

September 2012

**HUMAN RIGHTS COMMITTEE COUNTRY REPORT**

**Philippines**

**Independent information for the 106th session**

**of the Human Rights Committee (HRC)**

**HUMAN RIGHTS LITIGATION AND INTERNATIONAL ADVOCACY CLINIC  
AND HUMAN RIGHTS PROGRAM  
UNIVERSITY OF MINNESOTA**

**CRITICAL ISSUES**

**Right to Life (Article 6)**

Excessive use of force with firearms by law enforcement and security forces

Due diligence to prevent killings and injuries with small arms by private actors

**PROPOSED QUESTIONS FOR THE GOVERNMENT OF THE PHILIPPINES**

1. With regard to Item 9 on the List of Issues to be taken up in connection with the consideration of the fourth periodic report of the Philippines:<sup>1</sup>
  - A) Please explain what laws, regulations and training protocols are being implemented by military and police officials and their auxiliary forces including the Citizen Armed Force Geographical Units (CAFGUs) and Civilian Volunteer Organizations (CVOs) to prevent the misuse of force with small arms and light weapons (SALW) that results in extra-judicial killings, harm to civilians, and other violations of international human rights and humanitarian law.
  - B) Please provide more information about whether the government continues to supply CAFGU and CVO members with M-14s or M-16s. Please explain the

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<sup>1</sup> List of issues to be taken up in connection with the consideration of the fourth periodic report of the Philippines (CCPR/C/PHL/4) (26 Apr. 2012).

rationale for providing CAFGU and CVO members with such powerful weapons, and provide more information on what training is provided to members of these auxiliary forces to prevent extrajudicial executions, and what types of regulations are implemented with regards to weapons handling and use (i.e., are members of auxiliary forces permitted to carry their weapons when they are off-duty?).

C) Please provide detailed information on the judicial proceedings initiated to try those accused of the 57 civilian deaths in the Maguindanao Massacre. Please describe the status of the Independent Commission against Private Armies – the organization created after the 2009 Maguindanao massacre – and please provide details on the progress in implementing its recommendations with regard to the misuse of SALW.

2. With regard to Item 10 on the List of Issues:<sup>2</sup>

- A) Please describe measures taken by the government to limit the illicit sale, possession, and use of small arms and light weapons by private parties within the country, including private armies, militia, and vigilante forces.
- B) Please describe any laws and regulations that are being implemented to address the different channels through which arms and ammunition are supplied, and what steps are being taken to prevent legally-acquired weapons and ammunition from entering illicit markets.

3. Please describe efforts in the peace process and in civil society to demilitarize and implement an effective plan to decrease the number of arms available.

## INTRODUCTION

The Philippines faces a number of challenges in the area of SALW. These issues are both internal and external and involve state actors and private persons. This submission will provide background information on SALW in the Philippines and highlight areas in which greater progress is needed to control the proliferation of SALW in the country and address the resulting violations of Article 6 of the International Covenant of Civil and Political Rights.

The Philippine government has taken an active role in international efforts to control small arms and light weapons. Just last year, on May 11, 2011, the Philippine Foreign Affairs Assistant Secretary for United Nations and International Organizations was elected Vice Chair of the Meeting for Governmental Experts (MGE) on the UN Programme of Action on Small Arms

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<sup>2</sup> *Id.*

and Light Weapons.<sup>3</sup> In addition, as explained more fully below, the government of President Benigno Aquino III has announced a Human Rights Action Plan with a “zero tolerance for abuse” and an Internal Peace and Security Plan designed to decrease violence by state actors. Despite the Philippine Government’s involvement in these important international discussions and internal steps forward, State actors, including law enforcement and security forces, continue to violate human rights with firearms.

Internally, intra-state conflict is one reason for the proliferation of arms in the Philippines. The armed conflict between the government of the Philippines and communist groups, including the New People’s Army (NPA), has been ongoing for more than forty years.<sup>4</sup> This conflict, heavily reliant on SALW, has led to 3,552 combatant deaths between 1986 and 2004, 1,227 deaths by NPA forces between 2000-2006, and the displacement of 1,272,100 people between 1986-1992.<sup>5</sup> The NPA uses Improvised Explosive Devices to conserve ammunition, and it acquires SALW and ammunition by raiding Philippine military and police units, by buying them on the market from Philippine military officials or soldiers, or by exacting them as donations from local politicians.<sup>6</sup>

The conflict with the Philippine government by the Moro or Muslim communities has been led by the Moro National Liberation Front (MNLF), the Moro Islamic Liberation Front (MILF), and Al-Harakatul Islamiyyaor (the Abu Sayyaf Group) (ASG).<sup>7</sup> This conflict is situated mostly in the southern province of Mindanao and neighboring areas with Muslim populations.<sup>8</sup> Under a peace agreement with the MNLF, nearly 7,500 MNLF members have been integrated with army and police forces, and have been demobilized from combat, but not disarmed.<sup>9</sup> In

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<sup>3</sup> Department of Foreign Affairs, *Philippine elected Vice Chair of UN meeting on small arms and light weapons*, available at [http://www.ugmayan.com/us/NEW\\_YORK.NewYork/article/GWS](http://www.ugmayan.com/us/NEW_YORK.NewYork/article/GWS).

