a single conviction involving those who were active military personnel at the time of the killing. The Government claims to be hamstrung by protracted procedures in the judicial system but these problems do not seem to have impeded progress in relation to media killings.

25. There is still a great disparity in the number of extrajudicial killings recorded by civil society organizations and those acknowledged as such by the Government. Furthermore, despite Executive Order 181 designed to encourage intra-governmental cooperation, the Government has failed to reconcile the number of confirmed cases of extrajudicial killings between its own agencies, including the Supreme Court, Task Force Usig, the PNP task force to address extrajudicial killings, and Task Force 211. While Task Force 211 updates its website monthly, Task Force Usig does not issue public reports and its website is out of date.

VI. KILLINGS BY THE COMMUNIST PARTY OF THE PHILIPPINES/NEW PEOPLE'S ARMY/NATIONAL DEMOCRATIC FRONT

26. The NPA continues its armed struggle against the Government. But the number of killings by the CPP/NPA/NDF is difficult to assess. The Government has regularly provided the Special Rapporteur with lists of individuals, mostly civilians, allegedly killed by the CPP/NPA/NDF. However, the lists are rarely accompanied by substantiating documentation, and it is difficult to confirm their reliability. Nevertheless, there is no evidence to suggest that the CPP/NPA/NDF has ceased carrying out killings nor that it has stopped using people's courts that violate human rights and humanitarian law standards. And there are continuing reports in the media of the CPP/NPA/NDF's use of lethal force on civilians. There is also no evidence that the CPP/NPA/NDF has repudiated any statements concerning persons owing "blood debts" or

having “accountabilities to the people”. While the NPA admitted its mistake in the killing of civilian Vicente Ferrazini in 2008, this is a far cry from the necessary repudiation called for by the Special Rapporteur.

27. There has been no progress in the peace negotiations between the Government and the CPP/NPA/NDF. The GRP-NDF Joint Monitoring Committee (JMC) remains inactive and has not been convened to meet and discuss the complaints of both sides concerning violations of human rights and international humanitarian law to fulfil its mandate under the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL). The Government has not responded positively to the CPP/NPA/NDF’s proposed joint fact-finding missions of extrajudicial killings, disappearances and violations of the rights of children. It has insisted that formal talks in the peace negotiations must first resume before it will sit down with the CPP/NPA/NDF to discuss such matters.

VII. KILLINGS IN WESTERN MINDANAO

28. Peace negotiations between the Government and the Moro Islamic Liberation Front (MILF) have stalled since open conflict has erupted between the two sides in August 2008. The previous mechanism in place to monitor ceasefire violations, the Malaysian led International Monitoring Team (IMT), has since pulled out, and there are currently no established mechanisms in place capable of independent human rights monitoring. Information provided to the Special Rapporteur indicates that between 400,000 and 600,000 people have been displaced by this ongoing conflict. The CHRP has from time to time visited the areas, mostly to monitor the status of internally displaced persons, particularly children, but lacks the necessary resources to continuously monitor the human rights situation amidst the armed conflict.

VIII. THE INTER-AGENCY LEGAL ACTION GROUP AND THE OMBUDSMAN

29. The Inter-Agency Legal Action Group (IALAG) continues to label members of civil society organizations as suspected members of the CPP/NPA/NDF, and the Government has not taken any steps to abolish IALAG. The central purpose of IALAG remains to prosecute and punish members of the CPP and its purported front groups as enemies of the State, many of whom will not be reachable by legal processes. The temptation to execute such individuals thus remains. As well, the Special Rapporteur received no information from the Government or civil society that IALAG has ceased its encouragement of prosecutors to act as “team players” with the AFP and PNP in counterinsurgency operations, and to de-prioritize cases involving the deaths of leftist activists.

30. Likewise, no progress appears to have been made with respect to improving the office of the Ombudsman’s ability to effectively fulfil its independent constitutional role in responding to extrajudicial killings plausibly attributed to public officials. In general, the Ombudsman is responsible for investigating and prosecuting government officials accused of crime. Numerous documented cases exist that would fall under the jurisdiction of the Ombudsman, but little response has occurred.

