



**JOINT ALTERNATIVE REPORT OF TANGGOL BAYI AND
KARAPATAN ALLIANCE PHILIPPINES
to the UN Human Rights Committee in its 136th Session
Palais Wilson, Geneva, Switzerland
September 2022**

1. This is a submission of Philippine non-governmental organizations Tanggol Bayi - Philippines and Karapatan Alliance Philippines to the UN Human Rights Committee in its 136th session to review the implementation of the International Covenant on Civil and Political Rights (ICCPR) by the Philippine State Party.
2. This submission seeks to illustrate the human rights situation in the country being reviewed since the State Party's Report in 2012 up to present.
3. Tanggol Bayi is an association of women human rights defenders in the Philippines formed to advance women's rights as human rights. It is committed to the defense of the rights and civil liberties of women and women human rights defenders, most especially those coming from the disadvantaged and marginalized groups.
4. Karapatan Alliance Philippines is an alliance of organizations, groups and individuals working for the promotion and defense of human rights and people's rights in the Philippines.

Introduction

5. A decade since the 4th Human Rights Committee Review on the Philippines, we observed that the human rights situation in the country has spiralled into a crisis, as we documented and witnessed gross violations on the right to life and civil liberties, the deeper and pervasive climate of impunity and the dire lack of effective domestic mechanisms for redress and accountability, closing civic and democratic spaces, and unmet obligations to core international human rights instruments, including the ICCPR.
6. In its Concluding Observations on the Philippines report in 2012, the Human Rights Committee provided at least 20 recommendations to principal matters of concern. It is our view that many of these recommendations have remained unheeded by the Philippines, while additional concerns related to these principal matters of concern have arisen.

7. The report of the two NGOs will provide observations on the Philippines' implementation of these recommendations, its Fifth Periodic Report as well as its replies to the list of issues in relation to this report. We also provided a joint submission on the list of issues for consideration by the Committee. The two NGOs thank the Committee in including many of our proposed issues in its final list of issues given to the Philippines.

On adherence and compliance to the International Covenant on Civil and Political Rights

8. In its 2012 Concluding Observations, the Committee urged the Government of the Philippines to "take all necessary measures to ensure legal clarity on the status of the Covenant in domestic law," and "to raise awareness of the Covenant among judges, lawyers and prosecutors to ensure that its provisions are taken into account by national courts."

9. In 2007, the Philippines ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights. However, legislative measures filed in the 16th, 17th, 18th and the current 19th Congress, since the 2012 review, seeking to reimpose the death penalty have shown how lawmakers who are proponents of said measures openly disregard the Protocol.

10. Such actions may be attributed to former President Rodrigo Duterte's publicly announced advocacy and support for the reimposition of capital punishment, which he repeatedly did since before he was elected into office up to the duration of his term as President.¹ From six proposed bills in the 16th Congress (2013 to 2016), there were 18 and 23 proposed bills in the 17th (2016 - 2019) and 18th Congress (2019 to 2022), during Duterte's term.² Police officials openly backed Duterte regarding these declarations.³

11. Two months into the term of President Ferdinand Marcos Jr., there are currently five proposed bills in the 19th Congress seeking to reimpose capital punishment.⁴ Police officials continue to bat for the approval of these proposals.⁵ Marcos Jr.'s definitive and strong position on the issue remains a question, for even while he was quoted in news reports

¹ Numerous news reports on President Duterte's public statements on the death penalty including some of the following: <https://www.cnnphilippines.com/news/2020/7/27/Duterte-death-penalty-revival-fifth-SONA.html>, <https://www.pna.gov.ph/articles/1075720>, <https://news.abs-cbn.com/news/07/24/17/duterte-on-death-penalty-its-the-only-way-to-instill-fear>, <https://mb.com.ph/2021/06/08/duterte-backs-restoration-of-death-penalty-for-heinous-crimes/>, <https://www.ndtv.com/world-news/philippine-president-elect-rodrido-duterte-vows-to-bring-back-death-penalty-1406703>, <https://ptvnews.ph/duterte-to-congress-reimpose-death-penalty/>

² See www.congress.gov.ph and www.senate.gov.ph

³ News reports on the Philippine National Police's support for President Duterte's declarations on the death penalty: <https://www.pna.gov.ph/articles/1075750>, <https://ph.news.yahoo.com/pnp-support-duterte-push-death-130405378.html>, <https://newsinfo.inquirer.net/1145259/pnp-death-penalty-for-drugs-plunder-will-be-a-game-changer>

⁴ See www.congress.gov.ph and www.senate.gov.ph

⁵ News reports on the Philippine National Police's support for reimposition of the death penalty: <https://www.benarnews.org/english/news/philippine-national-police-chief-backs-reviving-capital-punishment-for-drug-traffickers-07142022133819.html>, <https://www.pna.gov.ph/articles/1178946>, https://malaya.com.ph/news_news/pnp-execs-back-death-penalty-for-drug-traffickers/

saying that he will not pursue the reimposition of the death penalty, he was previously supportive of the measures pursuing it when he still a senator in 2016.⁶

12. RECOMMENDATIONS: The State party should ensure legal clarity on the status of the Covenant, including the Optional Protocols, in domestic law and should take steps to ensure that all public officials and employees, in the legislative, executive and judicial branches of government, are cognizant of the Philippines' obligations under the Covenant. The State Party through its highest government officials should renew and re-state its commitment to the Covenant and the Second Optional Protocol.

13. The Committee recommended, in its 2012 Concluding Observations, for the State party to implement the Views of the Committee under the Optional Protocol 1 of the Covenant, of which the Philippines has agreed to accept individual complaints. The Committee likewise urged the Philippines to have a mechanism to study the Committee's findings, propose measures to give effect to the Views, and provide victims with effective remedy for any violation of their rights.

14. However, in the State party's fifth periodic report and in its reply to list of issues, there are no reports specifying how the Committee's Views under Optional Protocol 1 have been implemented. Based on the monitoring of Karapatan and Tanggol Bayi, there have been no effective remedy provided for victims in at least two cases, to wit:

15. On 29 July 2010, the Committee during its 99th Session adopted its Views on the arbitrary execution of activist Benjaline Hernandez and two farmers on 05 April 2002, finding the State party responsible for the death of Hernandez and the two and concluding that there has been a violation of article 6 of the Covenant. Further, the Committee is also of the opinion that the "State party is under an obligation to take effective measures to ensure that the criminal proceedings are expeditiously completed, that all perpetrators are prosecuted, and that the author (Benjaline's mother Evangeline) is granted full reparation, including adequate compensation," noting that "the State party should also take measures to ensure that such violations do not recur in the future."⁷

16. A few days after receiving a copy of the Committee's Views, Mrs. Evangeline Hernandez learned of the acquittal of the military perpetrators of the killing of Hernandez and the two farmers, which includes two soldiers and members of the Citizens Armed Force Geographical Unit (Cafgu).⁸

⁶ See then Sen. Marcos statement: https://legacy.senate.gov.ph/press_release/2016/0301_marcos1.asp

⁷ See Human Rights Committee Communication No. 1559/2007 at the UN Treaty Body Database at www.ohchr.org

⁸ Benjaline Hernandez, Campus Journalist and Human Rights Defender, Davao Today, 21 November 2013:

<http://davaotoday.com/main/human-rights/benjaline-hernandez-campus-journalist-and-human-rights-defender/>

17. On 30 October 2008, the Committee during its 94th Session adopted its Views on the arbitrary execution of Karapatan human rights defender Eden Marcellana and farmer leader Eddie Gumanoy on 21 April 2003, noting that the “State party’s authorities have not indicted, prosecuted or brought to justice anyone in connection with these events” and concluding that “the absence of investigations to establish responsibility for the kidnapping and murder of the victims amounted to a denial of justice.” The Committee also concluded that “the State party has failed to take appropriate measures to ensure the victims’ right to security of person,” as Marcellana reported receiving prior threats from State forces, as it also reminded the State Party that it is “under an obligation to provide the authors (kin of Marcellana and Gumanoy) with an effective remedy, including initiation and pursuit of criminal proceedings to establish responsibility for the kidnapping and death of the victims, and payment of appropriate compensation” and to take measures to ensure that such violations do not recur in the future.⁹

18. Since the issuance of the said Views and Recommendations of the Committee, Orly Marcellana, husband of Eden, has repeatedly met with officials of the Philippine Department of Justice to request for the reopening of the case. To this date, the DOJ has yet to act to implement the Views and Recommendations of the Committee.¹⁰

19. RECOMMENDATIONS: The State party should take concrete steps to implement the Views of the Committee under Optional Protocol 1, by reminding the courts and the Department of Justice in relation to these two cases, and establish a mechanism for redress for victims and their families. The State Party through its highest government officials should also unequivocally renew and re-state its commitment to Optional Protocol 1.

On the fight against impunity and past human rights violations (articles 2, 6, 7, 14)

20. In the list of issues in relation to the fifth periodic review of the Philippines, the Committee sought information on the “steps that the State party has taken to guarantee remedies for past human rights violations and address impunity in order to fulfill its obligations under the Covenant.” In its reply, the State party cited the enactment of Republic Act No. 10368.

21. In 2018, the Human Rights Victims’ Claims Board, created by virtue of Republic Act No. 10368 or the “Human Rights Reparation and Recognition Act of 2013, has provided monetary reparations for victims of killings and enforced disappearances, torture, cruel, inhumane and degrading treatment, arbitrary detention, and involuntary exile to 11,103 victims during the Marcos martial law period from 1972 to 1986.¹¹ There were more victims

⁹ See Human Rights Committee Communication No. 1560/2007 at the UN Treaty Body Database at www.ohchr.org

¹⁰ After 10 years, still no justice for 2 slain activists, Bulatlat, 22 April 2013: <https://www.bulatlat.com/2013/04/22/after-10-years-still-no-justice-for-2-slain-activists/>

¹¹ HRVCB A summary of the accomplishments of the Human Rights Victims’ Claims Board, https://hrvvcemcom.gov.ph/hrvvc_post/human-rights-victims-claims-board-hrvcb/

who were either unable to apply for monetary claims or were unduly disapproved by the HRVCB, hence another bill was filed to provide reparations. This remains pending at the House of Representatives.¹²

22. The status of provision of non-monetary reparations under the said law through services by the Department of Health, Department of Social Welfare and Development, Department of Education, the Commission on Higher Education, the Technical Education and Skills Development Authority and other government agencies are unknown. Likewise, the status of education and curriculum development on the lessons learned from the martial law atrocities and the lives and sacrifices of the victims for basic and higher education curricula and continuing adult learning remain unreported.

