



**Strengthening Human Rights in the Philippines Program
(COOPERATIVE AGREEMENT NO. 492-A-00-07-00016-00)**

**QUARTERLY REPORT FROM THE ASIA FOUNDATION
TO THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT
01 OCTOBER– 31 DECEMBER 2007**

31 January 2008

The Asia Foundation

Strengthening Human Rights in the Philippines Program

(Cooperative Agreement No. 492-A-00-07-00016-00)

October 1, 2007 – December 31, 2007

SUMMARY

This quarterly report covers activities from October 1, 2007 to December 31, 2007 under The Asia Foundation's Strengthening Human Rights in the Philippines Program. The program is funded through a Cooperative Agreement with the United States Agency for International Development (USAID) and runs from October 1, 2007 to September 30, 2010. The program aims to introduce substantial and durable measures that will strengthen enforcement of human rights and rule of law in the Philippines through a three-pronged strategy to:

- (1) Promote respect for human rights and freedoms and progressively secure their effective recognition and observance;
- (2) Protect human rights of citizens in law and in reality through improved monitoring of violations; and
- (3) Prosecute human rights violations through capacity-building for better investigation, prosecution, and adjudication of cases.

During this first reporting period, The Asia Foundation (the Foundation) firmed up collaboration with partner organizations and institutions to consolidate groundwork and launch program activities. To **promote respect for human rights**, the Foundation held extensive discussions with the Presidential Human Rights Committee for the human rights audit and training of key government agencies in preparation for the drafting of agency-level human rights action plans. Initial talks with human rights organizations have also been carried out to galvanize their interest and commitment to participate in the drafting of the National Human Rights Action Plan.

For the **protection of human rights** component, the Martus Local Committee composed of seven human rights networks¹ and the Commission on Human Rights (CHR) are gearing up for the transition of Martus from systems development and training funded by the U.S. Department of State to enhancement and integration (with the CHR Executive Information System) under this USAID Human Rights Program.

¹ Philippine Alliance of Human Rights Advocates (PAHRA), Task Force Detainees of the Philippines (TFDP), Center for Trade Union and Human Rights (CTUHR), Mindanao Tulong Bakwet (Help for Mindanao Evacuees), Institute of Bangsamoro Studies (IBS), Bangsamoro Lawyers' Network (BLN), and Foundation for Media Alternatives (FMA)

Significantly, activities toward effective **prosecution of human rights violations** kicked off this period. Since the writ of amparo² was a novel concept in the Philippine legal system, the Foundation assisted the Supreme Court in identifying international experts who can help draft the new rule. After the Supreme Court issued the Rule on the Writ of Amparo³, the Foundation partnered with the Philippine Judicial Academy (PhilJA) in organizing a tele-video conference for judges and clerks of court. The Foundation also partnered with the Upholding Life and Nature (ULAN) in developing a comic book to explain and raise awareness the new rule. A Supreme Court-civil society consultation on the guidelines for witness protection under the Rule on the Writ of Amparo was likewise conducted during this period. Apart from working with the judiciary, the Foundation also partnered with the Department of Justice in building the capacity of prosecutors to handle human rights cases. This period saw the completion of a comprehensive module for the first ever Basic Orientation Seminar-Workshop for New Prosecutors with emphasis on human rights and forensics, to be used in a series of trainings in 2008.

HIGHLIGHTS AND OUTCOMES OF SIGNIFICANT ACTIVITIES

I. Promoting respect for human rights

Development of a National Human Rights Action Plan. As the primary advisory body to the President on human rights concerns, the Presidential Human Rights Committee (PHRC) is mandated to formulate a National Human Rights Action Plan. This plan will serve as the government's framework for ensuring that all state agencies and institutions uphold and protect human rights. In line with the program's strategy to promote respect for human rights, the Foundation will support the PHRC in the development of a national action plan that embodies both government and civil society perspectives on human rights.

From October to December 2007, the Foundation continued its initial discussions with the PHRC on the approach for gathering government inputs to the action plan. It was agreed that a human rights audit and orientation-workshops on basic human rights principles will first be undertaken. The audit will involve a baseline study of existing human rights initiatives and programs of the government to identify gaps in policies and implementation. The results of the audit will be the basis for designing orientation-workshops aimed at enriching and leveling off the agencies' understanding of human rights principles and standards. Thereafter, the Foundation will support the development of agency-level human rights action plans of five key executive agencies.⁴ Each agency-

² A writ of amparo is a legal remedy available to any person whose right to life, liberty and security is violated or threatened to be violated.

