A HUMAN RIGHTS AND PEACE AGENDA ON GOOD GOVERNANCE

The Filipino nation is in the midst of difficulties and challenges. Poverty, unemployment, hunger, urban blight, environmental destruction, extrajudicial killings, insurgency, and corruption are among the glaring manifestations of human rights violations that persist in the country. These too are the root causes of conflict and violence in Philippine society. Consider the following statistics:

- 26.9% or 4.7 million Filipino families are poor (2006)
- 12.22 million Filipinos are classified as food-poor
- 7% of the total population are not using an improved water source
- 11.6 million Filipinos aged 6-24 years are out of school
- 1 out of 10 Filipinos cannot read and write
- 2.9 million Filipinos are unemployed (using the “new” NSCB definition of unemployment)
- More than 80,000 families were evicted from the railroad tracks from 2005-2006 with only half of them given relocation
- More than 600,000 Filipinos were displaced by internal armed conflict in Mindanao from August-October 2008
- 57 journalists, lawyers and civilians were massacred in Maguindanao on November 23, 2009.

These problems and conditions reflect the weakness, if not failure, on the part of the Philippine government to fulfill its duties and obligations to respect, protect and promote the peoples’ right to life, to be free from hunger, to adequate health, affordable housing, quality education and a healthy environment. These likewise reflect the kind of governance the country’s leaders, both current and past, have practiced.

For the longest time, hu-
man rights violations have characterized the socio-political landscape of the country. People have been denied essential goods and services that will allow them to live in dignity, grow and develop as productive and healthy individuals, and be active participants in the development process. Instrumental in the perpetuation of this state of affairs is weak and defective governance. Self-agrandizement and power have been the key motivations and driving forces of government officials in the exercise of State functions. Corruption from the lowest to the highest levels of the bureaucracy, abuse of authority and disregard for the rule of law, nepotism and cronyism, mismanagement and misprioritization of government resources, and monopoly of power, have been the tools of State agents in marginalizing the poor and disempowering peoples and communities.

The Philippine government is one of the member states of the United Nations which has consistently declared its commitment to human rights by ratifying virtually all the key human rights instruments. To date, it is a State Party to eight (8) major human rights laws: the Convention on the Elimination of Racial Discrimination (CERD), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Convention on the Rights of the Child (CRC), Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), and Convention on the Rights of Persons with Disabilities. However, these commitments have been consistently contradicted in practice by the State with the persistence and escalation of human rights violations, and the perpetuation of a culture of impunity with the failure of the State to prosecute and punish human rights violators, serve justice and provide just compensation, reparation and rehabilitation to all victims.

In the May 2010 national elections, the Filipino people will once again face the duty and challenge of exercising their right of suffrage and choosing the leaders of the nation. As in previous elections, they will encounter candidates projecting themselves as “champions of the
poor”, “defenders of the oppressed”, “hope of the nation,” and “guardians of democracy”. The candidates will be armed with all sorts of incentives, gimmicks and promises declaring the people’s redemption is imminent and the birth of a great nation is approaching once they get elected into power.

But our people will no longer be fooled by traditional politicians who only have empty promises to offer and a whole term of self-enrichment and deceit in mind. We will demand and expect a substantial and meaningful program of government that is based on human rights principles and a system of governance that is transparent, responsible, based on the rule of law, accountable and participatory.

Thus, we present a Human Rights and Peace Agenda on Good Governance, and we challenge all candidates in the May 2010 elections to integrate these into their program of government and bring them to fruition during their term of office as public servants and leaders of the nation. The human rights community and various people’s organizations will advocate and monitor this Agenda throughout the entire term of those elected in government. The Agenda covers 10 major areas:

1. Ensure respect for human rights and the rule of law through strict implementation of a security policy against the brutal spiral of human rights violations – unlawful arrests, secret detention, enforced disappearances, torture and other forms of cruel, inhuman and degrading treatment, and extrajudicial executions in the name of counterinsurgency and counterterrorism.