<sup>4</sup> SMALL ARMS SURVEY & SOUTH-SOUTH NETWORK FOR NON-STATE ARMED GROUP ENGAGEMENT, PRIMED AND PURPOSEFUL: ARMED GROUPS AND HUMAN SECURITY EFFORTS IN THE PHILIPPINES (Diana Rodriguez ed., 2010) [hereinafter PRIMED AND PURPOSEFUL]; Paz Verdades M. Santos, *The Communist Front: Protracted People’s War and Counter-insurgency in the Philippines (Overview)*, in PRIMED AND PURPOSEFUL, at 20.

<sup>5</sup> *Id.* at 31, Table 1.1.

<sup>6</sup> *Id.*; see also Paz Verdades M. Santos, *Centre of Gravity: The New People’s Army in the Bicol Region (Case Study)*, at 49, 52, in PRIMED AND PURPOSEFUL, *supra* note 4 (discussing raids of military/police and “revolutionary taxes” or donations from local communities).

<sup>7</sup> Soliman M. Santos, Jr., *War and Peace on the Moro Front: Three Standard Bearers, Three Forms of Struggle, Three Tracks (Overview)*, in PRIMED AND PURPOSEFUL, *supra* note 4, at 58.

<sup>8</sup> *Id.* at 61.

<sup>9</sup> *Id.* at 74.

September 2008, peace negotiations with the MILF broke down,<sup>10</sup> and the government continued “anti-terrorism” efforts against the ASG.<sup>11</sup>

The number of weapons held by insurgent groups is estimated at 8,170 by the MILF, 6,050 by the NPA and 300 by the Abu Sayyaf.<sup>12</sup>

Additional challenges within the Philippines include the misuse of SALW resulting in extrajudicial killings by military and “auxiliary” forces, a large number of unlicensed arms and weapons, illicit trade including smuggling of weapons, especially into the Philippines, and the prevalence of private armies. More detail on each of these issues is provided below

## **I. STATE OBLIGATIONS WITH REGARD TO SMALL ARMS AND LIGHT WEAPONS**

*In order to prevent the violation of human rights committed with small arms, Governments and State agents shall ensure strict enforcement of the rules and regulations they adopt, including a clear chain of command over all officials authorized by law to use force and, in particular, small arms. Governments shall ensure that arbitrary or abusive use of force carried out with small arms, including but not limited to force used by any State agent, is punished as a criminal offence.*<sup>13</sup>

### **A. State Obligation Not to Violate the Right to Life with Small Arms and Light Weapons**

*A State’s first duty under the SALW Principles is negative; not to violate the right to life in its officials’ acts or omissions regarding the use of small arms and light weapons.*<sup>14</sup>

Small arms have been implicated in the commission of extrajudicial killings. The Undersecretary of the Philippine Department of Justice reports 222 cases of extrajudicial killings, 34 of which have had “positive [legal] developments” due to the work of the Task Force

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<sup>10</sup> *Id.* at 83.

<sup>11</sup> *Id.* at 81-82.

<sup>12</sup> Raymund Jose G. Quilop, *Small Arms and Light Weapons in the Philippines: Possession, Demand, Supply and Regulation (Overview)*, in PRIMED AND PURPOSEFUL, *supra* note 4; PhilANSA, *Voices to Silence Guns, The Philippines People’s Consultation Report on the Arms Trade Treaty* (Manila: PhilANSA and the International Action Network on Small Arms, 2008).

<sup>13</sup> Prevention of Human Rights Violations Committed with Small Arms and Light Weapons, endorsed by Sub-Com. on the Promotion and Protection of Human Rights res. 2006/22, U.N. Doc A/HRC/Sub.1/58/L.11/Add.1 at 3 (24 Aug. 2006) [hereinafter SALW Principles].