³ A.M. No. 07-9-12-AC, September 25, 2007.

⁴ Key executive agencies include the Department of Justice (DOJ), Department of Foreign Affairs (DFA), Department of Education (DepED), Department of Interior and Local Government (DILG), Department of Health (DOH), Department of Social Welfare and Development (DSWD), and the National Anti-Poverty Commission (NAPC), among others.

level action plan will serve as an executive office's internal human rights framework for performing its mandate and will feed into the National Human Rights Action Plan.

Since the United Nations Development Programme (UNDP) will also support the development of the National Human Rights Action Plan, the Foundation is coordinating with the PHRC regarding co-funding arrangements.

The Foundation initiated discussions with networks of human rights non-government organizations (NGOs) such as the Philippine Alliance of Human Rights Advocates, Task Force Detainees of the Philippines, and Center for Trade Union and Human Rights about holding consultations to gather civil society inputs to the National Human Rights Action Plan. Through these consultations, civil society and human rights organizations will have an opportunity to autonomously discuss the legal framework and action program for human rights in the country.

II. Protecting human rights of citizens

Martus. The Martus⁵ software, an open source technology tool, provides the benefits of encryption technology to human rights organizations to monitor violations. With funding from the U.S. Department of State (DOS), The Foundation has implemented the Martus Human Rights Bulletin System (Martus) in collaboration with the Commission on Human Rights (CHR) and NGOs since 2002. While Martus has made great strides in enhancing the capacity of the CHR and NGOs to generate, accept, and transmit reports of human rights violations, its expansion and integration with the internal CHR information system pose challenges to its success and sustainability. As this phase is coming to an end in May 2008 with the changing of commissioners, this current project will enhance its current version and tightly integrate the improved system with the CHR Executive Information System.

On December 17, 2007, the Foundation met with the CHR and the seven human rights organizations comprising the Martus Local Committee to discuss activities under this Human Rights Program, especially the Martus component. The group recognized the need to continue using the system beyond DOS support. The committee will hold a strategic planning workshop in the next quarter, to discuss project transition from DOS to USAID funding, identify areas for enhancement, and plan future activities.

III. Prosecuting human rights violations

Basic Orientation Seminar Workshop for New Prosecutors (with emphasis on Human Rights). Sloppy investigations and witnesses' refusal to cooperate due to fear of reprisal force prosecutors from the National Prosecution Service to close human rights

⁵ Martus is Greek for witness.

cases. The situation is compounded by the fact that prosecutors on the field are mostly new hires who have not undergone any formal training on prosecutorial work, much less specific training in handling human rights cases.

To address this, the Foundation is collaborating with the Department of Justice (DOJ) and the Asian Development Bank (ADB) for the conduct of a series of Basic Orientation Seminar-Workshops for New Prosecutors with special emphasis on human rights. The workshops aim to build the capacity of government prosecutors to handle human rights cases, specifically extrajudicial killings and enforced disappearances.

During this period, the DOJ Technical Working Group tasked to organize the training finalized the module for a 5-day workshop.⁶ Apart from basic criminal and procedural law topics, the module includes lectures and case analyses on understanding the concept of a human rights violation; techniques in reviewing evidence in human rights cases; appreciation, use and preservation of forensic evidence; presentation of witnesses; and a moot court on prosecuting a case of extrajudicial execution. A leading Filipino forensic pathologist developed the module on forensics.

The first workshop was held on January 7 to 11, 2008. Trainees were 35 Metro Manila prosecutors from the National Prosecution Service (32 pax) and the Office of the Special Prosecutor, Office of the Ombudsman (3 pax) who have been in service for less than two years. An evaluation of the first workshop is ongoing to identify possible improvements in training design. The next workshop for prosecutors from Regions I, II and III will be in March 2008 in Clark Field, Pampanga. For the rest of 2008, four more workshops will be organized for prosecutors in other regions.

Publication of Proceedings of the National Consultative Summit on Extrajudicial Killings and Enforced Disappearances. The unprecedented gathering of more than 400 human rights advocates from all fronts during the Supreme Court-led “National Consultative Summit on Extrajudicial Killings and Enforced Disappearances - Searching for Solutions” (Summit) in July 2007 yielded significant discussions and valuable recommendations to address current human rights issues. With co-funding from Hanns Seidel Foundation, the Foundation will support the Supreme Court in the publication of Summit proceedings. The publication includes speeches, recommendations, and commentaries raised during the Summit. Printing of 1,000 copies is on-going and will be completed in the next reporting period. The Supreme Court will disseminate copies to concerned government institutions, non-government organizations, and other stakeholders.