Like every country, the Philippines has legitimate security needs. International human rights standards recognize the legitimate needs of states in that field. However in the Philippines, national security concerns have often been invoked as an excuse to justify human rights violations against real or alleged members of left-leaning political groups, using the assumption that such left-leaning groups are fronts of the Communist Party of the Philippines–New Peoples Army–National Democratic Front or, in some areas in Mindanao, the Moro Islamic Liberation Front. Military propaganda accuses leaders of non-governmental organizations and progressive political groups of being allied with “enemy groups” or “enemies of the State”. In an increasing number of cases, the military has also accused leaders and staff of such groups of various criminal acts, including multiple murder.

- Issue an executive order which clearly states the administration’s position to stop the practice of enforced disappearances and extrajudicial executions in the country. In particular, set up a mechanism that disallows the appointment to senior positions in government and the military of officials who have been involved in enforced disappearances and extrajudicial executions, including through command responsibility. This should include those who are named as respondents in ongoing criminal cases with element of serious human rights violations, particularly enforced disappearances.
- Introduce effective measures to have a national quick response hotline whereby families of victims of arbitrary or warrantless arrests can access and seek recourse.
- Restore civil society representation and membership in the Presidential Human Rights Committee (PHRC).
- Ensure that the arrest and detention procedures followed by the police and military comply with international human rights laws and standards, by implementing appropriate sanctions for those who fail to follow such human rights-based procedures.
- Order the Armed Forces of the Philippines to stop the practice of arbitrary or secret detention and close any secret detention facilities in operation, including those in military camps and temporary military detachments in the countryside.
- Capacitate the Commission on Human Rights (CHR) of the Philippines to independently monitor in coordination with human rights organizations the human rights of all detainees, including providing CHR personnel unimpeded access to all places of detention and all detainees.
- Ban the techniques, specifically torture and other forms of ill-treatment and enforced disappearance, used by the military and police investigators/operatives during questioning and interrogation, and ensure that appropriate sanctions are in place against those who perpetrate such human rights violations.
- Stop and prohibit incommunicado detention. All detainees should have prompt access to the outside world, including their relatives, lawyers and doctors.
- Ensure that all detainees are able to effectively exercise their right to challenge promptly the lawfulness of their detention before a court, and guarantee that they will be immediately released if their detention is found to be unlawful.
- Commit to transparent, independent, judicial investigations of any credible allegations against anyone suspected of enforced disappearances and extrajudicial executions, particularly those who are deemed untouchable because of their political or military powers.
- Review the current witness protection program towards its strengthening and with a view of securing convictions against human rights violators through the enrollment into the program of credible witnesses who would otherwise not be motivated to give their testimony.

Legislative Agenda

- Immediately sign the International Convention for the Protection of All Persons from Enforced Disappearances as a step towards ratification.
- Certify as urgent the ratification by the Philippine Senate of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Certify as urgent the passage of a law criminalizing extrajudicial execution.
- Certify as urgent the repeal of BP 880 or the Public Assembly Act.
- Amend Republic Act No. 9372 or the Human Security Act of 2007 to ensure that no person will be unjustly persecuted based on his/her political ideology or belief, provided that such belief or ideology does not translate into political activities that endanger the life and human rights of others.
- Revoke Executive Order 464 or the “Gag Rule”.

2. Reform the security forces and the judiciary.

The Philippine judicial and law enforcement sectors lack the personnel, infrastructure, training and political will to respect, protect and promote human rights. The Department of Justice (DOJ), which serves as one of the government’s lead agencies for the implementation and mainstreaming of human rights, suffers from systemic
corruption and a lack of qualified judges and prosecutors. Judicial personnel remain susceptible to pressure by public office holders and rich and powerful private individuals. Resolution of cases remain slow, with trials often lasting years. Citizens lack confidence in the formal justice institutions and regard them as slow, ineffective and often corrupt. Most Filipinos have difficulty accessing courts and legal assistance; most could not afford court fees or travel costs.

The Armed Forces of the Philippines (AFP) is one of the smallest militaries in the world, particularly in relation to the country’s population. Its use of poorly trained and sometimes undisciplined force multipliers have resulted in abusive practices. In parts of the country where these government-backed paramilitaries are used by local political families and warlords as their private armies, the authority and legitimacy of the central government has been undermined. Current laws and policies, particularly EO 546 which directs the PNP to actively support the AFP in internal security operations for the suppression of insurgency and other serious threats to national security, have been interpreted to allow the use of paramilitary groups in the government’s counterinsurgency operations, with auxiliary groups and civilian volunteer organizations (CVOs) having accountability only to the local chief executive at best.