23. On September 24, 1992, the jury of the United States District Court in Hawaii rendered a verdict in favor of the plaintiffs in the class action suit filed by victims of human rights violations in 1991, 3 years after Ferdinand Marcos Sr., his family and close associate were moved to Hawaii during the EDSA People Power 1 Uprising. The jury later awarded the plaintiffs and the 9,539 nearly \$2 billion in exemplary damages and \$766 million in compensatory damages. Upon the death of Marcos Sr., his wife Imelda and son Marcos Jr, the current president, were named as the legal representatives of the Marcos estate.¹³ According to reports of Amnesty International, there were at least 70,000 individuals arrested without warrants, 34,000 torture victims, and 3,240 persons killed during Marcos' martial law.

24. Investigators estimate that Marcoses have ill-gotten wealth of at least \$10 billion from the nation's coffers.¹⁴ Numerous properties within and outside the country as well as luxury items such as tiara crowns, diamond and gold jewelry, expensive shoes, fur and clothing, and gold bullions have likewise been accounted and sequestered from the Marcoses.¹⁵ In 2021, at least P174 billion have been recovered by the Presidential Commission on Good Government (PCGG), while P125 billion have yet to be recovered.¹⁶

¹² News reports on legislative measures regarding martial law victims:

<https://newsinfo.inquirer.net/1491075/solon-pushes-house-to-prioritize-bill-seeking-second-claims-board-for-marcos-victims>,

<https://news.tv5.com.ph/breaking/read/true-unity-makabayan-bloc-refiles-bill-on-continued-reparation-for-martial-law-victims>

¹³ Matter of Estate of Marcos, <https://law.justia.com/cases/hawaii/supreme-court/1998/20885-2.html>

¹⁴ Where did Marcos hide his \$10 billion fortune? Haley Cohen Gilliland, Bloomberg Businessweek, 28 June 2021,

<https://www.bloomberg.com/news/features/2021-06-28/finding-the-hidden-10-billion-fortune-of-philippines-president-ferdinand-marcos>

¹⁵ Asian Journal: Chronology of the Marcos Plunder, Bantayog.org, 25 October 2015,

https://www.bantayog.org/asian-journal-chronology-of-the-marcos-plunder/?fbclid=IwAR2bnk_LGN7KtEbj8ntdeGw2XgKmigTto4lwBMI3C_jFABR67ORQN7G7Ns

¹⁶ Breakdown: P174B recovered from Marcos loot, P125B more to get, Lian Buan, Rappler, 29 September 2021,

25. The judgment of the Hawaii District Court has not been enforced in Philippine courts, despite petitions by victims. Likewise, while charges pertaining to graft and corrupt practices of the Marcoses have been filed before Philippine courts, there has been no successful prosecution to date that would amount to imprisonment of any of the Marcoses. While the Sandiganbayan rendered a guilty verdict for Imelda Marcos' seven counts of graft and corruption in November 2018,¹⁷ her appeal remains pending at the Supreme Court, despite appeals of victims for the High Court's affirmation of the Sandiganbayan's ruling.¹⁸ Essentially, the Marcoses have not been fully made accountable for their crimes via their imprisonment.

26. In November 2016, despite strong opposition led by martial law victims, the Supreme Court ruled that Marcos Sr. be interred at the Libingan ng mga Bayani (Graveyard for Heroes), after President Duterte made public pronouncements supporting this decades-long campaign of the Marcoses. The victims averred that the said move is a grave insult to the thousands of human rights victims during martial law.¹⁹ The Marcoses reportedly supported the candidacy of President Duterte.

27. The Marcoses, upon their return to the Philippines, have made their way back to the political structures of the country, via elections. Imelda Marcos and her children Imee and Ferdinand Jr. became legislators and local government executives. Through the years and during the May 2022 national elections, they have been accused of peddling disinformation to complement their actions for political rehabilitation. On June 30, 2022, Marcos Jr. assumed the presidency.

28. President Marcos Jr. along with his living family members have not publicly apologized for his father and family's misdeeds during martial law. Recently, there were efforts at the House of Representatives by allies of President Marcos Jr. to abolish the PCGG, a government agency mandated to recover the Marcoses' ill-gotten wealth.²⁰

29. RECOMMENDATIONS: The State party should ensure that all victims of human rights violations during the Marcos Sr. administration should be accorded with recognition and adequate monetary and non-monetary reparations. It should likewise ensure that prompt, effective and impartial remedies pursued by human rights violations victims in relation to the accountability of the Marcos estate be provided.

<https://www.rappler.com/newsbreak/iq/breakdown-billions-recovered-marcos-ill-gotten-wealth-by-pcgg-more-to-get/>

¹⁷ <https://www.ombudsman.gov.ph/docs/05%20SB%20Decisions/SB-Crim-17287-17291%2C%2019225%20and%2022867-22870-People-of-the-Phils-vs-Marcos.pdf>

¹⁸ Martial law victims nudge Supreme Court to act on Imelda Marcos conviction, Lian Buan, Rappler, 09 November 2021,

<https://www.rappler.com/nation/martial-law-victims-nudge-supreme-court-court-act-imelda-marcos-conviction/>

¹⁹ Marcos buried at the Libingan ng mga Bayani, Eimor Santos, CNN Philippines, 18 November 2016,

<https://www.cnnphilippines.com/news/2016/11/18/Marcos-burial-at-Libingan-ng-mga-Bayani.html>

²⁰ <https://newsinfo.inquirer.net/1652814/pcgg-paradox-agency-battles-abolition-calls>

30. Despite the passage of the Anti-Enforced Disappearance Act in 2012, Karapatan documented 29 victims and 20 victims of enforced disappearances (ED) during the Aquino III administration and the Duterte administration, including the cases of former Karapatan human rights worker Honey Mae Suazo²¹ and peasant organizer Steve Abua.²²

31. On July 3, 2022, kin of missing activists Elgene Mungcal and Maria Elene Pamposa, both tagged by State agents as supporters of the communist movement and had experienced threats and surveillance, reported them missing.²³

32. The cases of disappeared activists Jonas Burgos, Sherlyn Cadapan and Karen Empeno, remain stark proof of the prevailing impunity in the country. Retired Major General Jovito Palparan, responsible for the disappearance of Empeno and Cadapan, though arrested in 2014 and convicted in 2018 due to strong national and international campaigns, has not surfaced Empeno and Cadapan.²⁴ The Philippines has yet to sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

33. RECOMMENDATIONS: The State party should take necessary steps to stop enforced disappearances and provide adequate and effective assistance and support for victims of enforced disappearances and their families, while ensuring due diligence in conducting independent investigations. It should fully support efforts to investigate, prosecute and punish perpetrators of enforced disappearances. It should sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

34. On 06 February 2010, forty-three health workers, including 26 women health workers, were illegally arrested by elements of the military and police while conducting a training in Morong, Rizal province.²⁵ They were subsequently detained and tortured. After the health workers and their families conducted a hunger strike, former President Benigno Aquino III ordered the DOJ to withdraw the charges against them and have them released from prison.²⁶

²¹ Human rights defender Honey Mae Suazo reported missing, Front Line Defenders, 08 November 2019, <https://www.frontlinedefenders.org/en/case/human-rights-defender-honey-mae-suazo-reported-missing>

²² "Wife seeks CA's help in finding abducted activist Steve Abua," Sinag Joaquin, Bulatlat, 07 December 2021, <https://www.bulatlat.com/2021/12/07/wife-seeks-cas-help-in-finding-abducted-activist-steve-abua/>

²³ <https://www.bulatlat.com/2022/07/14/kin-of-disappeared-ask-chrs-help-to-find-their-loved-ones/>

²⁴ "The disappearance of Karen Empeno and Sherlyn Cadapan," Allan Macatuno and Carmela Reyes-Estrope, Philippine Daily Inquirer, 18 September 2018,

<https://newsinfo.inquirer.net/1033577/the-disappearance-of-karen-empeno-and-sherlyn-cadapan>

²⁵ Karapatan documentation on the illegal arrest, torture, and detention of the 43 health workers

²⁶ Aquino orders DOJ to withdraw charges vs Morong 43, Yahoo News, 10 December 2010:

<https://ph.news.yahoo.com/aquino-orders-doj-withdraw-case-vs-morong-43.html>

35. On 4 April 2011, six of the 43 health workers filed a civil case against former President Gloria Macapagal-Arroyo and nine military and police officials involved in the rights violations against them.²⁷ On 4 May 2012, eight of the 43 health workers filed criminal charges of torture and serious illegal detention against Macapagal-Arroyo and 18 military and police officers as well as prosecutors.²⁸

36. More than five years after the arrest of the health workers, the Philippine Commission on Human Rights in a resolution confirmed that the health workers were tortured.²⁹ After nearly nine years after the filing of the civil charges, the case has yet to be resolved, with the lawyers of the accused, including that of the former President impleaded in the case, objecting to the testimonies of key witnesses. On 19 July 2019, the 7th Division of the Sandiganbayan dismissed all charges against the alleged perpetrators in the criminal case filed by the health workers.³⁰

37. On 01 September 2015, alternative school executive director Emerito Samarca and indigenous people's leaders Dionel Campos and Juvello Sinzo were killed by paramilitary members under the command of the 75th Infantry Battalion of the Philippine Army in Lianga, Surigao del Sur.³¹ On 08 September 2015, families of the victims filed charges of multiple murder and other criminal cases against 26 members of the paramilitary group. On 22 September 2015, warrants of arrests were issued against the perpetrators.³² To date, no perpetrator has been arrested.

38. On 01 April 2016, two farmers were killed and several others were shot, manhandled, arrested and detained in Kidapawan, North Cotabato, including pregnant and older women, while the farmers were conducting protests in relation to relief aid for the drought-stricken communities.³³ On 25 April 2016, victims and their kin filed criminal charges of murder and other cases before the Ombudsman.³⁴ To date, the case has not progressed.