<sup>14</sup> *Id.* at 8.

against Political Violence (Task Force 211).<sup>15</sup> Statistics from human rights organizations reflect high numbers of SALW related extrajudicial killings by police forces.<sup>16</sup> For instance, the Philippine human rights group Karapatan recorded 1,206 extrajudicial executions between 2001 and 2011, many of which were attributed to police and military abuse of force.<sup>17</sup> In February of 2011, the Commission on Human Rights of the Philippines, the National Human Rights Institution, announced that it had recorded 777 cases of extrajudicial executions from 2001 to 2011.<sup>18</sup> In addition to the police and military, paramilitary groups are responsible for civilian deaths in the Philippines.<sup>19</sup> Journalists and human rights groups report that auxiliary forces were involved in at least 244 killings of political activists from 2001 to 2010.<sup>20</sup> Reports of extrajudicial executions with the use of SALW have continued in 2012.<sup>21</sup>

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<sup>15</sup> Statement of Undersecretary Ricardo Blancaflor, Department of Justice, Interactive Debate, CCPR.C.PHL.4, Annex 4 (2008) (submitted by the Department of Justice in June 2008 to the 8th Session of the Human Rights Council: the time period for the violations was not specified in the report).

<sup>16</sup> AMNESTY INT'L ANNUAL REPORT 2011, *available at* <http://www.amnesty.org/en/region/philippines/report-2011> [hereinafter AMNESTY INT'L ANNUAL REPORT]. In many cases, civilians are killed as armed forces fail to differentiate between civilians and members of the Moro Islamic Liberation Front (MILF) and the New Peoples' Army (NPA). Because the time period is not reflected in the Department of Justice figure, it is difficult to construct a reliable comparison.

<sup>17</sup> *Id.*

<sup>18</sup> Leila M. De Lima, *On the Occasion of the World Social Work Day: "Making Human Rights a Reality,"* Commission on Human Rights of the Philippines, *available at* [http://www.chr.gov.ph/MAIN%20PAGES/speeches/lmdl\\_spch16Mar2010\\_SocialWork.htm](http://www.chr.gov.ph/MAIN%20PAGES/speeches/lmdl_spch16Mar2010_SocialWork.htm).

<sup>19</sup> The Philippine Commission on Human Rights, *On the Revival of Civilian Armed Forces Geographical Units (CAFGUs)*, *available at* [http://www.chr.gov.ph/MAIN%20PAGES/about%20hr/advisories/pdf\\_files/abthr009.pdf](http://www.chr.gov.ph/MAIN%20PAGES/about%20hr/advisories/pdf_files/abthr009.pdf).

<sup>20</sup> Herman Joseph S. Kraft, *The Foibles of an Armed Citizenry: Armed Auxiliaries of the State and Private Armed Groups in the Philippines (Overview)* 187, in PRIMED AND PURPOSEFUL, *supra* note 4.

<sup>21</sup> *See, e.g.,* Human Rights Watch, *Philippines: Killings of Environment Advocates Unpunished: Cease Deploying Paramilitary Forces in Mining Areas*, *available at* <http://www.hrw.org/news/2012/07/18/philippines-killings-environment-advocates-unpunished>; Piplinks, *Subanen Chieftain Ambushed, Son Killed*, (7 September 2012), *available at* <http://www.piplinks.org/subanen-chieftain-ambushed,-son-killedPiplinks>.

The Citizen Armed Force Geographical Unit (CAFGU) is an auxiliary force of the Armed Forces of the Philippines and is considered part of the regular reserve force.<sup>22</sup> CAFGU units are issued small arms, typically M14 or M16 rifles, by the Philippine military.<sup>23</sup> A pattern of human rights violations noted by the Commission of Human Rights has been attributed to the CAFGUs' poor training and discipline.<sup>24</sup> For these reasons, there has been mounting pressure on the government to disband this group entirely.<sup>25</sup> The Centre for Humanitarian Dialogue (an independent mediation organization based in Geneva) has recommended that CAFGU members should be prohibited from carrying arms while off-duty.<sup>26</sup> They further recommend that CAFGUs should not be mobilized as combat forces beyond the place where they are recruited and assigned to work and for the prosecution to the full extent of the law of those militia members who commit criminal offenses and human rights abuses.<sup>27</sup>

The other armed auxiliary forces sanctioned and organized by state forces are the Civilian Volunteer Organizations (CVOs). The stated purpose of the CVOs was to enhance community police work through crime prevention.<sup>28</sup> The initial intention was that CVOs would not be armed, but there have been widespread reports of CVOs carrying high-powered small arms, including the M-1 Garand and M-14 rifles.<sup>29</sup> CVO members have been charged with illegal activities such as trade in drugs and kidnapping for ransom, and participating in the private armies of local politicians.<sup>30</sup>

Amnesty International has expressed concern that the military does not exercise full control over all state-sponsored militias and paramilitary groups and that the Department of

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<sup>22</sup> *Id.* at 191.

<sup>23</sup> Quilop, *supra* note 12, at 236.

<sup>24</sup> Kraft, *supra* note 20, at 193-194.