- Implement a clear and transparent mechanism to prevent the appointment of present and former government and military officials with credible allegations or records of human rights violations to senior levels of government, law enforcement and the judiciary, as well as to provincial, regional and national command posts of the military, including but not limited to those who are named as respondents in on-going court cases related to serious human rights violations.
- Suspend from their post – where they can exert power or influence over victims and witnesses – government, military and police officials undergoing investigation for human rights violations or named as respondents in criminal cases, and issue appropriate sanctions when found guilty.
- Bring to justice (in proceedings which meet international standards of fairness) military or police personnel regardless of rank, including those with command responsibility, identified by investigations as responsible for human rights violations.
- Incorporate international human rights and humanitarian law standards as an integral and permanent component of training for police, military and their auxiliaries, particularly through the development and implementation of a practicable human rights primer for agencies belonging to the country’s security sector. The human rights primer must include practical information such as rights-based procedures for arrest and detention, appropriate use of force when necessary, interrogation of criminal or terrorist suspects without recourse to torture and other ill-treatment in any circumstance.
- Sufficiently capacitate and give mandate to the AFP and PNP human rights offices/desks so they will be able to promptly and credibly conduct detailed and impartial investigations on credible allegations of human rights violations, so that it no longer relies on investigations done by regional commands on the ground on their own personnel. For high profile cases, such investigations should be done alongside the CHR and reputable independent human rights monitor for purposes of transparency and credibility.
- Immediately transmit to the Senate for deliberations the instrument of ratification for the Rome Statute of the International Criminal Court (ICC).

Legislative Agenda
- Revoke Executive Order 546.

3. Review the counterinsurgency plan/policy and establish a truth and reconciliation mechanism as part of the peace process.

Despite clear and repeated calls by Filipinos and the international community for truth and accountability for the country’s deplorable record of serious human rights violations and abuses, particularly those committed in the context of the longstanding and intermittent armed conflicts between the AFP and the Moro Islamic Liberation Front and the New Peoples Army, only a handful of individuals have been prosecuted for serious violations of human rights in the last four decades.

- Integrate human rights principles in the peace process, and include in the peace talks agenda, both with the MILF and the NPA, provisions on mutual cooperation on human rights protection, and timely and impartial investigations on credible allegations of human rights and IHL violations committed in the context of the armed conflicts.
- Review Oplan Bantay Laya 2 and other counterinsurgency policies, with input from the CHR, to ensure that all counterinsurgency plans/policies comply with International Humanitarian Law and not infringe on the human rights of all peoples.
- Exercise full control and accountability over all government-backed paramilitary groups/force multipliers, particularly the CAFGU, Special CAFGU Active Auxiliary (SCAGA), CVO, police auxiliaries, and establish operational guidelines, a clear chain of command and an accountability mechanism for all of them. Clearly define the different functions and limitations of these units. Also look into the possibility of disbanding such groups.
- Establish a truth-telling commission to document human rights violations experienced as a consequence of the internal armed conflicts in the country, to aid the justice and reconciliation aspects of the peace process. This mechanism should operate alongside, rather than substitute, any judicial proceedings related to the human rights violations in the context of the armed conflict, and be composed not only of government officials, but also people from credible independent bodies. Genuine national reconciliation can only happen if and when authorities take...
steps to establish the truth and face up to the crimes of the past, provide justice and reparation for the victims, and end the continuing chain of impunity for armed conflict-related human rights violations.

- Hold accountable government and military officials who have committed human rights violations in the Philippines’ counterinsurgency efforts against the NPA and the MILF. The new administration must commit to a transparent and independent judicial investigation of all credible allegations against government and military officers leading to prosecution of the violations. With the requisite political will and independent oversight, the damage to the rule of law can be repaired, greatly improving the credibility of the new government and creating a positive and enabling environment for the peace process.

- Ensure that AFP officers who have been identified as suspects of serious human rights violations, including through command responsibility, be barred from holding senior government posts until such time that their names have been cleared by a civilian court (if there is a court case), or by the CHR after an independent, transparent and credible investigation (if there is no court case), or any other independent human rights monitors agreed upon by both parties in the peace process.