IX. WITNESS PROTECTION PROGRAMME

31. Failure to reform the witness protection programme is one of the most significant causes of continued impunity in the Philippines. In 2007, one expert suggested to the Special Rapporteur that the absence of witnesses results in 8 out of 10 cases involving extrajudicial killings failing to move from the initial investigation to the actual prosecution stage. Unfortunately, no information that the Special Rapporteur has received since then indicates any improvement in the system.

32. The programme is still housed within the National Prosecution Service (NPS). This is problematic because the impartial role prosecutors are expected to play in the early phases of a criminal case can make them reluctant to propose witness protection. The only movement on this recommendation is a bill currently stalled in the Senate that would remove protection responsibilities from the Department of Justice for witnesses in legislative hearings, where the witness could be testifying against the Government or high-ranking officials therein. This bill would not provide improved protection for witnesses in normal court trials, and is thus of limited applicability.

33. Housing, health and education benefits provided under the witness protection programme continue to be insufficient. The passage of another Senate bill that would expand the health coverage of witnesses and free education for children of witnesses has also been delayed. Similar bills seeking to amend the programme have also been stalled in Congressional committees for over two years.

34. Although the Government has acknowledged the seriousness of the problem of a lack of witnesses in the prosecution of extrajudicial executions, it has so far failed to take the substantive steps necessary to make the programme effective. The weaknesses of the programme observed in 2007 thus continue to undermine hopes for witness cooperation in many cases involving extrajudicial killings, especially those allegedly perpetrated by members of the Government.

X. CONGRESSIONAL OVERSIGHT

35. The Government has apparently taken no steps to implement effective policies to facilitate Congressional oversight of the AFP or the PNP. No action has been taken to rescind the directives, memoranda, and orders that impede such oversight. If made possible, Congressional oversight could be the entry point for much needed reforms to the AFP and PNP, as well as for more generally promoting a human rights based approach within the security sector.

XI. COMMISSION ON HUMAN RIGHTS

36. Under its relatively new leadership, the CHRP has been more vocal on various human rights issues in the Philippines, and has shown a greater willingness to act independently. The largest obstacle it faces is a shortage of resources. While it has received additional funding since 2007, it is not clear that it has, as a result, been able to increase its investigative reach by hiring, training, and equipping more investigators. Nor does it have the resources needed to effectively monitor human rights during military operations throughout the country, aside from their periodic visits to monitor internally displaced persons as a result of the GRP-MILF conflict. The CHRP should be commended for its recent initiative to investigate the existence of the death squad in Davao, and should be encouraged to continue initiating more such independent investigations.

XII. SUPREME COURT INITIATIVES

37. Soon after the Special Rapporteur's visit, the Chief Justice of the Supreme Court organized a National Consultative Summit on Extrajudicial Killings and Forced Disappearances. This was the first official initiative bringing together all segments of civil society and all branches of government to talk seriously about extrajudicial killings. The Chief Justice deserves considerable credit for this initiative.

38. While most of the recommendations stemming from the consultative summit have been ignored by the Government, or stalled in the executive and legislative branches, the Supreme Court should be credited for issuing its recommendations on the Writ of Amparo and the Writ of Habeas Data in late 2007 and early 2008. These writs largely addressed the weaknesses in the previous Writ of Habeas Corpus that had frustrated the progression of many prosecutions.

39. The Writ of Amparo provides a remedy against threats to life, liberty and security by an unlawful act or omission of a public official or employee, or of a private individual or entity. From its initiation, through January 2009, 33 petitions were filed before the Supreme Court or the Court of Appeals and 26 have been decided. Of those 26, 4 Writs were granted and 2 were partially granted. When granted, the Writ of Amparo provides significant relief in cases involving extrajudicial killings, as can be illustrated by the cases of Jonas Burgos and the Manalo Brothers. However, the Writ appears to remain underutilized, and even misunderstood in some courts. As well, there has yet to be a clear enforcement procedure established once the Writ is granted.

40. Meanwhile, the Writ of Habeas Data remains largely untested to this day, in part because of the financial burdens it imposes on those seeking to enforce the writ. In theory, the Writ of Habeas Data would not only compel military and Government agents to release information about victims of forced disappearances and extrajudicial killings, but would require access to military and police files. The Supreme Court should be encouraged to further develop the effectiveness of these measures of relief.