<sup>25</sup> Quilop, *supra* note 12, at 236; The Philippine Commission on Human Rights, *On Human Rights Abuses Committed By the CAFGU and Other Para-Military Groups Against Indigenous Peoples*, available at [http://www.chr.gov.ph/MAIN%20PAGES/about%20hr/advisories/pdf\\_files/abthr039.pdf](http://www.chr.gov.ph/MAIN%20PAGES/about%20hr/advisories/pdf_files/abthr039.pdf).

<sup>26</sup> Centre for Humanitarian Dialogue, *Armed Violence in Mindanao: Militia and Private Armies* 52 (July 2011).

<sup>27</sup> *Id.* at 53.

<sup>28</sup> Kraft, *supra* note 20, at 195.

<sup>29</sup> *Id.* at 196-197.

<sup>30</sup> *Id.* at 197.

National Defense has not clearly defined and differentiated their purposes, including the CAFGU, Special CAFGU Active Auxiliary, the CVO, and police auxiliaries.<sup>31</sup>

The government of the Philippines has taken some recent, positive steps to eliminate human rights violations by government agents, but more needs to be done. Prior to the Human Rights Council's 2008 Universal Periodic Review (UPR) of the Philippines, the government announced the development of a national human rights action plan (HRAP). Yet by the 2012 UPR, the HRAP had not yet been implemented, leading Amnesty International to recommend, both to the Human Rights Council<sup>32</sup> and the Philippines government,<sup>33</sup> its immediate implementation to ensure effective policies and mechanisms will integrate human rights protection in all government bodies.

According to the Armed Forces of the Philippines' (AFP) Internal Peace and Security Plan (IPSP) for 2011–16, the AFP will respond to threats to peace and security from internal, external, and non-traditional security threats. Specifically, the AFP intends to tackle internal threats from ideology-based armed threat groups, terrorist groups, and auxiliary threat groups (i.e., organized crime and partisan armed groups) by focusing on “winning the peace” rather than simply defeating an enemy group.<sup>34</sup> After one-and-a-half years in operation, AFP commander Lt. Gen. Emmanuel Bautista reported progress at a stakeholders' forum at the Ateneo de Manila University in Quezon City.<sup>35</sup> Bautista noted that the “people centered” approach to engaging with internal armed groups like the NPA and MILF had led to decreased violence, but while the AFP “was also able to neutralize more ASG members and recovered [*sic*] more firearms during

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<sup>31</sup> Amnesty International, *Progress, Stagnation, Regression? The State of Human Rights in the Philippines under Aquino*, ASA 35/002/2011 (2011), available at [http://ww2.ohchr.org/english/bodies/hrc/docs/ngos/AI\\_3\\_Philippines104.pdf](http://ww2.ohchr.org/english/bodies/hrc/docs/ngos/AI_3_Philippines104.pdf). See also Human Rights Watch, *infra* note 92 (discussing state involvement in private armies).

<sup>32</sup> Amnesty International, *Philippines: Impunity for Torture, Unlawful Killings and Enforced Disappearances*, Submission to the UN Universal Periodic Review, May–June 2012, available at <http://www.amnesty.org/en/library/asset/ASA35/007/2011/en/040b44ce-fcc0-4b96-93c1-cad45649ccad/asa350072011en.pdf>.

<sup>33</sup> Desiree Caluza, *Human Rights Group Passes Its Plans to Aquino*, PHILIPPINE DAILY INQUIRER (June 26, 2012), available at <http://newsinfo.inquirer.net/218553/human-rights-group-passes-its-plans-to-aquino>.

<sup>34</sup> Armed Forces of the Philippines, Internal Peace and Security Plan “Bayanihan” (2010) available at [http://www.army.mil.ph/pdf\\_files/bayanaihan.pdf](http://www.army.mil.ph/pdf_files/bayanaihan.pdf) at vi.

<sup>35</sup> Renee Acosta, *Army Chief Eyes Improvement in Internal Peace, Security Plan*, BUSINESS MIRROR (May 30, 2012), available at <http://www.businessmirror.com.ph/home/nation/27891-army-chief-eyes-improvement-in-internal-peace-security-plan>.

the implementation of IPSP,” violence by Abu Sayyaf (or “ASG”) had actually increased.<sup>36</sup> As for human rights violations by authorities, they are still reported but are being investigated and the government states that violations have decreased,<sup>37</sup> although, as noted above, human rights organizations and journalists continue to report killings of activists and religious leaders.

In sum, the recent administration of President Aquino has made strides towards fulfilling the government obligation not to violate the right to life with SALW, hopefully leading to an end to some of the worst violations from the recent past. While the steps toward reducing security threats are commendable, more information about continuing human rights violations by military, paramilitary and other security forces with SALW is needed.