Technical Assistance to the Supreme Court on the Rule on the Writ of Amparo. Among the recurring proposals during the National Consultative Summit on Extrajudicial

⁶ Initial draft of the module was developed under the ADB’s Technical Assistance on Strengthening the Efficiency and Accountability of the Judiciary and the Administration of Justice: Component B (ADB TA 4938).

Killings and Enforced Disappearances (Summit) was the writ of amparo, a Latin American remedy that affords victims broader protection against human rights violations.⁷ The Supreme Court, pursuant to its constitutional duty to promulgate rules for the enforcement of constitutional rights, was quick to respond and proceeded to study and draft a rule on the writ of amparo.

The Foundation extended technical assistance to the Supreme Court in identifying international experts on the subject. The Foundation submitted several names of experts from Latin American countries. However, the urgency of issuing a new and more potent remedy against human rights violations left the Supreme Court with little time to engage a foreign consultant. The Supreme Court issued the Rule on the Writ of Amparo on September 25, 2007.

The Foundation also assisted the Philippine Judicial Academy (PhilJA) scout for foreign resource speakers for the Distinguished Lecture Series on “Writ of Amparo – An International Perspective” held on December 17, 2007. PhilJA invited as lecturer the Judicial Guarantees Adviser of the International Committee of the Red Cross in Geneva, Switzerland, who was also a resource speaker during the Summit.

Supreme Court Consultation with Civil Society on the Draft Guidelines for Accreditation of Private Persons and Institutions Extending Temporary Protection.

Among the salient features of the Rule on the Writ of Amparo is the protection order which a court may issue to ensure the safety of victims, their families, and witnesses.⁸ Given the limitations of the present Witness Protection Program of the Department of Justice, the Rule allows courts to refer persons to an accredited private individual or institution for temporary protection. Since this mechanism is a new alternative, there are still no procedures in place for the accreditation of private protection providers.

Long before the Rule on the Writ of Amparo was issued, human rights and religious organizations have been operating “sanctuaries” that extend protection to victims without need of accreditation or court order. To ensure that the concerns of these volunteer NGOs are properly considered, the Foundation on October 17, 2007 supported a half-day consultation of the Supreme Court with 20 human rights and religious organizations to gather their inputs on the accreditation process. Participants raised serious reservations against the proposal to require public disclosure of an organization’s office/s and activities since this directly exposes them to danger. Participants emphasized that they also need court protection since they are often the next targets of perpetrators. Taking these issues into account, the Supreme Court is currently drafting the guidelines for the accreditation of private protection providers.

⁷ The writ may include reliefs for: (1) temporary protection of victims, their families, and witnesses; (2) inspection of premises; and (3) production of documents and other physical evidence.

⁸ Section 14 (a) and (d), Rule on the Writ of Amparo.

Tele-Video Conference on the Rule on the Writ of Amparo for Regional Trial Court Judges and Clerks of Court. After issuing the Rule on the Writ of Amparo, the Supreme Court revoked the previous designation of 99 special courts to hear and decide cases of extrajudicial killings and disappearances,⁹ and instead authorized more courts to take cognizance of human rights cases and petitions for the issuance of a writ of amparo.¹⁰

To efficiently and effectively disseminate information on the new Rule to as many courts tasked to enforce it, the Foundation partnered with the Philippine Judicial Academy in organizing a tele-video conference on the Rule on the Writ of Amparo. The conference was held on November 12, 2007 simultaneously in Manila, Davao, and Cebu with 247 judges, clerks of courts and branch clerks from the 3rd, 4th, 7th and 11th judicial regions. Associate Justices Adolfo S. Azcuna and Antonio B. Nachura delivered lectures on the writ of amparo while Chief Justice Reynato S. Puno, Associate Justices Date O. Tinga and Alicia Austria-Martinez joined them as panelists. The conference was an opportune time for judges to clarify provisions of the new Rule, including how cases are to be filed and raffled to judges, and effects of an application for a temporary restraining order and a petition for habeas corpus.

The new Rule was immediately put to a test with a number of amparo petitions filed before the Supreme Court¹¹ and regional trial courts in various parts of the country since it took effect on October 24, 2007. The Rule scored its first victory on November 7, 2007 when the Regional Trial Court of Pagadian City ordered the 53rd Infantry Battalion in Zamboanga del Sur to release Rowil Munasque, a Bayan Muna organizer and member of the Christian Youth Fellowship-United Church of Christ in the Philippines. Five other victims were released through the writ of amparo by the end of 2007.¹²

Development and Publication of a *Komiks* on the Rule on the Writ of Amparo.