**Legislative Agenda**

- Certify as urgent the passage of a law on the compensation of all victims of human rights violations particularly during the martial law regime.

- Certify as urgent/priority the enactment of a law that will implement a general amnesty program for members of rebel groups that would also provide immunity from suits arising from their activities while inside the organization.

4. Provide sustainable rehabilitation and resettlement assistance to internally displaced persons in the GRP-MILF armed conflict

More than tens of thousands of Filipinos continue to be internally displaced due to the internal armed conflict particularly in southern Philippines. The situation remains desperate for people displaced in conflict zones, particularly after the onslaught of typhoons, continuing security risks, and their loss of livelihood and other means of sustenance. They face scarce job opportunities and have very limited access to land, housing, water and basic services essential for the realization of human rights.

- Provide sustained assistance to the displaced people, including essential food and potable water, basic shelter, appropriate clothing and heating materials as well as essential medical services and sanitation, in line with the UN Guiding Principles on Internal Displacement.

- Ensure free and safe passage of humanitarian assistance to Moro and Lumad communities displaced from their homes due to human-made and natural calamities.

- Ensure that displaced families returning to their homes have their land and property restored and implement effective mechanisms for resolving land disputes.

- Implement resettlement, rehabilitation as well as reparation/indemnification programs/services to all internally displaced persons due to armed conflict.

5. Integrate human rights principles in the Medium Term Development Plan.

Development is a human right to which all peoples and communities are entitled and in which they should have an active and meaningful role. The Philippine government has consistently implemented a development paradigm that has been characterized as export-oriented, foreign debt driven and foreign investments dependent. Such development framework has had serious repercussions on the peoples’ rights and undermined the country’s national patrimony. As the principal disposer of the country’s national patrimony, the government and in all levels of governance as a mechanism to monitor State compliance with its international HR obligations.

- Ensure active and meaningful participation of peoples/communities in decision and policy-making bodies/structures, especially on matters that affect their lives, through their representation and involvement, specifically in development councils and other development planning structures, in all levels of governance.

- Ensure that all international treaties, bilateral agreements and other forms of international commitments entered into by the President and/or Philippine Senate are based on and consistent with human rights norms, standards and principles.

- Stop all forms of development aggression projects that seriously threaten and/or attack the peoples’ economic, social and cultural rights, deprive people of their means of subsistence, and result in the destruction of the environment, such as conversion of agricultural lands, large-scale mining operations, construction of infrastructure projects like dams, etc.

- Ensure the effective implementation of a comprehensive agrarian reform program that respects and protects the rights of Filipino peasants to life and productive resources.

- Institute measures, mechanisms and procedures that will effectively address graft and corruption in all levels of government and that will ensure transparency and accountability in all transactions, projects, agreements and services entered into by the government at all levels.

**Legislative Agenda**

- Certify as urgent or priority the repeal of Presidential Decree No. 1177 or the Automatic Appropriations Law issued by former Pres. Ferdinand Marcos, which mandates the National Government to automatically appropriate funds for principal and interest payments for public debt servicing (e.g., Senate Bill No. 1591 or Automatic Debt Appropriations Cancellation Act of 2007 filed by Sen. Antonio Trillanes during the First Regular Session of the 15th Congress).

- Immediately sign the Optional Protocol of the International Covenant on Economic, Social and Cultural Rights to facilitate the process of ratification within the new administration’s term.

- Certify as urgent/priority the repeal of the Philippine Mining Act of 1995, and the passage of an Alternative Mining Act that is in accordance with human rights norms, standards and obligations, and that respects the rights of indigenous peoples and marginalized communities.
6. Advance the social and cultural rights of the people.

Everyone has the right to enjoy the highest standards of health and health care. The state is obliged to ensure that its citizens are adequately nourished and free from hunger. It is likewise the duty of the State to establish a responsive program for social housing and protect the public from unjust evictions from their homes. Everyone has the right to free, accessible, relevant, nationalistic education that is gender and culturally sensitive, responsive to our needs, and advances the culture of human rights.

- Expand programs, facilities, goods and services that contribute to the realization of the rights and welfare of vulnerable groups, specifically the elderly, persons with disabilities and rural poor.