## **B. States’ Due Diligence Obligation to Prevent Small Arms and Light Weapons Violations by Private Parties**

*The due diligence standard to protect the right to life from violence by small arms and light weapons includes the responsibility “to take steps to prevent reasonably foreseeable abuses by private actors” (occurring within a state’s own territory).*<sup>38</sup>

### **1) SALW Manufacture and Regulation**

SALW regulation in the Philippines includes gun-licensing measures that have grown more robust over the past 40 years, although gun regulations still require significant reform and improvement in implementation and enforcement.<sup>39</sup> Background checks are required before purchase, in addition to a mental health examination and payment of an application fee.<sup>40</sup> Ownership is limited to individuals over 21 years of age,<sup>41</sup> and eligible individuals may hold under license a maximum of one low-powered 22-caliber rifle or shotgun not heavier than 12 gauge, and one pistol or revolver, subject to certain classifications (the so-called “one short, one long” rule).<sup>42</sup> In addition to these laws, however, the 2000 Executive Order 164 by former

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<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> SALW Principle 10, *supra* note 13, at 10.

<sup>39</sup> Quilop, *supra* note 12, at 245–248 (discussing the progression of SALW regulation in the Philippines since President Ferdinand Marcos issued General Order No. 6 in 1972, which prohibited citizens of the Philippines from keeping firearms without legally issued permits and prohibited them from carrying SALW outside of their residences).

<sup>40</sup> *Id.* at 247.

<sup>41</sup> *Id.*

<sup>42</sup> Philippine Center on Transnational Crime, *Basic Firearms Laws, Rules and Regulations*, available at <http://www.pctc.gov.ph/laws/basicFA.htm>.



President Joseph Estrada relaxed these limits and essentially authorized possession of any type or caliber of firearm in any quantity.<sup>43</sup> Former President Gloria Macapagal-Arroyo, by Executive Order 171, reversed the ruling as to caliber but was silent with respect to quantity.<sup>44</sup> Thus, the “one short, one long” rule, while officially on the books, does not actually limit civilian firearm ownership and licensing, and the PNP has issued a limit of ten per owner.<sup>45</sup>

The licensing infrastructure is centralized, and requires the head of the police forces to review all license grants.<sup>46</sup> Though this practice provides a positive system of review in theory, the various requirements to obtain a license open up opportunities for corruption and bribery leading to licenses being granted erroneously.<sup>47</sup> Similarly, the Department of Health, which monitors the mental health examinations, has a limited capacity and cannot always assure the reliability of the test results.<sup>48</sup> Though SALW licenses generally require that the arms be kept inside the home, it is possible for civilians to get a Permit to Carry Firearms Outside of Residence (PCTFOR), although these permits have become more difficult to acquire in the past decade.<sup>49</sup>

Despite positive movements toward strengthening licensing requirements and some decreases in homicide over the past decade,<sup>50</sup> implementation problems persist,<sup>51</sup> as evidenced by the figures on unlicensed weapons.

Estimates of the number of private firearms in the Philippines range widely. According to Small Arms Survey, civilian ownership totals 3,900,000 firearms,<sup>52</sup> at a rate of between 3.4 and

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<sup>43</sup> JENNIFER SANTIAGO ORETA ET AL, GUN PROLIFERATION AND VIOLENCE: COMPLICATING CONFLICT DYNAMICS & PEACE BUILDING 9–10 (June 2012), *available at* [http://www.undp.org.ph/Downloads/knowledge\\_products/cpr/20120628%20-%20Gun%20Proliferation%20and%20Violence/GunProliferationAndViolence.pdf](http://www.undp.org.ph/Downloads/knowledge_products/cpr/20120628%20-%20Gun%20Proliferation%20and%20Violence/GunProliferationAndViolence.pdf).

<sup>44</sup> *Id.* at 10.

<sup>45</sup> *Id.*

<sup>46</sup> Quilop, *supra* note 12, at 247.

<sup>47</sup> *Id.* .

<sup>48</sup> Quilop, *supra* note 12, at 247.

<sup>49</sup> *Id.*

<sup>50</sup> UNODC, *Intentional Homicide Data Series* (2010), *available at* <http://www.unodc.org/unodc/en/data-and-analysis/homicide.html>.

<sup>51</sup> Quilop, *supra* note 12, at 248.

<sup>52</sup> Aaron Karp, *Completing the Count: Civilian Firearms, in* SMALL ARMS SURVEY 2007: GUNS AND THE CITY (2007).