For the Rule on the Writ of Amparo to truly serve its purpose of protecting the life, liberty and security of people, information regarding the writ must be disseminated to the public, particularly sectors who are common victims of human rights violations. With this in mind, the Foundation partnered with the Upholding Life and Nature (ULAN), an NGO dedicated to paralegal education, for the development and publication of a *komiks* (comic book). The *komiks* will easily convey the legal procedures involved in securing a writ of amparo through local storytelling and colorful illustrations. The Supreme Court's

⁹ Supreme Court Admin. Order No. 150-2007 dated October 4, 2007, revoking Admin. Order No. 25-2007.

¹⁰ A petition for the writ of amparo may be filed with regional trial courts, the Sandiganbayan, the Court of Appeals, the Supreme Court or any justice of such courts.

¹¹ As of January 11, 2007, nine amparo petitions have been filed with the Supreme Court. This excludes petitions directly filed in other courts.

¹² Upon order of the Regional Trial Court of Davao City, the Army's 73rd Infantry Battalion released Luisito Bustamante on November 14, 2007. Although the Court of Appeals declared Edwin Malapote's and Juvy Ortiz's amparo petitions moot and academic (since they were allegedly not detained against their will), the writ paved way for their release from military custody on November 23 and 29, 2007, respectively. On December 26, 2007, a Court of Appeals order secured protection and stopped the arrest of Brothers Reynaldo and Raymund Manalo who were able to escape their military abductors.

Public Information Office which originally suggested the *komiks* concept has been providing inputs and suggestions on the development of the material.

During this period, ULAN drafted a story line which the Supreme Court Public Information Office approved. To maximize the value of the *komiks*, related stories featuring the Writ of Habeas Corpus and the upcoming Rule on Habeas Data¹³ will be included. ULAN is crafting plot lines for these additional stories.

PLANS FOR THE NEXT PERIOD

In the next quarter, the Foundation will intensify its efforts to keep the activities rolling and jumpstart other components of the program. The Foundation will continue to keep itself abreast of developments in the human rights scene that may impact on program planning and implementation.

To promote respect for human rights, activities toward the development of the National Human Rights Action Plan will begin. The Foundation looks forward to an agreement with the Presidential Human Rights Committee and to starting the human rights audit of key government agencies. Through Trust Net, human rights orientation seminars for members of the media will kick off in the next reporting period, as part of the component on minimizing violence against media.

On protecting human rights, the strategic planning meeting of the Martus Local Committee in February 2008 is expected to give a clearer picture of the transition and next steps. The Foundation will also begin the expansion and enhancement of the Center for Media Freedom and Responsibility's (CMFR) online database of media killings.

As more human rights cases are now filed in courts,¹⁴ the Foundation will beef up its efforts to build the capacity of the government and NGOs to investigate, prosecute, and adjudicate of cases. The second Basic Orientation Seminar-Workshop for New Prosecutors (with emphasis on human rights) will be held in March 2008. Drafting of a special section on handling human rights cases in the Prosecutor's Manual will commence. Also, as the use of the writ of amparo continues to gain ground, the Foundation and the Philippine Working Group for an ASEAN Human Rights Mechanism will organize a case conference on the new writ. The conference seeks to consolidate experiences in pursuing petitions for a writ of amparo and craft strategies for filing future cases. To complement these initiatives, the Foundation and the Philippine Judicial Academy will begin a series of human rights training for judges in the next quarter.

¹³ The Supreme Court is currently finalizing its draft of the Rule on Habeas Data and plans to release it in the next quarter.

¹⁴ The Department of Justice Task Force on Extrajudicial Killings reported that as of January 7, 2008, the National Prosecution Service is handling 67 cases of extrajudicial killings already pending in various courts nationwide.

The Supreme Court is expected to soon release the Rule on the Writ of Habeas Data, another novel remedy to protect individual privacy.¹⁵ A *komiks* storyline for this will accordingly be developed. The Foundation anticipates more conferences, information/education activities on the new rule.

With the Ateneo Human Rights Working Group, the Foundation will concretize preparations for the establishment of Multi-Sectoral Quick Reaction Teams (MSQRTs), starting with the validation of hotspots where the MSQRTs will be set up and consultations with local stakeholders.