²⁷ Arroyo, Former Top Defense, Military Officials Sued for Damages by Morong 43, Bulatlat, 4 April 2011: <https://www.bulatlat.com/2011/04/04/arroyo-former-top-defense-officials-sued-for-damages-by-morong-43/>

²⁸ Morong 43 charge Arroyo with torture, Philippine Daily Inquirer, 04 May 2012: <https://newsinfo.inquirer.net/186771/%E2%80%98morong-43%E2%80%99-charge-arroyo-with-torture>

²⁹ CHR confirms torture of Morong 43, ABS-CBN, 20 June 2015: <https://news.abs-cbn.com/nation/06/20/15/chr-confirms-torture-morong-43>

³⁰ Sandiganbayan acquits cops, army generals in Morong 43 case, Rappler, 19 July 2019: <https://www.rappler.com/nation/235768-sandiganbayan-acquits-cops-army-generals-morong-43-case>

³¹ Karapatan documentation on the killing of Emerito Samarca, Dionel Campos and Juvello Sinzo

³² 40 Days | Still no arrests made on Lianga massacre as killings continue, Bulatlat, 10 October 2015: <https://www.bulatlat.com/2015/10/10/40-days-still-no-arrests-made-on-lianga-massacre-as-killings-continue/>

³³ Karapatan documentation on the violent dispersal of the North Cotabato farmers' protest

³⁴ Kidapawan carnage victims sue govt officials, Davao Today, 26 April 2016: <http://davaotoday.com/main/human-rights/kidapawan-carnage-victims-sue-govt-officials/>

39. On 05 September 2017, indigenous student Obello Bay-ao was killed by two paramilitary members in Talaingod, Davao del Norte.³⁵ On 26 November 2017, Bay-ao's parents filed a criminal complaint of murder against the perpetrators.³⁶ To date, the case has not progressed.

40. On 03 December 2017, seven indigenous people's leaders were killed by elements of the 27th Infantry Battalion of the Philippine Army in Lake Sebu, South Cotabato.³⁷ On 27 July 2018, criminal charges were filed against the perpetrators.³⁸ To date, the case has not progressed.

41. Since 2020, numerous NGOs and individuals have filed administrative and criminal complaints before the Ombudsman regarding their being wrongly tagged as fronts or supporters of the communist movement in the Philippines and the subsequent endangerment on their lives, security and liberty.³⁹ To date, there have been no substantial movement in these cases.

42. RECOMMENDATION: The State party should ensure prompt and effective prosecution of all perpetrators of torture, extrajudicial killings and threats against civilians, including human rights defenders.

43. On May 6, 2019, Karapatan, Rural Missionaries of the Philippines and Gabriela filed a petition for the writs of amparo and habeas data to seek legal protection from threats, harassment, extrajudicial killings and other human rights violations from government officials and all State agents.⁴⁰ On June 28, 2019, The Court of Appeals denied the plea of the three NGOs.⁴¹ In July 2019, the NGOs filed an appeal before the Supreme Court.⁴² Karapatan

³⁵ Karapatan documentation on the killing of Obello Bay-ao

³⁶ Kin of slain Lumad youth ask DOJ to probe case, Bulatlat, 26 November 2017:

<https://www.bulatlat.com/2017/11/26/kin-slain-lumad-youth-ask-doj-probe-case/>

³⁷ Karapatan documentation on the massacre of seven indigenous people's leaders in Lake Sebu, South Cotabato

³⁸ Raps filed vs. Army officers, other over Lake Sebu massacre, GMA News, 27 July 2018: <https://www.gmanetwork.com/news/news/nation/662082/raps-filed-vs-army-officers-others-over-lake-sebu-massacre/story/>

³⁹ News reports on the filing of complaints before the Ombudsman:

<https://www.rappler.com/nation/251399-ibon-foundation-complaint-ombudsman-government-officials-red-tagging/>,

<https://www.cnnphilippines.com/news/2020/7/1/zarate-parlade-ombudsman-complaint-black-propaganda.html>,

<https://www.bworldonline.com/the-nation/2020/12/04/332324/human-rights-group-karapatan-files-charges-vs-govt-officials/>,

<https://www.bworldonline.com/the-nation/2020/12/04/332324/human-rights-group-karapatan-files-charges-vs-govt-officials/>,

<https://newsinfo.inquirer.net/1368923/elago-files-raps-vs-ntf-elcac-officials-at-ombudsman>,

<https://www.altermidya.net/alternative-media-outfits-file-6th-ombudsman-complaint-vs-anti-communist-task-force-members-over-red-tagging/>,

<https://newsinfo.inquirer.net/1579935/fwd-health-workers-file-raps-vs-badoy-on-ombudsman-for-alleged-red-tagging>,

<https://newsinfo.inquirer.net/1575805/badoy-hit-with-another-complaint-at-ombudsman-for-red-tagging-robredo>,

<https://www.gmanetwork.com/news/topstories/nation/828419/ombudsman-asked-to-suspend-hold-badoy-criminally-liable-for-red-tagging-patreng-non/story/>

⁴⁰ <https://newsinfo.inquirer.net/1114666/3-more-groups-seek-writs-of-amparo>

⁴¹

<https://www.philstar.com/headlines/2019/06/28/1930536/court-appeals-dismisses-rights-groups-plea-writ-protection-habeas-data>

⁴² https://malaya.com.ph/news_news/ca-ruling-on-karapatan-writ-of-amparo-appealed/

filed two manifestations after prompting the Court to act on their appeal.⁴³ To date, three years after the appeal was filed, there had been no resolution by the Supreme Court. In the State party's reply to list of issues, it erred on its information in paragraphs 61 to 63, thereby resulting to a false statement attributed to the Supreme Court regarding this case.

44. On April 14, 2019, the National Union of Peoples' Lawyers (NUPL) filed a petition for the writs of amparo and habeas data to seek legal protection from threats, harassment, extrajudicial killings and other human rights violations from government officials and all State agents.⁴⁴ On July 29, 2019, the Court of Appeals dismissed their petition.⁴⁵ On August 7, 2019, they appealed the Court of Appeals' ruling to the Supreme Court.⁴⁶ To date, there has been no resolution yet by the Court.

45. RECOMMENDATIONS: The State party should ensure individual and collective rights to legal protection of human rights defenders, and timely and effective remedy, especially from threats and harassment by State agents. It is recommended that the State party undertake a review of its rules on the writs of amparo and habeas data to ensure their responsiveness to various situations of threats against human rights defenders.

46. Driven by reports on the persistently worsening human rights situation in the Philippines, the UN Human Rights Council passed resolution A/HRC/41/L.20 in July 2019. The Office of the High Commissioner for Human Rights wrote and delivered a report on the human rights situation in the Philippines. In October 2020, UN Human Rights Council resolution 45/33 on technical cooperation and capacity building on human rights in the Philippines was adopted. In July 2021, the Philippine government announced the UN Joint Program, "a three-year program of in-country delivery of technical assistance and capacity-building to strengthen the Philippines' human rights mechanisms and institutions."

47. Three after the succeeding actions by the UN Human Rights Council, there has been no substantial progress in addressing the human rights situation in the Philippines. Since the "pledges" of the Philippine government and the October 2020 resolution, the human rights situation in country has continued to worsen. There is prevalent impunity in the country, with the dire lack or inadequacy of independent and effective domestic mechanisms that can deliver genuine justice and accountability for all victims of human rights violations. There is no clear and visible substantial progress in the UN Joint Program that addresses this situation. Many civil society groups attributed this to the lack of commitment of the Philippine government to fully acknowledge the problems and pursue accountability from government actors.

⁴³ News reports on Karapatan's court manifestations:

<https://www.rappler.com/nation/karapatan-manifestation-supreme-court-writ-amparo/>,

<https://newsinfo.inquirer.net/1424095/human-rights-groups-look-for-protection-from-sc-amparo>

⁴⁴ <https://newsinfo.inquirer.net/1106960/lawyers-group-seeks-sc-help-protection-from-military-harassment>

⁴⁵ <https://www.pna.gov.ph/articles/1076375>

⁴⁶ <https://newsinfo.inquirer.net/1151329/nupl-to-sc-stand-by-your-lawyers>

48. RECOMMENDATIONS: The State party should cooperate with the UN Human Rights Council for an independent investigation on the human rights situation in the Philippines. It should support the reporting mandate of the OHCHR on the status of the UN Joint Program.

On non-discrimination, right to political participation and public affairs (articles 2, 25, and 26)

49. The first-ever proposed legislation legalizing divorce was filed in 2005,⁴⁷ and since then, in every Congress, the said proposal has been filed at the House of Representatives and the Senate. The proposal have cited violence against women/spouse as among the grounds for divorce. To date, there is no legislation yet legalizing divorce in the Philippines.

50. Since 2000, an anti-discrimination bill which penalizes acts that promote discrimination on the basis of one's sexual orientation or gender has been filed in the Senate and House of Representatives. To date, there is no legislation yet recognizing the rights of persons regardless of sexual orientation and gender identity and providing penalties for discriminatory acts on the said basis.

51. Women human rights defenders have been increasingly at risk during the past two administrations, with at least 99 WHRDs killed and 200 women arbitrarily or illegally arrested and detained in the past 12 years.⁴⁸ Among them are young woman peasant organizer Myles Albasin, 21 years old and recent university graduate at the time of her arrest;⁴⁹ 23-year old journalist Frenchie Mae Cumpio;⁵⁰ and women's rights activist Nerita Castro.⁵¹ Under the Marcos Jr. administration, at least three elderly and sick women activists have been arrested on trumped up charges: women's rights activist Marites Pielago,⁵² martial law torture and rape survivor Adora Faye de Vera,⁵³ and former teacher Atel Hijos.⁵⁴

52. During the pandemic, on June 26, 2020, twenty members of Bahaghari, an organization of lesbians, gays, bisexuals, transgenders and queers, were arrested while conducting a Pride March commemoration activity. They were detained for four days at the Manila police

⁴⁷ Full text: Bill filed in Congress that would legalize divorce, GMA News, 09 June 2011:

<https://www.gmanetwork.com/news/news/specialreports/222970/full-text-bill-filed-in-congress-that-would-legalize-divorce/story/>

⁴⁸ Karapatan documentation from July 2010 to June 2022.