6.1 firearms per 100 people.<sup>53</sup> In 2006, Small Arms Survey estimated the number of registered weapons to be 962,486.<sup>54</sup> More recently, the United Nations Crime Prevention and Criminal Justice Division estimated that there were 360,000 firearms registered and 1.1 million “loose firearms” (firearms that have never been registered or that have expired licenses) in the Philippines.<sup>55</sup> As of 2005, the Philippine National Police (PNP) estimated that there were 321,685 loose firearms in the country.<sup>56</sup> In 2011, the Centre for Humanitarian Dialogue estimated the loose firearms figure to be as high as 4.2 million.<sup>57</sup>

PNP records indicate a 46 percent increase in proliferation of loose firearms between 2004 and 2009.<sup>58</sup> During the same time period, crime committed with SALW increased 47 percent.<sup>59</sup> The Philippine Center for Transnational Crime (PCTC) estimates that over 90 percent of all gun-related crimes in the Philippines involve unlicensed guns.<sup>60</sup> From January to September 2010, 6,075 weapons were used to commit crimes; only 40 of those were licensed and the remainder was classified as “loose” firearms.<sup>61</sup>

According to a UNODC report, for the first six months of 2010, the PNP enforced a gun ban during the election period and saw a 67 percent drop in index crime, as compared to the

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<sup>53</sup> *Id.*

<sup>54</sup> Quilop, *supra* note 12, at 234.

<sup>55</sup> United Nations Crime Prevention and Criminal Justice Division, *Analysis of Country Responses. United Nations International Study on Firearm Regulation* (1999); House of Representatives, Republic of the Philippines. *Fifteenth Congress, First Regular Session, House Bill No. 2898, Explanatory Note* (2010).

<sup>56</sup> Quilop, *supra* note 12, at 204.

<sup>57</sup> Centre for Humanitarian Dialogue, *supra* note 26, at 31.

<sup>58</sup> United Nations Office of Drugs and Crime (UNODC), *2011 Global Study on Homicide: Trends, Contexts, Data* 47 (2011), available at [http://www.unodc.org/documents/data-and-analysis/statistics/Homicide/Globa\\_study\\_on\\_homicide\\_2011\\_web.pdf](http://www.unodc.org/documents/data-and-analysis/statistics/Homicide/Globa_study_on_homicide_2011_web.pdf) [hereinafter *2011 Global Study*] (citing Philippines National Police, *Statistical Report on Crime Incidents Involving the Use of Firearms, 01 January to 30 September 2010* (2010)).

<sup>59</sup> *Id.*

<sup>60</sup> Quilop, *supra* note 12, at 248 (citing Philippine Center for Transnational Crime, *Illicit Trafficking and Manufacturing of Firearms: The Philippine Context* (2006) available at <http://www.pctc.gov.ph/papers/FA's%20illicit%20Trafficking%20&%20Manufacturing.htm>).

<sup>61</sup> *2011 Global Study, supra* note 58, at 47 (citing Philippines National Police, *Statistical Report on crime incidents involving the use of firearms. 01 January to 30 September 2010* (2010)).

same time period in 2009.<sup>62</sup> The PNP represented that this dramatic crime decrease was linked to the gun ban.<sup>63</sup>

According to the PCTC, firearms and ammunition in the country come from a variety of sources: primarily local manufacturing, smuggling, theft or losses from military and police arsenals or operations, and the legal arms trade.<sup>64</sup> Gun smuggling is a particular problem in the Philippine archipelago; the country's 7,107 islands and tens of thousands of kilometers of irregular coastline make detecting gunrunners and weapons storage facilities especially difficult.<sup>65</sup> Many firearms in the Philippines are locally produced.<sup>66</sup> A cottage industry of craft production of SALW has emerged, which supports many armed groups and individuals within the country.<sup>67</sup> The Philippine arms manufacturing industry, while minute in proportion to global SALW production, represents a more advanced SALW industry than that which exists in many other Asian countries.<sup>68</sup> One estimate suggests that in 2002, 3,000 gunsmiths were active in Danao City alone, and that more than 25,000 people relied on craft production and trade of guns for their livelihood.<sup>69</sup>

In July of 2011, the Centre for Humanitarian Dialogue published a report that proposed several recommendations for the government in regulating SALW. First, programs should be introduced to encourage guns to be taken out of circulation, for instance through a gun amnesty which would enable individuals to surrender illicit guns without fear of prosecution and which would provide incentives for handing in weapons. Incentives that target and reward communities, rather than individual weapons holders, can – if done appropriately – reduce the risk of commercializing obsolete weapons and ‘reward’ individuals who choose not to possess weapons.<sup>70</sup> Second, the government should ensure that weapons collected are clearly registered

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<sup>62</sup> *Id.* The term “index crime” refers to murder, homicide, physical injury, robbery, theft and rape. *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> Philippine Center for Transnational Crime, *Illicit Trafficking and Manufacturing of Firearms: The Philippine Context* (2006) available at <http://www.pctc.gov.ph/papers/FA's%20illicit%20Trafficking%20&%20Manufacturing.htm>.

