



INTERNATIONAL LABOR RIGHTS FORUM

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While the Government of the Philippines has stated it is taking steps to reduce extra-judicial executions (EJE) and enforced disappearances by military personnel and paramilitary units trained and armed by the military, new cases have been reported and impunity for these crimes continues. Human Rights NGO's in the Philippines report many hundreds of cases of extrajudicial executions in the last decade (137 killings under the Aquino administration since 2010), enforced disappearances remain unresolved, and new cases continue to be reported. Human rights defenders, labor leaders, environmentalists, and members of other legal organizations are frequently vilified by the military and paramilitary forces as "enemies of the state" or members of the New Peoples' Army.

A failure to prosecute military personnel accused of human rights violations and those under their command has been a consistent pattern of the Philippine government. The most notorious example is the case of Retired Major General Jovito Palparan, Commander for the Armed Forces of the Philippines (AFP) 7th Division. He has remained a fugitive since 2011 in connection with his alleged involvement in the kidnapping and disappearance of two University of the Philippines students in 2006. While he avoids arrest, none of the junior officers under his command have been charged or investigated as allegations of human rights abuses by this division have continued.

post heavy brief

We are hopeful that the International Labor Organization will review the current case against the Philippines before the Committee on Applications of Standards (CAS) again this coming June. Since the ILO Mission High-level Mission submitted its findings to the CAS on both the issue of EJKs and Assumption of Jurisdiction, the ILO has been unable to complete its review of the case. Most recently, in 2012, the CAS was suspended when the Employer representatives staged a walk-out in protest ILO Conventions 87 and 98, which are the two core ILO conventions addressing the issues raised before this committee in relation. Employer attacks on the peoples' right to freedom of association is as alarming as those of the government, and as we heard from the Philippine government in its testimony related to the government's efforts to reform its AJ laws, this antipathy to workers rights is shared by employers across the Philippines. Unfortunately, as an apparent result of employer pressure, the Philippine government appears to be frozen in time and unable to move toward securing and implementing the fundamental principles of freedom of association, and in many cases, such as Dole Philippines and others documented before this Committee over the past 6 seven years since this case was opened. We hope that the efforts of employers to undermine the ILO supervisory process will not continue to hold this case up before the ILO, like they have been holding up reform of the Assumption of Jurisdiction in the Philippines, so that the ILO can continue its important work toward ensuring that workers everywhere can enjoy and exercise their right of freedom of association.

We request at this time that this case remain open pending resolution of the case before the ILO. Furthermore, we request that the US Government communicate to the ILO as well as the tripartite partners at the International Organization of Employers and the International Trade Union Confederation in advance of this June's CAS that the Philippines is of utmost importance and should be addressed again this year in order to ensure that the Philippine government begin taking serious steps to ending government and employer violations of freedom of association.

Post Hearing Questions:

Question 1: Concerning details on the cases of violence against unionists that the government of Philippines referred to in its testimony, ILRF knows the "older cases" to which the Philippine government referred as unionist killings and violence against unionists which occurred before Aquino assumed the presidency in June 2010. Since then, at least eight labour-related killings have occurred, and ILRF's partners on the ground have produced materials on these and all labour-related violence, which is included in a packet for your review. In its testimony, the Philippine government asserted that all these cases, old and new, were being compiled in a list to be examined further by a representative board—one that, according to the testimony, was not to be fully formed until "mid April". Please find attached a report detailing the incidences of trade union and labour killings.

Question 2: The committee has also requested further clarification concerning the case of assumption of jurisdiction in the palm oil case to which ILRF referred in its original testimony. Last October, 293 workers in a palm oil plantation, previously employed as casual employees in FPPI, some working there as long as 30 years, were dismissed after an ocular inspection by the Department of Labor and Employment (DOLE). The inspection's initial findings released on October 25 confirmed the company's massive violations of labor standards. In a retaliatory move, management dismissed one by one *all* workers interviewed by DOLE in their inspection, except a few (11) who agreed to sign waivers. This action of the management prompted the workers'

union to launch a strike on November 27, which lasted until January 31 of this year, nearly two weeks after the Secretary of Labor assumed jurisdiction over the strike and issued a return to work order. Issues of long term contractualization, CBA violations, and child labor also hound the oil palm company; the DOLE is still reluctant to hold the company liable for its clear violations of the law. These workers, barely able to support themselves while working on the plantation, have only descended further into poverty since. This case is a prime example of how the government's implementation of assumption of jurisdiction consistently tips the scale in favour of management.