⁴⁹ Myle Albasin's grace holds, John Sitchon, Rappler, 10 September 2021,

<https://www.rappler.com/newsbreak/in-depth/myles-albasin-grace-holds-after-months-detention-2021/>

⁵⁰ How a Young Journalist Was Detained in the Philippines throughout the pandemic, Michael Beltran, The News Lens, 19 May 2021, <https://international.thenewslens.com/article/151190>

⁵¹ 2 human rights defenders arrested, detained, Ronalyn Olea, Bulatlat, 03 June 2018,

<https://www.bulatlat.com/2018/06/03/2-human-rights-defenders-arrested/>

⁵² <https://newsinfo.inquirer.net/1637429/militant-groups-assail-arrest-of-bicol-activist-over-trumped-up-cases>

⁵³ <https://www.rappler.com/nation/arrested-rebel-adora-faye-de-vera-symbol-marcos-atrocities-women-dissents/>

⁵⁴ <https://www.rappler.com/nation/mindanao/cops-arrest-activist-atheliana-hijo-murder-kidnapping-warrants/>

station.⁵⁵ On April 7, 2020, a village official in Mexico, Pampanga forced three LGBTQI people to perform humiliating acts as punishment for supposedly violating curfew. Others were also subjected to degrading punishment, and the village chief posted the video on social media.⁵⁶

53. Despite the existence of Republic Act 9710 or the Philippine Magna Carta of Women, which specifically states, among others, that the State as primary duty-bearer of women's rights, should "refrain from discriminating against women and violating their rights," "protect women against discrimination and from violation of their rights by private corporations, entities, and individuals," and "promote and fulfill the rights of women in all spheres, including their rights to substantive equality and non-discrimination,"⁵⁷ the State party, through several pronouncements⁵⁸ of former President Rodrigo Duterte, has instead promoted and openly encouraged violence and degrading treatment of women.

54. The enactment of Republic Act 11313 or the Safe Spaces Act⁵⁹, though laudable, is undermined by the prevalent sexism promoted by government officials, who fan the flames of derogatory and sexist attacks against women critics of the administration including Sen. Leila de Lima, Maria Ressa, former Supreme Court Chief Justice Meilou Sereno and Vice President Leni Robredo.⁶⁰

55. RECOMMENDATIONS: The State party should put a stop to all gender-based violence on women and LGBTQ. It should adopt legislation on the dissolution of marriages and ensure that the rights of all parties, especially women, LGBTQs, or children, will be protected. It should also adopt a comprehensive anti-discrimination law that prohibits and penalizes discrimination on the basis of sexual orientation and gender identity, and promote through education and awareness campaigns the rights of LGBTQ against violence and discrimination. It should further ensure that the laws pertaining to women's rights especially the Magna Carta of Women are upheld and respected, especially by all public officials.

On the right to life (article 6)

56. On the first day of his presidency, President Duterte publicly vowed to kill all those involved in drugs and urged the public to kill drug addicts.⁶¹ In many of these statements, President Duterte did not specifically state that anti-illegal drugs efforts "should be carried

⁵⁵ <https://www.rappler.com/nation/264919-cops-arrest-individuals-pride-month-protest-manila-june-2020/>

⁵⁶ <https://www.amnesty.org/en/latest/news/2020/04/philippines-investigate-humiliating-abuses-curfew/>

⁵⁷ Magna Carta of Women, Philippine Commission on Women, April 2010:

https://pcw.gov.ph/sites/default/files/documents/laws/republic_act_9710.pdf

⁵⁸ From fragrant Filipinas to shooting vaginas: Duterte's top 6 sexist remarks, Rappler, 14 February 2018:

<https://www.rappler.com/nation/195934-rodrigo-duterte-most-sexist-remarks>

⁵⁹ Safe Spaces Act: https://lawphil.net/statutes/repacts/ra2019/ra_11313_2019.html

⁶⁰ Available on various news websites

⁶¹ Philippines president Rodrigo Duterte urges people to kill drug addicts, The Guardian, 1 July 2016:

<https://www.theguardian.com/world/2016/jul/01/philippines-president-rodrigo-duterte-urges-people-to-kill-drug-addicts>

out within the bounds and due process of law,” contrary to what was specified in paragraph 69 of the State party’s reply to list of issues. It is clear in his numerous public pronouncements prior to his election and in the past six years of his presidency that he publicly encouraged extrajudicial killings of individuals suspected of using or selling illegal drugs, including his pronouncements in the 2018 State of the Nation Address that he will continue the “illegal drugs war,” vowing that “it will be relentless and chilling, if you will, as on the day it began.”⁶²

57. From his directives, the Philippine National Police (PNP) formulated, issued and conducted campaigns Oplan (Operational Plan) Double Barrel, Oplan Tokhang (knock and plead), Oplan Double Barrel Alpha, and Oplan Double Barrel Reloaded, which have resulted in the death of 6,235 drug personalities as of February 2022, according to data from the Philippine Drug Enforcement Agency (PDEA).⁶³

58. These figures have been questioned, considering inconsistencies with previous government reports, including the data released by the Office of the President in December 2017 in its Accomplishment Report,⁶⁴ citing 3,967 drug personalities who died in anti-drug operations from July 2016 to November 2017 and 16,355 homicide cases under investigation from July 2016 to September 2017. The Supreme Court has noted this Accomplishment Report in its orders to the Office of the Solicitor General,⁶⁵ ordering the release of all documents in relation to these cases.

59. The Philippine Commission on Human Rights documented 579 cases of 870 victims, with 451 incidents (with 705 victims) attributed to police operations. Out of this number, police claims 466 individuals initiated aggression (*nanlaban*, in the vernacular), but records are inconclusive whether the wounds or injuries of those killed suggest an intent to kill or to defend oneself. CHR also observed that in 77 out of 90 investigation reports obtained by the CHR from the police contained recommendations that police operatives involved in the said incidents are either to be awarded, rewarded or recognized.⁶⁶

60. Women who have lost their children or their husbands in the government’s anti-narcotics campaign endure grief, frustration, and at times reprisals for pursuing justice and accountability.⁶⁷ They grapple for ways by which they can go to courts to file complaints and charges against those who killed their loved ones.⁶⁸

⁶² Drug war will be ‘as chilling as the day it began’ - Duterte, Rappler, 23 July 2018:

<https://www.rappler.com/nation/208009-duterte-war-on-drugs-chilling>

⁶³ <https://pdea.gov.ph/2-uncategorised/279-realnumbersph>

⁶⁴ The Duterte Administration Year-End Report: 2017 Key Accomplishments, December 2017:

<https://www.foi.gov.ph/requests/aglzfMvmb2kctcGhyHgsSB0NvbnRlbnQiEVBDT08tMzMzMzg4NTUyMDEyDA>

⁶⁵ Copy of the Supreme Court order embedded in the article:

<https://www.rappler.com/nation/200042-supreme-court-war-on-drugs-state-sponsored-killings/>

⁶⁶ <https://chr.gov.ph/wp-content/uploads/2022/05/CHR-National-Report-April-2022-Full-Final.pdf>

⁶⁷ Rising Up: Women fight for justice for sons slain in war on drugs, Bulatlat, 14 November 2017:

<https://www.bulatlat.com/2017/11/14/rising-women-fight-justice-sons-slain-war-drugs/>

⁶⁸ Women fighting: Widows, mothers of drug war casualties come together, Rappler, 10 March 2018:

<https://www.rappler.com/nation/197731-women-widows-mothers-fight-drug-war-killed>

61. Many of those killed have not been tried and convicted by courts and have been arbitrarily included in “drug lists” drawn up by police and government units. The NGOs concur with the analysis stated in the Communication and Complaint by Rise Up for Life and Rights to the International Criminal Court:⁶⁹

- Through his pronouncements and policies, President Duterte has publicly vilified, ordered, incited, supported, and condoned these killings;
- Many of those killed were in the course of police “buy-bust operations” resulting in deaths of the victims for allegedly resisting arrest;
- For cases involving unidentified vigilantes or undercover police as suspected perpetrators, victims were killed by at least two unidentified assassins usually wearing helmets, riding in tandem in a motorcycle, with the gunman astride at the back of the driver;
- The killings have been widespread and pervasive, occurring in all regions of the country, and have occurred often in public places, in broad daylight, and in front of witnesses, illustrating the brazenness of the perpetrators;
- There is lack of interest on the part of government in pursuing investigation and prosecution of these crimes and the perpetrators; and,
- President Duterte has publicly avowed to pardon members of the State forces should they be charged in court.

62. On June 30, 2020, Secretary Menardo Guevarra announced during the UN Human Rights Council session that the inter-agency panel has been reviewing since February 2019 the 5,655 anti-illegal drugs operations where deaths occurred.⁷⁰ In March 2022, Justice Secretary Guevarra said that 250 more cases were referred to the National Bureau of Investigation for case build-up and determination of possible criminal liability.⁷¹

63. However, no comprehensive and updated report on the drug war panel review nor on the police investigations have been made public. To date, only in the case of 17-year old Kian delos Santos has there been a conviction, though still on appeal, of police perpetrators, while thousands of other victims have yet to be rendered justice.