41. The Supreme Court has yet to use its constitutional powers over the practice of law to impress upon prosecutors their duty to uphold and protect human rights and to provide reasoned decisions for probable cause determinations.

42. Lastly, a month after the Special Rapporteur's visit, the Supreme Court designated some 99 special courts to hear cases of extrajudicial killings. However, this designation of already existing courts to hear such cases produced no results as no cases were filed within these courts. The Supreme Court has since abolished these special courts, reverting to the practice of designating all regional courts as special courts to try cases involving extrajudicial killings. Insofar as this discourages the participation of witnesses and leads to delays in prosecutions of cases involving extrajudicial killings, the changes should be revisited.

XIII. CONCLUSIONS

43. The Government deserves credit for having enacted some reforms in partial fulfilment of the Special Rapporteur's recommendations, and for having sent a message to the military which resulted in a significant decrease in the number of killings. It has also issued a number of potentially important policy statements affirming its commitment to eliminate such killings. However, in relation to many of the recommendations made, the Government has failed to make sufficient substantive progress and, in some cases, has made no progress at all. Although the number of extrajudicial executions of members of civil society organizations has greatly diminished, too many cases continue to be reported and far too little accountability has been achieved for the perpetrators. In addition, death squad killings, far from being reduced, have skyrocketed. In the face of all the evidence, the Government's denial of the existence of such death squads continues to undermine its credibility and inhibit efforts to address the problem. Overall, the most important shortcoming has been the Government's failure to institutionalize or implement the many necessary reforms that have been identified. In the absence of such steps, the progress that has been made remains fragile and easily reversed.

Appendix

SUMMARY OF FOLLOW-UP TO EACH RECOMMENDATION

Extrajudicial executions must be eliminated from counterinsurgency operations:

- (a) *As Commander-in-Chief of the armed forces, the President must take 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.*

There appears to have been partial progress on this recommendation, but more transparency is needed to determine exactly what concrete steps have and have not been taken.

- (b) *The necessary measures should be taken to ensure that the principle of command responsibility, as it is understood in international law, is a basis for criminal liability within the domestic legal order.*

This recommendation has not been implemented. More transparency is needed to determine the effectiveness of the AFP's alleged policy with regard to the principle of command responsibility.

- (c) *The Government should immediately direct all military officers to cease making public statements linking political or other civil society groups to those engaged in armed insurgencies. Any such characterizations belong solely within the power of the civilian authorities. They must be based on transparent criteria, and conform with the human rights provisions of the Constitution and relevant treaties.*

This recommendation has been partially implemented, but some statements continue to be made.

- (d) *Transparency must be introduced to the "orders of battle", "watch lists", and similar list of individuals and organizations maintained by the AFP, PNP, and other elements of the national security system. While their contents might justifiably be considered secret, which lists exist, their purposes, the criteria for inclusion, and the number of names on each should be made public.*

This recommendation has not been implemented.

The use of a death squad in Davao City must end:

- (a) *NAPOLCOM should withdraw the mayor of Davao City's powers of supervision and control of PNP units within his jurisdiction and should hold the officers commanding those units accountable for shutting down the death squad.*

This recommendation has been partially implemented. Mayor Duterte independently relinquished his post at NAPOLCOM and his control over the local police's Task Force Davao. However, the Mayor has not taken any significant steps to hold the officers commanding those units accountable.

- (b) *While particular crimes should be reported, laws and practices in which barangay councils or captains submit names (e.g., of drug pushers) for inclusion on law enforcement watch lists should be abolished.*

This recommendation has not been implemented.

- (c) *An independent investigation should be conducted to identify the persons directing the death squad's "assets" and hit men.*

This recommendation is in the process of being implemented.

Convictions in a significant number of extrajudicial executions must be achieved. Appropriate institutional arrangements exist but they must be more transparent if they are to be effective. Thus:

- (a) *CHRP should issue a monthly report listing allegations of extrajudicial executions that it has received together with the current status of its investigations.*

This recommendation has not been implemented.