OPPORTUNITIES AND CHALLENGES IN IMPLEMENTING THE PROGRAM

Encouraging developments in the Philippine human rights scene which transpired in the past months favorably provided the Foundation with a more conducive environment to start off the program. The Supreme Court's Rule on the Writ of Amparo offered a new and more effective remedy to protect life, liberty and security. The Department of Justice, for its part, issued a directive to all prosecutors to prioritize and expedite preliminary investigation and prosecution of extrajudicial killing cases.¹⁶ It was also during this period that United Nations Special Rapporteur Philip Alston released his mission report, which presented a comprehensive view and an international perspective of issues and recommendations to combat arbitrary executions. Among civil society organizations, a broader range of NGOs, apart from human rights and so called "activist" groups, publicly committed to fight against summary killings and disappearances.¹⁷

Persistent calls to condemn extrajudicial killings have sparked renewed interest in human rights issues. A number of donors and organizations, both local and international, have now intensified engagements with government and civil society to put an end to human rights abuses and break the culture of impunity. Although attracting a broader range of advocates and supporters is always a welcome development, this increases the likelihood of unnecessary duplication of interventions and possibly, even conflicts in approaches and strategies. The Foundation seeks to address this through coordination and healthy linkages with public institutions and private organizations (both local and foreign) working on the same issues.

In implementing this program, the Foundation builds on its long-standing partnerships with local institutions and organizations. The Supreme Court, the Philippine Judicial Academy, the Department of Justice, and the Commission on Human Rights remain

¹⁵ In other Latin American countries, the writ of habeas data affords a citizen the right to know, access, update and rectify information that the government has about him/her,

¹⁶ Department of Justice Department Order No. 841 dated October 10, 2007, issued by then Acting Secretary Agnes VST Devanadera.

¹⁷ The Caucus of Development Non-Government Organization Networks (CODE NGO), an organization of 2,500 non-government and people's organizations convened on December 5, 2007 to discuss the civil society response to the summary killings and disappearances.

strong allies in human rights work, as they have been in the Foundation's previous legal reform efforts. So far, the challenge in this area lies on the intricacies of the bureaucracy. For instance, executive agencies go through a long and complicated process within and outside their concerned office before they are authorized to receive grants. In other agencies, even minor project decisions take time because they need to be approved by a big committee. Although the Foundation has not yet encountered substantial delay as a result of these procedures, it is properly taking such realities into account in project planning and implementation.

Human rights NGOs and other civil society organizations that the Foundation has worked with in Martus and other related activities are willing to collaborate again on this new program. However, civil society is very much concerned to avoid compromising the independence of their initiatives, and is wary both of donors and of government. The Foundation will continue to work to allay such concerns in order to have the broadest possible engagement in this effort.

The Foundation notes that although statistics of extrajudicial executions for the past year took a downward trend,¹⁸ killings and disappearances still continue. On the day the Supreme Court issued the Rule on the Writ of Amparo, the President issued Administrative Order No. 197 which mandates that disclosure of military secrets and interference in military operations be safeguarded, effectively countering the new rule. Although the writ of amparo is at work, cases (including well-publicized ones like those of Jonas Burgos, Karen Empeno and Sherlyn Cadapan) remain unresolved. To build trust and accountability, the Foundation is exploring public reporting mechanisms where government can directly account for the status of human rights cases, and the public can demand action and extend assistance in the immediate resolution of cases.

The government's commitment to human rights will be again be tested in May 2008 when the President appoints the next set of Commissioners and Chairperson of the Commission on Human Rights (CHR). Who will sit at the helm of the country's independent constitutional body will undeniably affect the course of current human rights initiatives. Although the Foundation has established strong partnerships with CHR mid-level officials who will remain in office, the Foundation will be open to adjustments that may be brought about by the change in leadership.

As the Foundation pursues implementation of the program in the succeeding period, it anticipates various challenges brought by new rules and issuances, changes in institutional leadership, socio-political developments, and the will and priorities of the

¹⁸ Karapatan reports 63 extrajudicial killings in 2007, as compared to 143 in 2006; and 22 enforced disappearances in 2007 as compared to 60 in 2006 (from "Dangerous Regime, Defiant People: Karapatan's 2007 Year-End Report on the Human Rights Situation in the Philippines"). The Philippine National Police's Task Force Usig also claims a "sharp drop" of 83 percent in the number of extrajudicial killing cases they handled from 2006 to 2007 (Philippine Daily Inquirer, January 14, 2008, <http://newsinfo.inquirer.net/breakingnews/nation/view/20080114-112184/PNP-Extrajudicial-killings-fell-by-83-in-2007>)

administration. The Asia Foundation will prepare itself to respond to such challenges and be able to make sensitive adjustments in its programming strategies.