64. On August 30, 2011, the Philippines ratified the Rome Statute and the Statute entered into force from November 1, 2011 until the Philippines withdrawal on March 19, 2018. The International Criminal Court however reminded that “the ICC retains its jurisdiction over crimes committed during the time in which the State was party to the Statute and may exercise this jurisdiction over these crimes even after the withdrawal becomes effective.”⁷²

⁶⁹ Communication and Complaint by Rise Up for Life and for Rights, <https://www.scribd.com/document/387193529/Communication-and-Complaint-by-Rise-Up-for-Life-and-for-Rights>

⁷⁰ https://www.doj.gov.ph/news_article.html?newsid=661

⁷¹ <https://www.cnnphilippines.com/news/2022/3/1/DOJ-Guevarra-UN-Human-Rights-Council-drug-war-NBI.html>

⁷²

<https://www.icc-cpi.int/news/icc-statement-philippines-notice-withdrawal-state-participation-rome-statute-system-essential>

65. On 15 September 2021, the ICC Pre-Trial Chamber I "authorised the Prosecutor to commence an investigation of crimes within the jurisdiction of the Court allegedly committed on the territory of the Philippines between 1 November 2011 and 16 March 2019 in the context of the so-called 'war on drugs' campaign.⁷³ While the Pre-Trial Chamber heeded the Philippines' deferral request⁷⁴ on November 2021, the Office of the Prosecutor has requested the Chamber to resume the investigation.⁷⁵

66. RECOMMENDATIONS: The State party should stop extrajudicial killings and other rights violations in the context of the government's anti-illegal drugs campaign and ensure that perpetrators are independently and promptly investigated, prosecuted and punished. It should make public the report of the review panel on drug war deaths, for the interest of transparency. The State party should be urged to cooperate with the ICC investigation, along with other international independent investigations, and once again ratify the Rome Statute.

67. The government's counter-insurgency programs have been observed to have resulted in extrajudicial killings of civilians, including human rights defenders. At least 1,206 individuals, including 475 human rights defenders, were killed during the nine-year term of former President Macapagal-Arroyo from January 2001 to June 2010, when Operational Plan (Oplan) Bantay Laya (Freedom Watch) was operational.⁷⁶ In the report of former Special Rapporteur on on extrajudicial, summary or arbitrary executions Philip Alston after his mission to the Philippines, he recommended that "extrajudicial executions should be eliminated from counterinsurgency operations" and that "convictions in a significant number of extrajudicial executions must be achieved."⁷⁷

68. However, such recommendations along with other communications and statements of independent experts⁷⁸ have remained largely unheeded by the succeeding Aquino and Duterte administrations, when Oplans Bantay Laya, Bayanihan, Kapayapaan and Kapanatagan were operational. According to Karapatan's documentation, there are 333 victims of extrajudicial killings, 139 of them were human rights defenders, during the Benigno Aquino III administration from July 2010 to June 2016, while there are 442 victims of killings, 222 of them human rights defenders, under the Duterte administration from July 2016 to June 2022. These extrajudicial killings were committed in line with the PH government's counter-insurgency program, The victims are peasants, indigenous and Moro peoples, environmental defenders, human rights workers and lawyers, church people,

⁷³ <https://www.icc-cpi.int/philippines>

⁷⁴ <https://www.icc-cpi.int/court-record/icc-01/21-14>

⁷⁵ <https://www.icc-cpi.int/court-record/icc-01/21-46>

⁷⁶ Karapatan documentation from January 2001 to June 30, 2010

⁷⁷ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Mission to the Philippines, 16 April 2008: <https://undocs.org/A/HRC/8/3/Add.2>

⁷⁸ Please see www.ohchr.org for communications and statements of Special Procedures on the Philippines from 2010 to present.

workers in the public and private sectors, women, youth and urban poor. In the past 12 years, 1-2 individuals a week were killed in line with this campaign.⁷⁹

69. Prior to the killings, the victims and/or their organizations have been routinely labeled as “members,” “supporters,” or “front organizations” of the Communist Party of the Philippines (CPP) and/or the New People’s Army (NPA). Such labelling has been recently and particularly documented in the various pronouncements of President Duterte and his officials,⁸⁰ including those from the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC), which was created through Executive Order (EO) No. 70.⁸¹

70. In his speech in Marawi City in October 2017, Duterte referred to Karapatan and other organizations as “legal fronts” of the Communist Party of the Philippines.” In yet another speech in August 2019, President Duterte declared that Karapatan is a “group of demons.” Karapatan categorically belied his false claims.

71. UN Special Rapporteurs have expressed concern over President Duterte’s statements, which “may lead to persons being incited to exercise violence against Karapatan and its members, who are already facing a severely hostile environment.” The independent experts further said: “We are concerned that such speech by the President undermines not only the work of civil society, but also the faith of civil society in State institutions and, thus, the quality and level of their participation in democracy.”⁸² However, such forms of public vilification continued, through numerous statements of President Duterte and NTF-ELCAC officials. Karapatan and other human rights, civil society and people’s organizations,⁸³ humanitarian NGOs and even foreign funders have been stigmatized.⁸⁴ Leaflets, posters, infographics, streamers, and flyers have proliferated online and in various parts of the country, presumably disseminated by State actors, vilifying leaders and members of these organizations. In an act of reprisal on Karapatan’s engagement with the UN and foreign

⁷⁹ Karapatan documentation from July 2010 to June 2016, July 2016 to June 2022

⁸⁰ UN SRs communication,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23712>

⁸¹ Executive Order No. 70 Institutionalizing the Whole-of-Nation Approach in attaining inclusive and sustainable peace, creating a national task force to end local communist armed conflict, and directing the adoption of a national peace framework, 4 December 2018:

<https://www.officialgazette.gov.ph/downloads/2018/12dec/20181204-EO-70-RRD.pdf>

⁸² Communication from Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism to the Philippine Government, 23 April 2018:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23712>

⁸³ “How redtagging justifies human rights abuses,” Jasmin Espinas and Aira Marie Siguenza, Bulatlat, 10 December 2021, <https://www.bulatlat.com/2021/12/10/how-red-tagging-justifies-human-rights-abuses/>

⁸⁴ “Philippines targets Oxfam, other rights groups, as “communist fronts,” Ana Santos, DW.com, <https://www.dw.com/en/philippines-targets-oxfam-other-rights-groups-as-communist-fronts/a-51473662>

governments on the human rights situation in the Philippines, slanderous materials and baseless accusations were disseminated by the NTF-ELCAC at the UN, European Union and other international fora, including a human rights situationer in 2020.⁸⁵

72. These statements incite violence and killings and are considered direct orders and policy pronouncements by State forces on the ground. At least 15 human rights workers of Karapatan were killed under the Duterte administration, after such pronouncements by the government and military officials. Pictures of Atty. Benjamin Ramos, a Karapatan officer in Negros, Escalante city councilor Bernardino Patigas Sr., also a Karapatan rights worker in the same province, and Zara Alvarez, Karapatan paralegal, were included in a poster of so-called “CNN personalities” disseminated in April 2018. In November 2018, Ramos was killed by two motorcycle-riding men, who are suspected state agents. Patigas was killed in April 2019, while driving his motorcycle. In August 2020, Alvarez was killed by motorcycle-riding men. These pronouncements have also made human rights workers increasingly vulnerable to attacks by suspected state forces. Karapatan-Negros coordinator Elisa Badayos, who was then leading a fact-finding mission in November 2017, was killed by motorcycle-riding men. Many of these killings were perpetrated by men wearing masks and riding motorcycles without plate numbers, obviously to avoid being identified.⁸⁶

73. On March 7, 2020, simultaneous raids of the PNP and the Philippine Army under Case Operation Plan ASVAL against “communist terrorist groups” throughout the region led to the killings of nine individuals in what would now be called as the Bloody Sunday raids⁸⁷—

which came two days after President Duterte spoke before the military and the police, ordering them that “if they find themselves in an armed encounter with the communist rebels, kill them, make sure you really kill them, and finish them off if they are alive.”⁸⁸

74. Most of the EJK victims come from regions where, aside from counterinsurgency campaigns are conducted, specific policies such as Memorandum Order No. 32⁸⁹ and martial law⁹⁰ have been imposed. In Bicol, there are at least 61 victims of extrajudicial killings, including Karapatan paralegals Ryan Hubilla and Nelly Bagasala and peasant members in Masbate and Albay. In Negros, aside from Karapatan human rights workers who were killed, at least 88 mostly peasants and farmworkers were killed in police operations. Memorandum Order No. 32 covers both the Bicol region and Negros provinces.

⁸⁵ <https://www.officialgazette.gov.ph/downloads/2020/06jun/20200609-PH-Human-Rights-Situationer.pdf>

⁸⁶ Statistics from Karapatan Documentation Unit

⁸⁷ Karapatan Urgent Appeal for action for victims in the Bloody Sunday incidents and attacks against Southern Tagalog activists, 01 April 2021,

<https://www.karapatan.org/urgent+appeal+for+action+for+victim+in+the+bloody+sunday+incidents+and+attacks+against+southern+tagalog+activists>

⁸⁸ <https://www.aljazeera.com/news/2021/3/6/kill-them-all-duterte-wants-communist-rebels-finished>

⁸⁹ Memorandum Order No. 32:

<https://www.officialgazette.gov.ph/downloads/2018/11nov/20181122-MO-32-RRD.pdf>

⁹⁰ Proclamation No. 216, series of 2017:

<https://www.officialgazette.gov.ph/2017/05/23/proclamation-no-216-s-2017/>

In Mindanao, where martial law was imposed for over a year, Karapatan documented 110 victims of extrajudicial killings.⁹¹

75. There are 25 documented cases of massacres under the Duterte administration, involving 121 individuals in more than 22 locations all over the country such as Sumilao, Bukidnon; Palayan, Nueva Ecija; Masbate City and Cawayan, Mobo and Mandaon, Masbate; San Nicolas, Pangasinan; Gubat and Bulan, Sorsogon; Lake Sebu and Polomolok, South Cotabato; Siaton, Negros Oriental; Bato and Ragay, Camarines Sur; Matalam, Cotabato; Antique; Patikul, Sulu; Baguio City; Polomok, South Cotabato; Kabacan, North Cotabato; Baras, Rizal; Capiz; and Sta. Rosa City, Laguna.⁹² Meanwhile, there were 17 documented incidents of massacres under the Aquino III administration, majority of which involved the killings of indigenous people.⁹³

76. Paramilitary groups have continued to be involved in military operations resulting in extrajudicial killings of civilians. During the Aquino III administration, paramilitaries most especially those formed among indigenous people and backed by private corporations are documented to have been involved in the extrajudicial killings of at least 129 individuals. Under the Duterte administration, there were 41 individuals killed by paramilitary groups, including members of private armies by agri-businesses.⁹⁴

77. The PH government's version of the Philippine Human Rights Situationer⁹⁵ in 2020 cited that the Task Force on Administrative Order 35 mechanism, which has been mandated to solve cases of political violence in the form of extra-legal killings (EJKs), enforced disappearances (ED), torture and other grave violations of the right to life, liberty and security of persons, has handled 385 cases covering four administrations since 2001, with 270 cases of extrajudicial killings, 28 cases of enforced disappearance, 7 cases on international humanitarian law, and 80 cases of torture. During the said period, Karapatan has documented 1,953 extrajudicial killings, 252 enforced disappearances, and 1,570 victims of torture.