- (b) *Members of the public should be able to submit cases to be overseen by Task Force Usig. If it concludes that a case does not fall within its mandate, it should provide a reasoned explanation in writing.*

No evidence of implementation has been produced for this recommendation.

- (c) *Task Force Usig should issue a monthly report on the status of all cases it is attempting to resolve.*

This recommendation has not been implemented.

- (d) *The Supreme Court should issue a monthly report on the status of all cases before the special courts.*

No evidence of implementation has been produced for this recommendation.

IALAG should be abolished, and the criminal justice system should refocus on investigating and prosecuting those committing extrajudicial executions and other serious crimes.

This recommendation has not been implemented.

The witness protection programme should be reformed and fully implemented:

- (a) *It should be proactively administered by an office independent of the NPS.*

This recommendation has not been implemented.

- (b) *Witness protection should be unstintingly provided to all those who will be put at risk by an individual's testimony.*

This recommendation has not been implemented.

- (c) *Individuals should be permitted to remain in the witness protection system for as long as they are at risk, even if a case stalls.*

This recommendation has not been implemented.

- (d) *Housing and other benefits provided under the witness protection programme should ensure the security and comfort of those protected.*

This recommendation has not been implemented.

The Supreme Court should take all available measures to ensure the effective prosecution of extrajudicial executions. Among other measures:

This recommendation had been partially implemented, though real progress has been made. The Supreme Court has taken very positive measures through conducting a Summit on Extrajudicial Killings and the creation of the Writs of Amparo and Habeas Data.

- (a) *The system of special courts for killings of political activists and members of the media should be fully implemented so as to improve the efficiency of trials, and the judiciary should take all other measures necessary to facilitate the participation of witnesses, including sympathetic consideration of requested venue changes and docket management decisions that facilitate witness participation and protection.*

This recommendation has not been implemented.

- (b) *In conjunction with the executive branch of Government, the Supreme Court should use its constitutional powers over the practice of law to impress upon prosecutors that they have a duty to the public to uphold and protect human rights by acting to ensure the effective investigation of cases and protection of witnesses and that they should provide reasoned decisions for probable cause determinations.*

This recommendation has not been implemented.

Human rights should be safeguarded within the peace processes:

- (a) *The JMC should meet and fulfil its mandate under the CARHRIHL.*

This recommendation has not been implemented.

- (b) *Consideration should be given to establishing a mechanism for monitoring human rights abuses within the framework of the Government - MILF peace process.*

This recommendation has not been implemented.

The Commission on Human Rights (CHRP) should guard its independence and increase its effectiveness:

- (a) *CHRP should hire and train more investigators and provide them with the resources necessary for effective investigations.*

No evidence of implementation has been produced for this recommendation.

- (b) *CHRP should increase the resources available for victim assistance to ensure that witnesses are sufficiently secure as to enable the non-judicial clarification of their cases.*

This recommendation has not been implemented.

- (c) *To provide more accountability in the AFP promotions process, CHRP should follow-up on its human rights clearance decisions by publicly tracking the subsequent promotion decisions of the AFP and the Commission on Appointments.*

This recommendation has been partially implemented. The AFP has also created a Human Rights Division that participates in this process.

- (d) *CHRP should consider measures to more effectively protect as well as monitor human rights during military operations throughout the country.*

No evidence of implementation has been produced for this recommendation.

The Ombudsman's office should begin to fulfil effectively its independent constitutional role in responding to extrajudicial killings plausibly attributed to public officials.

This recommendation has not been implemented.

The Government should reinstate a policy of facilitating the constitutionally-mandated role of Congressional oversight in relation to the AFP and the PNP, starting by rescinding all directives, memoranda, and orders that impede such oversight.

This recommendation has not been implemented.

The CPP/NPA/NDF should stop using people's courts that do not comply with human rights and humanitarian law standards and should ensure that lethal force is directed only against combatants and civilians directly participating in hostilities.

This recommendation has not been implemented.

The CPP/NPA/NDF should repudiate statements that persons owe "blood debts", have "accountabilities to the people", or are subject to prosecution before people's courts.

This recommendation has not been implemented.