Question 3: Concerning the amendment to the labor code proposed by the Philippine government on the assumption of jurisdiction and the definition of essential services, ILRF is concerned that the new rule is being written without any input from or consideration of workers, who are affected by the implementation of AJ. The new rule will try to limit the areas in which assumption of jurisdiction is considered relevant, however the "essential services as defined by ILO" are not agreed upon internally, and are to be revisited this month. As ILRF and its partners have noted, the government is consistently reluctant to give up territory when it comes to the assumption of jurisdiction; the Supreme Court has consistently rejected many appeals of the assumption of jurisdiction, an example being the appeal led by workers of AFP savings and loans association--15 union leaders there were sacked in late 2010 allegation of illegal strike. The union and management had "no strike allowed" written into the CBA. The definite of "strike" continues to be contested within this and other contexts. As such, while ILRF is of the opinion that new rules limiting the use of the assumption of jurisdiction can appear to signify positive change, due to consistent issues in the implementation of the assumption of jurisdiction, those should not be taken as a sign of real progress. The government has yet to address prominent cases on the issue, such as the Dusit Hotel case before the ILO Committee on Freedom of Association, which demonstrates the low level of commitment DOLE and other government agents have on reforming the assumption of jurisdiction.

Question 4:

The committee has requested information on the Copper Mining Union case in Cebu; ILRF has connected with partners on the ground to remain informed on this recent case. There have been two instances of harassment by the Regional Philippine National Police of union members, at their private residences, the first on March 19th, the second on March 21st. The first included one search warrant for one property of a union treasurer and another raid on a second property without a warrant. As well, on March 25th, eight armed men set fire to a garage privately owned by the union treasurer; shots were fired, and no police showed when they were called to aid in the emergency or the fire. Our partners have read the warrant and subsequent police reports and found them to be lacking in evidence and shoddily composed. ILRF has submitted a partner's press release on this case for the committee's review.

Additionally, we are concerned that the experience of the Copper Mining Union in Cebu portends an increasingly dangerous future for trade unions in the mining industry. When President Aquino ran for election in 2010 he promised to rescind Executive Order (EO) 546, which in the guise of arming police auxiliaries to assist in the fight against insurgents, provides automatic rifles to private armies of politicians and private business interests. Instead the government has continued the program under EO546, and empowered the AFP and paramilitary units to assist business interests including mining companies. A recent hearing on the killing of 4 members of B'laan tribe in Mindanao who were active against the proposed large Tampakan copper-gold mine being

developed by Sagittarius Mines, Inc. (SMI)–Xstrata, disclosed that SMI-Xstrata has men on their payroll who are paramilitaries armed by and under the nominal command of the AFP.

The State Department Human Rights Report for 2012 states that the “leading human rights problems” including “continued arbitrary, unlawful, and extrajudicial killings by national, provincial, and local government agents” persist and describes the growing problem of the killing of indigenous people who taking action against the mining companies. In September 2012, Human Rights Watch issued a statement to the UN Human Rights Council Universal Periodic Review of the Philippines regarding human rights violations of indigenous peoples, who are being targeted by paramilitary units under the command of the Philippine military. In part they said:

Indigenous communities frequently bear the brunt of human rights abuses in the Philippines because they often live in conflict areas between the NPA and the government and where extractive industries such as mining are fought over. Although abuses targeting tribal Filipinos have been reported for decades, there has been a noticeable increase in the past year of attacks directed at them or their supporters. Almost no perpetrators have been convicted. Impunity persists in part due to inadequate criminal investigations and witness protection schemes, a lack of political will to ensure effective prosecutions, and lengthy delays in court proceedings.