78. It was also cited that in the TF's ten years, it has only attained convictions in 13 cases. That is about only 3% of the 385 cases. It was also cited that in at least 127 cases, perpetrators have been cleared through acquittals and dismissals in court, or through dismissals by the Ombudsman, or through dismissals or provisional dismissals by the prosecution. This comprises 33% of the 385 cases being handled by the AO35 IAC.

79. Under DOJ Circular No. 61, s.1993,⁹⁶ when death occurs during a police investigation or there is a possibility of foul play, prosecutors should take the initiative of making a procedural investigation whenever a dead body is found, provided that the police are required to submit all relevant documents to the prosecutors. The killing of nine indigenous

⁹¹ Statistics included from Karapatan Documentation Unit

⁹² Statistics and information included from Karapatan Documentation Unit

⁹³ Statistics included from Karapatan Documentation Unit

⁹⁴ Statistics included from Karapatan Documentation Unit

⁹⁵ <https://www.officialgazette.gov.ph/downloads/2020/06jun/20200609-PH-Human-Rights-Situationer.pdf>

⁹⁶ <https://www.scribd.com/doc/100365523/DOJ-Circular-No-61-s-1993>

Tumandok leaders,⁹⁷ the killings of elderly and sick peace consultants Agaton Topacio and Eugenia Magpantay,⁹⁸ that of peace consultant Reynaldo Bocala and companion Welly Arguelles Epago,⁹⁹ and the Bloody Sunday incidents have been announced as results of police operations.

80. While the brazen killings continue, efforts of the State party in pursuing investigation and successful prosecution of these crimes and the perpetrators are dismal, if not almost lacking. Preventive efforts through proper investigation and disposition of reports on the threats to life, security and liberty have been almost nil, as many cases seeking the petition for the writ of amparo and habeas data, including that of Karapatan, have been dismissed by the Supreme Court and local courts.

81. The Philippines has not officially invited and enabled the official visit of UN Special Procedures, especially the UN Special Rapporteur on extrajudicial, summary or arbitrary executions and the UN Special Rapporteur on situations of human rights defenders, despite repeated requests for official visits.

82. RECOMMENDATIONS: The State party is strongly urged to stop all extrajudicial killings and other rights violations in connection with its counterinsurgency programs, and it should immediately prosecute, effect the arrests and punish the perpetrators, as it has been recommended in the Committee's concluding observations in 2012. It is also enjoined to abolish government mechanisms such as the NTF-ELCAC, which openly incites human rights and international humanitarian law violations against individuals, groups and communities, including that of human rights defenders, and subject into review the task force on AO35. Paramilitary groups should be disbanded, and Executive Order No. 546 which enabled the creation of these groups should be revoked.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and treatment of persons deprived of liberty (articles 6, 7, 9 and 10)

83. Despite the Anti-Torture Law, Karapatan documented 244 victims of torture under the Aquino administration and 233 victims under the Duterte administration.

84. Security guard Rolly Panesa was among the victims. Panesa was arrested on October 6, 2012 by members of the Philippine National Police and the 2nd Infantry Division of the Philippine Army. He was alleged to be a certain Benjamin Mendoza, an alleged high-ranking ranking rebel leader. Panesa was severely tortured and beaten up every time he insisted on his innocence during detention to force a confession from him. In a medical certificate, the doctor who examined him stated that he suffered multiple abrasions, contusions and

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<https://www.iprights.org/news-and-events/news-and-features/philippines-9-indigenous-tumandok-killed-17-others-arrested-in-police-ops-in-panay>

⁹⁸ <https://newsinfo.inquirer.net/1366769/kin-of-slain-ndf-consultants-hit-tokhang-style-murder-of-elderly-sickly-couple>

⁹⁹

<https://www.karapatan.org/karapatan+calls+for+independent+investigation+on+the+killing+of+former+priest+peace+consultant+and+aide>

hematoma.¹⁰⁰ He was charged and detained for eleven months, and was subsequently released after the Court of Appeals granted his petition for the writ of habeas corpus and ordered his release from prison.¹⁰¹ On September 4, 2013, Panesa filed criminal charges against his captors and torturers.¹⁰² In 2018, perpetrators of rights violations against Panesa were acquitted.¹⁰³

85. Small-scale miners and farmers Janry Mensis and “Jerry”, 16, were abducted and tortured by soldiers from the 71st Infantry Battalion of the Philippine Army in Compostela Valley in December 2017.¹⁰⁴ On March 2, 2018, the two filed a complaint before the Commission on Human Rights.¹⁰⁵ To this date, there has been no resolution yet on their complaint and criminal charges have not been filed against the perpetrators.

86. The Duterte government’s drug war since 2016 has increased by 40% the prison population to over 215,000, resulting in a congestion rate of 537%.¹⁰⁶ The UN Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) are routinely ignored and violated, such as the proscription against torture including psychological torture, corporal punishment and degrading strip search of visitors,¹⁰⁷ as well as the provision for adequate sleeping facilities, sanitary and hygiene installations, health care services, nutritional food and drinking water, and access to books and newspapers. The PhP39 to PhP70 daily meal allowance¹⁰⁸ is insufficient as it is. Because of subhuman conditions in jail, around 5,200 prisoners die every year at the New Bilibid Prisons,¹⁰⁹ while 300 to 800 die every year in Bureau of Jail Management and

¹⁰⁰ Karapatan factsheet on the arrest, torture and detention of Rolly Panesa

¹⁰¹ Court orders release of security guard tagged as rebel leader, *Bulatlat*, 30 August 2013:

<https://www.bulatlat.com/2013/08/30/court-orders-release-of-security-guard-tagged-as-rebel-leader/>

¹⁰² Military, police sued for torture, unlawful arrest, perjury, *Bulatlat*, 04 September 2013:

<https://www.bulatlat.com/2013/09/04/military-police-sued-for-torture-unlawful-arrest-perjury/>

¹⁰³ Cops who tortured a security guard acquitted, *Bulatlat*, 24 August 2018: <https://www.bulatlat.com/2018/08/24/police-officers-tortured-security-guard-2012-acquitted/>

¹⁰⁴ Karapatan factsheet on the abduction, torture, and detention of Janry Mensis and “Jerry”

¹⁰⁵ Farmers file first torture complaint vs AFP under Mindanao martial law, ABS-CBN, 02 March 2019: <https://news.abs-cbn.com/news/03/02/18/farmers-file-first-torture-complaint-vs-afp-under-mindanao-martial-law>

¹⁰⁶ Virus threatens world’s most crowded jails, Norman Aquino and Vann Marlo Villegas, *Business World*, 22 April 2020, <https://www.bworldonline.com/virus-threatens-worlds-most-crowded-jail/>

¹⁰⁷ News reports regarding these cases:

<https://newsinfo.inquirer.net/717022/female-jail-visitors-forced-to-remove-undies>,

<https://www.ucanews.com/news/church-official-condemns-strip-search-in-philippine-prison/80485>,

<https://www.cnnphilippines.com/news/2017/03/06/Cebu-inmates-strip-search-Abella.html>,

<http://davaotoday.com/main/human-rights/makati-strip-search-not-isolated-case-karapatan/>,

<https://www.karapatan.org/features-inhuman-degrading-PHprison-conditions>,

<https://www.philstar.com/headlines/2018/07/06/1831117/demo-womans-strip-search-cruel-degrading-rights-group>,

<https://www.onenews.ph/articles/how-should-a-strip-and-cavity-search-at-the-nbp-be-conducted>

¹⁰⁸ BuCor inmates survive on P39 daily meal budget; 5,000 prisoners die yearly, Martin Sadongdong and Antonio Colina, *Manila Bulletin*, 03 October 2019,

<https://mb.com.ph/2019/10/03/bucor-inmates-survive-on-p39-daily-meal-budget-5000-prisoners-die-yearly/>

¹⁰⁹ More than 5,00 inmates die at this prison every year, Jessie Yeung, *CNN*, 18 October 2019,

Penology jails.¹¹⁰

87. Under Duterte, 11 political prisoners have died in detention, their illnesses aggravated by jail conditions and lack of medical care in jail, and six among them died during the pandemic.¹¹¹ Especially with the dangers of the spread of COVID-19 in jails, families of political prisoners filed a petition before the Supreme Court for the humanitarian release of their loved ones, which was not granted by the court.¹¹²

88. One of those who sought humanitarian release was young woman activist Reina Mae Nasino, who gave birth to her baby girl while in detention. After being forced to part with her mother barely three months after she was born as she was getting breast-fed, Nasino's baby died due to complications of diarrhea and her weak immune system.¹¹³ The court previously denied Nasino's plea to be together with her daughter.¹¹⁴ On February 2021, another baby of a woman political prisoner died three days after her mother gave birth to her.¹¹⁵

89. Maternal and reproductive health care facilities in prisons are direly lacking. As of 2020, pregnant women comprise 4.3% of the female population at the Bureau of Jail Management and Penology facilities. Jail officials said that not all jail facilities have resident doctors, who can conduct routine check-ups for women, including those pregnant. There are only 37 breastfeeding areas across 84 BJMP jails for women in the Philippines.¹¹⁶

90. RECOMMENDATIONS: The State party should urgently stop torture and other cruel, inhuman and degrading treatment or punishment against individuals, including those in prison. It should ensure that perpetrators of such violations be immediately prosecuted and convicted.