<sup>65</sup> Centre for Humanitarian Dialogue, *supra* note 26, at 31.

<sup>66</sup> *Id.*

<sup>67</sup> See Nicolas Florquin, *The Illicit Trade in Small Arms and Light Weapons*, IIAS NEWSLETTER (Autumn 2008), available at [http://www.iias.nl/nl/42/IIAS\\_NL42\\_10.pdf](http://www.iias.nl/nl/42/IIAS_NL42_10.pdf).

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* Danao City is located in Cebu Province, Philippines.

<sup>70</sup> Centre for Humanitarian Dialogue, *supra* note 26, at 53.

and destroyed, preferably in public ceremonies- and that development ‘deliverables’ are swift and well documented.<sup>71</sup> Some of these weapons are not taken out of circulation; instead the PNP recirculates them to members of the police force because of what they have deemed a scarcity of guns.<sup>72</sup> Third, due to abuse of its exemption policy, the Commission on Election should eliminate exemptions from the country-wide gun bans which make it illegal to carry licensed firearms during elections.<sup>73</sup>

## 2) *Private Armies*

The Philippine National Police reported that there were 117 private armed groups in February of 2010 and that these numbers increased in the days leading up to the general election day in May, 2010. The Independent Commission Against Private Armies (a commission created by former President Arroyo in December of 2009) reported at least 72 active private armed groups; and that only 35 such groups had been dismantled by the police and military,<sup>74</sup> despite the efforts of the Commission on Elections to disband them and the 1987 Constitution which outlawed private armies.<sup>75</sup>

Over the past few decades the private armies have played an increasingly important role with some Philippine politicians.<sup>76</sup> This relationship is most evident during election time, when politicians use the private armies under their command to intimidate and, sometimes, silence supporters of rival politicians. The perpetrators were associated with local politicians or business interests who controlled private armies to further their political ambitions or criminal activity.<sup>77</sup> A former army general and member of the Independent Commission Against Private Armies told the media that local officials often used these volunteer groups and auxiliary units as private armies.<sup>78</sup>

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<sup>71</sup> *Id.*

<sup>72</sup> Interview by PhilANCA with Pauleen Sicam, Office of the Special Envoy on Transnational Crimes (Sept. 18, 2012).

<sup>73</sup> *Id.*

<sup>74</sup> Artha Kira R. Paredes, *Where Guns Rule: Private Armies in Abra (Case Study)*, in PRIMED AND PURPOSEFUL, *supra* note 4, at 228.

<sup>75</sup> Kraft, *supra* note 20, at 198.

<sup>76</sup> Paredes, *supra* note 74.

<sup>77</sup> Kraft, *supra* note 20, at 198.

<sup>78</sup> AMNESTY INT’L ANNUAL REPORT, *supra* note 16.

The Maguindanao Massacre of 2009 is one recent example of violence by private militia in the Philippines.<sup>79</sup> An estimated two hundred gunmen linked to the ruling family in Maguindanao province attacked a group of people on the way to file the gubernatorial campaign papers for Ismael Mangudadatu, an opposition candidate.<sup>80</sup> The attack occurred in broad daylight in front of numerous witnesses. The victims were shot and killed and buried in a mass grave. One year after the slaying, Amnesty International<sup>81</sup> and local NGOs<sup>82</sup> continued to decry the violence and demand that the politically powerful perpetrators be held accountable. In September of 2011, the trial of the suspected perpetrators began after significant delays. Fifty-seven people, including 32 journalists and 23 women, were killed in the massacre, which took place in the run-up to national elections. At least 83 suspects were arrested and charged, including at least 16 police officers and members of the powerful political Ampatuan family.<sup>83</sup> One hundred and thirteen suspects in the massacre remained at large.<sup>84</sup>

The government has failed to adequately protect those willing to testify in proceedings against those charged: Suwaid Upham, who was allegedly one of the gunmen during the massacre, came forward in March of 2011 to testify. Despite his efforts he was unable to enroll in a witness protection program, and in June 2011 he was fatally shot.<sup>85</sup> Furthermore, members of private armed groups are often able to intimidate police, due to the private groups' superior

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<sup>79</sup> See, e.g., Donald Kirk, *Philippines Massacre: State of Emergency Declared, But Will Arroyo Pursue Justice?* CHRISTIAN SCIENCE MONITOR (Nov. 24, 2009), available at <http://www.csmonitor.com/World/Asia-Pacific/2009/1124/p06s01-woap.html>; CNN, *100 suspects sought for Philippines massacre* (Nov. 27, 2009), available at <http://edition.cnn.com/2009/WORLD/asiapcf/11/27/philippines.massacre/index.html>; HUMAN RIGHTS WATCH, "THEY OWN THE PEOPLE": THE AMPATUANS, STATE-BACKED MILITIAS, AND KILLINGS IN THE SOUTHERN PHILIPPINES (Nov. 16, 2010), available at <http://www.hrw.org/en/reports/2010/11/16/they-own-people-0>.