Legislative Agenda

- Certify as urgent the passage of a Comprehensive Public Health Act that will provide the poor and marginalized sectors with adequate health care and access to quality and affordable medical facilities, goods and services, and will protect the rights of patients.
- Certify as urgent the enactment of a Magna Carta for Students Rights and Welfare.
- Certify as urgent the enactment of a law that would include human rights and peace education in all levels of the Philippine educational system.
- Amend existing legislations regarding social housing, demolition and evictions so these are consistent with the respect and protection of the peoples’ right to adequate housing. Enact a law that would criminalize illegal demolitions.
- Develop programs, facilities, goods and services that contribute to the realization of the rights and welfare of vulnerable groups, specifically the elderly, persons with disabilities and rural poor.

7. Pursue the promotion and protection of children and women’s rights.

All children and youth have the right to special care, education, health and protection against all forms of abuse, discrimination, exploitation, corruption, and inhuman conditions affecting their physical, emotional, intellectual and moral development. The State shall protect and defend both women and men from discrimination, exploitation, trafficking, assault, battery and other forms of abuse and violence, and shall recognize their equal rights as partners in nation building.

Legislative Agenda

- Certify as priority the passage of the Universal Declaration of Human Rights (UDHR).
- Enact a law that will criminalize all forms of discrimination.
- Enact a law that will criminalize all forms of terrorist profiling, discrimination, and prosecution of persons due to their religious affiliation.
- Enact a law that will criminalize all forms of terrorist profiling, discrimination, and prosecution of persons due to their religious affiliation.
- Enact a law that will criminalize all forms of terrorist profiling, discrimination, and prosecution of persons due to their religious affiliation.

8. Respect and protect the rights of indigenous and Moro peoples, particularly their rights to self-determination and ancestral domain.

The State must guarantee the rights of indigenous and Moro peoples by protecting them from all forms of discrimination, displacement, and recognizing, respecting, and protecting their inherent right to their ancestral domain. The State shall also ensure that its development programs do not threaten the survival of the indigenous and Moro peoples, nor destroy their own culture, language, tradition, and belief.

Legislative Agenda

- Introduce amendments to the provisions of the Indigenous Peoples’ Rights Act (IPRA) that would de-bureaucratize and simplify the process of application and certification of ancestral domain/land claims, make it more responsive to the nuances and differences of the culture and traditions of indigenous peoples; and revise the existing guidelines on securing the Free, Prior and Informed Consent (FPIC) which are in conflict with and violative of the IP right to information, freedom of expression, right to participate in decision-making, and right to self-determination.
- Enact a law that will criminalize all forms of terrorist profiling, discrimination, and prosecution of persons due to their religious affiliation.
- Enact a law that will criminalize all forms of terrorist profiling, discrimination, and prosecution of persons due to their religious affiliation.
- Enact a law that will criminalize all forms of terrorist profiling, discrimination, and prosecution of persons due to their religious affiliation.

9. Ensure the promotion of workers’ rights by creating an enabling environment that will respect and protect their rights from all forms of violations and abuses, both by State and non-state entities.

It is the obligation of the State to protect the right of the people to an independent economic policy, free from foreign domination and intrusion, and to safeguard the right to collective bargaining. The State shall protect and defend both workers and employers from all forms of violations and abuses, both by State and non-state entities.

Legislative Agenda

- Amend the Labor Code to provide for the promotion of workers’ rights.
- Enact a law that will cancel all trade agreements that only benefit the interests of foreign capital and undermine our own economic growth and development.
- Amend the Labor Code to strengthen the right to strike, and the right to form trade unions.

10. Fulfill the State’s international human rights commitments and obligations.

- Develop and adopt concrete programs, policies and measures leading to the effective realization and implementation of all the Concluding Observations of the various UN treaty-monitoring bodies, namely:
  i. Committee on Economic, Social and Cultural Rights
  ii. Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
  iii. Committee on the Rights of the Child
  iv. Committee on the Elimination of All Forms of Discrimination
  v. Committee on the Protection of the Rights of All Migrant Workers and Members of their Families
  vi. Committee on the Elimination of All Forms of Racial Discrimination

Note: This agenda was presented during the Forum on Human Rights and Peace in Good Governance, organized by the Association of Major Religious Superiors in the Philippines (AMRSP) and its Mission Partners in partnership with De La Salle College of Saint Benilde (DLS-CSB) on January 28, 2010.