91. RECOMMENDATIONS: The State party should immediately address inhuman conditions in jail through a comprehensive review of the Revised Penal Code on offenses in relation to illegal drugs and other minor offenses to enable release of

<https://edition.cnn.com/2019/10/04/asia/philippines-inmate-deaths-intl-hnk-scli/index.html>

¹¹⁰ Bilibid hospital chief: 1 inmates dies every day, jail mortality rate in critical condition, Mike Navallo, ABS-CBN News, 13 November 2019,

<https://news.abs-cbn.com/news/11/13/19/bilibid-hospital-chief-1-inmate-dies-every-day-jail-mortality-rate-in-critical-condition>

¹¹¹ Terminally ill political detainee dies waiting for compassionate release, Raymund Villanueva, Bulatlat, 22 November 2021,

<https://www.bulatlat.com/2021/11/22/terminally-ill-political-detainee-dies-waiting-for-compassionate-release/>

¹¹² SC ruling on political prisoners' plea for temporary liberty due to COVID-19: Let the lower courts decide, Dona Pazzibugan, Philippine Daily Inquirer, 10 September 2020,

<https://newsinfo.inquirer.net/1333979/sc-ruling-on-political-detainees-plea-for-temporary-liberty-due-to-covid-19-let-lower-courts-decide>

¹¹³ <https://www.rappler.com/nation/baby-separated-from-jailed-activist-mother-reina-mae-nasino-dies/>

¹¹⁴ <https://www.rappler.com/nation/how-courts-let-down-reina-mae-nasino-baby-river/>

¹¹⁵

<https://www.philstar.com/headlines/2021/02/18/2078653/group-seeks-chr-probe-death-infant-child-political-prisoner-mom>

¹¹⁶ <https://www.gmanetwork.com/news/specials/content/176/a-river-of-sorrow/>

minor offenders or those whose cases are political in nature; provision of free and competent legal assistance to all individuals in prisons; humanitarian release of sick, elderly and pregnant mothers among those detained; increased budget for food, medical services, among others, and the curbing of corrupt practices among jail authorities; and provision of adequate medical facilities and services, including for reproductive health care.

Deprivation of liberty (articles 9, 10, and 14)

92. Judicial harassment and the filing of trumped up criminal charges against activists and human rights defenders were extensively conducted since 2012. As of June 30, 2022, of the 803 political prisoners in the country, 592 were arrested during Duterte's term. As of June 30, 2016, of the 526 political prisoners in the country, 307 were arrested during Aquino's term.¹¹⁷ All were charged with non-bailable criminal offenses. Defective warrants, perjured testimonies of military-backed witnesses, questionable preliminary proceedings, and planted evidence, all violating the right to due process of individuals, characterize the trumped-up criminal charges filed against human rights defenders, activists and common folk. The widely practiced issuance of search warrants resulted in highly questionable arrests and detention of activists, based on deliberate falsehoods by police and their informants as well as planting of so-called evidence of guns, bomb-making materials and explosives in their homes or offices.

93. In general, the Philippine National Police invokes the presumption of regularity of police operations, including in cases of arrests of human rights defenders. The use of search warrants resulted in highly questionable raids and arrests of human rights defenders. During the March 2019 Synchronized Enhanced Managing of Police Operations (SEMPO), 15 human rights defenders were arrested based on a set of search warrants issued by the a judge perceived to be partial to the police.¹¹⁸ From October 31 to November 5, 2019, at least nine search warrants were used by military and police to effect the arrest of 62 activists in Negros and Manila, in the course of raids conducted in the offices of human rights and people's organizations and homes of some of the defenders. A judge based in Quezon City issued the nine warrants, a day after her meeting with Police General Debold Sinas, the same police official who led the SEMPO in Negros and was recently appointed as police chief in the National Capital Region.¹¹⁹

94. What is consistent in these cases are testimonies by those arrested that the so-called evidence of guns, bomb-making materials and explosives, and materials considered subversive documents were planted in the locations where they were arrested or in their belongings. The same testimonies have been given by human rights defenders, including trade unionists and peace advocates, who have been arrested under the Duterte administration and are still currently detained. Many of them, who are considered political

¹¹⁷ Statistics from Karapatan Documentation Unit

¹¹⁸ Karapatan report on the factfinding mission in Negros, 04-08 April 2019

¹¹⁹ Karapatan factfinding mission report and factsheets on the raids of offices and homes and arrests of human rights defenders in Negros and Manila, November 2019

prisoners, are facing the formulaic non-bailable charges of illegal possession of explosives and other trumped-up cases. This includes the cases of peace advocates Rey Casambre, Ferdinand Castillo, Vicente Ladlad, Adelberto Silva, Renante Gamara, Frank Fernandez, Cleofe Lagtapon, and Esterlita Suaybaguio, as that of the cases of unionists Rowena and Oliver Rosales, Juan Alexander Reyes and Marklen Maojo Maga.¹²⁰

95. The cases of Karapatan human rights workers Dr. Natividad Castro,¹²¹ Nimfa Lanzanas,¹²² Renalyn Tejero,¹²³ Alexander Philip Abinguna,¹²⁴ Teresita Naul,¹²⁵ and Engr. Jennefer Aguhob,¹²⁶ as well as the arrests of a journalist and six trade union organizers¹²⁷ on December 10, 2021 are among the numerous examples of this malicious and dangerous practice.

96. President Duterte publicly and repeatedly declared that the lowering of the minimum age of criminal liability was among his top legislative agenda.¹²⁸ There were attempts to amend Republic Act No. 9344 or the Juvenile Justice and Welfare Act¹²⁹ to lower the

¹²⁰ Karapatan factsheets on the arrests and detention of Rey Casambre, Ferdinand Castillo, Vicente Ladlad, Adelberto Silva, Renante Gamara, Frank Fernandez, Cleofe Lagtapon, Esterlita Suaybaguio, Rowena and Oliver Rosales, Juan Alexander Reyes and Marklen Maojo Maga, 2017-2019

¹²¹ Karapatan Urgent Alert, 18 February 2022,
<https://www.karapatan.org/ua+arrest+of+dr+maria+natividad+naty+castro>

¹²² Philippines: Deadly Crackdown on Human Rights Defenders, OMCT, 09 March 2021,
<https://www.omct.org/en/resources/urgent-interventions/philippines-deadly-crackdown-on-human-rights-defenders>

¹²³ Philippines; Arbitrary detention of Karapatan member Renalyn Tejero, OMCT, 24 March 2021,
<https://www.omct.org/en/resources/urgent-interventions/philippines-arbitrary-detention-of-karapatan-member-renalyn-tejero>

¹²⁴ Arbitrary arrest of two Karapatan members and four other human rights defenders, OMCT, 07 February 2020,
<https://www.omct.org/en/resources/urgent-interventions/arbitrary-arrest-of-two-karapatan-members-and-four-other-human-rights-defenders>

¹²⁵ Redtagged human rights defender arrested in Lanao del Norte, Anne Marxze Umil, Bulatlat, 17 March 2020,
<https://www.bulatlat.com/2020/03/17/red-tagged-human-rights-defender-arrested-in-lanao-del-norte/>

¹²⁶ Arbitrary arrest of two Karapatan members and four other human rights defenders, OMCT, 07 February 2020,
<https://www.omct.org/en/resources/urgent-interventions/arbitrary-arrest-of-two-karapatan-members-and-four-other-human-rights-defenders>

¹²⁷ Police arrest 7 as PH marks human rights day, Krixia Subingsubing and Patricia Denise Chiu, Philippine Daily Inquirer, 11 December 2020,
<https://newsinfo.inquirer.net/1370457/police-arrest-7-as-ph-marks-human-rights-day>

¹²⁸ Duterte stand on lowering age of criminal liability remains unchanged, Philippine Daily Inquirer, 06 May 2017: <https://newsinfo.inquirer.net/894738/duterte-stand-on-lowering-age-of-criminal-liability-remains-unchanged>

¹²⁹ Republic Act No. 9344 or the Juvenile Justice and Welfare Act:
<https://www.officialgazette.gov.ph/2006/04/28/republicact-no-9344-s-2006/>

minimum age for criminal responsibility from 15 years old to 13 or 9 years old during the 17th to 18th Congress.¹³⁰

97. RECOMMENDATIONS: The State party should unconditionally release all political prisoners arbitrarily detained and should provide reparations for their wrongful arrest and detention. It is urged to stop the practice of criminalizing political dissent by the Department of Justice's dismissal of all criminal charges against them. The State party should also review its policy of presumption of regularity in police operations, which should be subjected to motu proprio investigations if there are allegations of foul play. It should likewise stop the practice of issuances of search warrants used against human rights defenders.

98. RECOMMENDATIONS: The State party should take all measures to promote the rights of minor offenders and take steps to ensure that the minimum age for criminal responsibility will be in accordance with the existing Juvenile Justice and Welfare Act.

Human rights defenders, freedom of expression, association and assembly, counterterrorism efforts (articles 2,4, 6, 7, 9, 14, 17, 19, 20, 21, 22, and 26)

99. Public statements of President Duterte as well as executive officials, especially military and police officials, incited violence and other forms of attacks, including violations on the right to freedom of expression and of association, against human rights defenders, political dissenters and critics. In a public statement in May 2017, Duterte threatened to behead human rights advocates.¹³¹

100. Prior incidents of threats and harassment from soldiers experienced by the victims point to the culpability of State actors. Karapatan Secretary and Tanggol Bayi convenor General Cristina Palabay and other Karapatan human rights workers receive death threats and threats of violence, some misogynistic in nature, via calls, texts and online spaces.¹³² Young woman parliamentarian Sarah Elago experiences the same forms of attacks.¹³³

101. Aside from threats, killings and arrests, human rights defenders also experience judicial harassment. Among the examples of such is the baseless perjury charge against 12 officers of Karapatan, along with NGOs Rural Missionaries of the Philippines and Gabriela, which is also viewed as reprisal on attempts to seek legal protection from the courts. Karapatan to a daily barrage of smear and defamation attacks and threats against its officers

¹³⁰ Please see www.senate.gov.ph and www.congress.gov.ph for copies of proposed legislations

¹³¹ Duterte threatens to behead human rights advocates, GMA News, 18 May 2017:

<https://www.gmanetwork.com/news/news/nation/611343/duterte-threatens-to-behead-human-rights-advocates/story/>

¹³² References to these incidents in these links:

<https://www.omct.org/en/resources/urgent-interventions/threats-and-acts-of-intimidation-against-ms-cristina-ti-nay-palabay-secretary-general-of-karapatan>,

<https://www.rappler.com/nation/247513-group-leader-gets-death-rape-threats-human-rights-day-2019/>

¹³³ <https://www.rappler.com/newsbreak/in-depth/sarah-elago-lawmaker-under-attack-faces-philippines-2020-series/>

and members, eight of its officers filed a court petition for the issuance of the writs of amparo and habeas data, but soon after, the said perjury charges were filed against them by National Security Adviser Hermogenes Esperon.¹³⁴ Trumped up charges against Karapatan Chairperson Elisa Tita Lubi and Regional Coordinator Jayvee Apiaglv are of the similar nature.¹³⁵

102. Various threats to life and to freedom of expression and association of human rights defenders, from more than a hundred NGOs and of various professions, have also been documented. Red-tagging, which is considered by UN Special Rapporteur on human rights defenders Mary Lawlor as a context-specific death threat in the Philippines, incites harm and violence on individual defenders and their organizations.¹³⁶ Labeling organizations of human rights defenders, religious institutions, and humanitarian organizations as “front organizations” of the CPP and NPA and as “terrorists,” and doing so without evidence brought before a competent and independent court, makes leaders and members of these groups vulnerable targets for State violence.