<sup>80</sup> AMNESTY INT'L, *Philippines: Impunity for Torture, Unlawful Killings and Enforced Disappearances* 5, Submission to the UN Universal Periodic Review, May–June 2012, available at [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/AI\\_2\\_Philippines104.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/AI_2_Philippines104.pdf).

<sup>81</sup> AMNESTY INT'L, *Philippines: Justice Still Not Served One Year After Massacre*, (Nov. 22, 2010), available at <http://www.amnesty.org/en/news-and-updates/philippines-justice-still-not-served-one-year-after-massacre-2010-11-22>.

<sup>82</sup> IFJ – Asia Pacific, *Global Day Of Action To Mark One Year Since Massacre In Philippines*, available at <http://asiapacific.ifj.org/en/pages/global-day-of-action-to-mark-one-year-since-massacre-of-journalists>.

<sup>83</sup> AMNESTY INT'L ANNUAL REPORT, *supra* note 16.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

weaponry and alleged ties with police force authorities.<sup>86</sup> At least three leaders of private groups, when interviewed, intimated that they received support from top military and police officials for their groups' operations. They said friends in 'high places' supported them by donating firearms, bullets, and other equipment. They also said their armies had modern assault weapons and high-powered firearms and materiel such as various types of night vision goggles that the local police and military did not have.<sup>87</sup>

The Maguindanao massacre was a graphic example of the use of small arms to commit human rights abuses and further conflate the tactics of private armies, militias, civilian defense groups and vigilante forces in the Philippines.<sup>88</sup> Weak and poorly implemented gun laws contribute to the availability and use of light weapons.<sup>89</sup> The Centre for Humanitarian Dialogue has recommended that armed civilian groups should cease performing ad-hoc and poorly controlled public security functions and that to accomplish this goal, the Philippine government should enforce the ban on private armed groups, and curtail the availability of weapons so as to reduce the large number of guns circulating on the gray and black markets.<sup>90</sup>

Following the massacre, the Independent Commission against Private Armies was created and mandated to report to the President on actionable recommendations concerning private armies and more effective firearms management. It offered the following recommendations: enactment of laws that provide stricter sanctions against holders of unlicensed firearms; strict implementation of all laws and regulations on firearms registration, licensing, accounting and inspections; aggressive implementation of laws related to gun control in order to regulate the possession, manufacture, gun smuggling, importation and exportation of arms and ammunitions; provision for expanded definitions of firearms with expired licenses and "illegal transfer of firearms." Since then, little has been heard of this body and it is unclear how many of these recommendations were actually enacted or implemented.<sup>91</sup>

On March 28, 2012, the Aquino government reported that it had "neutralized" 28 private armed groups, while 86 such groups remain. These developments prompted Human Rights Watch to urge the police "to publish the full list of private armies and explain what steps have been taken to address state involvement in these groups," to disclose the weapons used by

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<sup>86</sup> Artha Paredes, *supra* note 74, at 225.

<sup>87</sup> *Id.* at 224.

<sup>88</sup> Centre for Humanitarian Dialogue, *supra* note 26, at 52.

<sup>89</sup> *Id.* at 8.

<sup>90</sup> *Id.* at 12.

<sup>91</sup> *Id.* at 49.

paramilitary forces, and to move for the dissolution of private armies and paramilitary groups.<sup>92</sup> The Partnership Forum in Indigenous People's Peacebuilding in Mindanao recently called for the immediate crackdown on 617 private and irregular security forces in Mindanao's Bayog and Zamboanga del Sur provinces. In March 2012, the organization found that the numbers of private security forces "outnumbered the combined forces of the military and the police in the area."<sup>93</sup>

## CONCLUSION

The prevalence of SALW continues to compromise the achievement of human rights in the Philippines, in particular because of the misuse of SALW by military, auxiliary forces and non-state actors, the large number of unlicensed firearms, and the prevalence of private armies. We thank the Committee for its interest and hope that attention to SALW issues can assist in deterring future violations.

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<sup>92</sup> Human Rights Watch, *Philippines, Keep Promise to Disband Paramilitaries*, 30 March 2012, available at <http://www.hrw.org/news/2012/03/30/philippines-keep-promise-disband-paramilitaries>.

<sup>93</sup> Violeta M Gloria, *Subanen Leaders Call on PNoy to Rid Zambo Peninsula of Paramilitary, Private armies*, Mindanews, 7 September 2012; available at <http://www.mindanews.com/top-stories/2012/09/07/subanen-leaders>.