103. Online red-tagging and threats, as well as disinformation and false claims, against defenders¹³⁷ have become pervasive, while cyber-attacks in the form of denial of distribution service (DDoS) attacks have impacted on Karapatan and other NGOs, as well as online community news organizations. Karapatan’s website was brought down for three weeks in 2019,¹³⁸ and had endured millions of attacks in 2021.¹³⁹ Victims have filed various criminal and administrative complaints against government officials responsible for the red-tagging and threats, but all of the complaints have not been immediately and substantially acted upon by the Ombudsman, contrary to claims of the State Party in its report that there are “robust and functioning legal and judicial remedies” for this purpose.

¹³⁴ Karapatan urgent appeal on the trumped up charges against Karapatan, RMP and Gabriela, September 2019. <https://www.fidh.org/en/issues/human-rights-defenders/philippines-judicial-harassment-against-ten-members-of-karapatan-rmp>

¹³⁵ Karapatan Urgent Appeal for action to dismiss trumped up and malicious charges against Filipino human rights defenders, 01 April 2020, <https://www.karapatan.org/urgent+appeal+for+action+to+dismiss+trumped+up+and+malicious+charges+again+st+filipino+human+rights+defenders>

¹³⁶ <https://www.frontlinedefenders.org/en/statement-report/joint-letter-targeting-human-rights-defenders-philippines>

¹³⁷ New war: How the propaganda network shifted from targeting addicts to activists, Don Kevin Hapal and Raisa Serafica, Rappler, 03 October 2021, <https://www.rappler.com/newsbreak/investigative/how-propaganda-network-created-online-environment-justifies-shifted-killing-activists/>

¹³⁸ Karapatan’s open letter on the recent cyber-attack against its website, 23 February 2019, <https://hronlineph.com/2019/02/23/appeal-karapatans-open-letter-on-the-recent-cyber-attack-against-its-website/>

¹³⁹ Karapatan hits cyber attacks against its website anew, 19 August 2021, <https://www.karapatan.org/karapatan+hits+cyber+attacks+against+its+website+anew>

104. The Human Security Act (HSA) or Republic Act No. 9372¹⁴⁰, which has since been replaced with the Anti-Terrorism Act or Republic Act No. 11479,¹⁴¹ was used to hail rights defenders to court and subject them to judicial harassment, despite bearing no sufficient evidence to back up these charges. UN Special Rapporteur on the rights of indigenous peoples Victoria Tauli-Corpuz, Karapatan National Chairperson Elisa Tita Lubi, and more than 600 individuals, including a hundred HRDs and peace advocates were included in a Justice Department petition proscribing the CPP and NPA as terrorist organizations.¹⁴²

105. In December 2021, the Supreme Court retained the draconian provisions of Republic Act No. 11479, despite the 37 petitions filed by various human rights groups, and concerned individuals sought to declare the law unconstitutional, citing no human rights safeguards in the said law. The vague and overbroad definition of terrorism, warrantless arrests and detention, as well as the broad powers of the Anti-Terrorism Council to arbitrarily designate groups and individuals as terrorists are provisos of the law which hang like a Damocles sword on the heads of human rights defenders, journalists, dissenters and critics. While some civil society groups were able to participate in the House of Representatives deliberations on the then proposed measure, no known NGO has been consulted in the Senate.

106. The said law has been invoked in numerous instances impacting on the exercise of academic freedom and freedom of expression. Publications on the peace process between the government and the National Democratic Front of the Philippines had been ordered to be pulled out from libraries.¹⁴³ Books of five scholars published by the Philippine Commission on the Filipino Language were ordered to be not printed or distributed because of so-called subversive content.¹⁴⁴ Websites of alternative news sites and progressive groups were ordered blocked by the National Telecommunications Commission, acting on the recommendations of the former National Security Adviser and Anti-Terrorism Council vice chair Hermogenes Esperon.¹⁴⁵

107. At least two bookstores were red-tagged and their premises defaced by suspected government agents.¹⁴⁶ On June 14, 2022, NTF-ELCAC's Lorraine Badoy-Partosa made a false claim that Movement Against Disinformation convenor and former law school dean Antonio La Vina is a communist.¹⁴⁷ The NTF-ELCAC and other officials have also

¹⁴⁰ <https://www.officialgazette.gov.ph/2007/03/06/republic-act-no-9372/>

¹⁴¹ <https://www.officialgazette.gov.ph/downloads/2020/06jun/20200703-RA-11479-RRD.pdf>

¹⁴² Karapatan factsheet and urgent appeal on the inclusion of rights defenders and peace advocates in the petition proscribing the CPP and NPA as terrorist organizations, April 2018

¹⁴³ <https://newsinfo.inquirer.net/1487962/books-documents-on-govt-ndfp-talks-purged-from-library>

¹⁴⁴ <https://www.onenews.ph/articles/kwf-book-purge-violates-academic-freedom>

¹⁴⁵

<https://news.tv5.com.ph/breaking/read/dangerous-move-blocking-news-websites-shows-threats-of-anti-terrorism-law-says-media-group>

¹⁴⁶ <https://globalvoices.org/2022/04/17/philippine-independent-bookshops-become-targets-of-red-tagging/>

¹⁴⁷ <https://abogado.com.ph/la-vina-blasts-badoy-for-red-tagging-him-for-human-rights-ip-work/>

red-tagged various universities as recruitment grounds of communists,¹⁴⁸ while the University of the Philippines - Department of National Defense accord preventing state forces to enter all campuses has been unilaterally terminated.¹⁴⁹

108. Republic Act No. 10168 or the Terrorism Financing Prevention and Suppression Act is being increasingly used to target NGOs and humanitarian organizations. On March 12, 2021, the Anti-Money Laundering Council (AMLC) ordered to freeze bank accounts of the United Church of Christ in the Philippines (UCCP) Haran Center in Davao City for allegations of terrorist financing.¹⁵⁰ For decades, the UCCP Haran Center has provided sanctuary for Lumad communities in Southern Mindanao who have fled their ancestral domains due to military operations in their communities and ancestral domains. As such, it has been a constant target of harassment from State forces. On May 5, 2021, the AMLC ordered the freezing of the bank accounts of the Amihan Federation of Peasant Women and that of eight other NGOs, mostly based in Mindanao.¹⁵¹ These came after the freeze orders on the bank accounts of the Rural Missionaries of the Philippines in 2019,¹⁵² and the criminal charges against those from RMP- Northern Mindanao, including a human rights lawyer in 2022.¹⁵³

109. Journalists face also face red-tagging and other attacks on their profession.¹⁵⁴ Cyber-libel laws have been used as a pretext to silence critical media as in the case of Rappler's Maria Ressa and Rey Santos¹⁵⁵ while numerous journalists have been charged over publication of a report on the filing of complaints against a known associate of former President Duterte.¹⁵⁶ At the height of the pandemic, when crucial information on public health concerns are most needed, broadcasting company ABS-CBN was shut down allegedly due to franchise issues.¹⁵⁷ It was the second time the television network, the biggest in the country, was shut down, the first being during the Marcos Sr. administration.

110. The Department of Foreign Affairs' (DFA) Note Verbale No. 2021-0592 dated February 5, 2021 also sought to restrict funding for NGOs on the basis of terrorist financing in notifying

¹⁴⁸

<https://m.facebook.com/COCDakom/photos/nation-ntf-elcac-backs-parlades-claim-of-communist-movement-in-school-the-nation/10159269151146804/>

¹⁴⁹ <https://www.rappler.com/newsbreak/iq/things-to-know-1989-up-dnd-accord/>

¹⁵⁰ Church group condemns freeze order on UCCP Haran bank accounts, Aika Rey, Rappler, 02 April 2021,

<https://www.rappler.com/nation/church-group-condemn-freeze-order-uccp-haran-bank-accounts/>

¹⁵¹ Redtagged Amihan slams AMLC's unjust, unfounded freeze order of bank accounts, 10 June 2021,

<https://amihanwomen.org/2021/06/10/amihan-slams-amlcs-freeze-order-of-bank-accounts/>

¹⁵² <https://www.ucanews.com/news/philippines-freezes-bank-accounts-of-rural-missionaries/87174>

¹⁵³

<https://www.rappler.com/nation/mindanao/lawyer-czarina-golda-musni-endured-years-vilification-before-terror-financing-case/>

¹⁵⁴ <https://cmfr-phil.org/in-context/understanding-alternative-media-and-their-purpose/>

¹⁵⁵ <https://www.rappler.com/nation/263790-maria-ressa-reynaldo-santos-jr-convicted-cyber-libel-case-june-15-2020/>

¹⁵⁶ <https://www.rappler.com/nation/cusi-sues-rappler-other-news-organizations-libel-malampaya-dennis-uy-reports/>

¹⁵⁷ <https://www.nytimes.com/2020/07/10/world/asia/philippines-congress-media-duterte-abs-cbn.html>

diplomatic missions to the Philippines that all foreign funding intended for Philippine NGOs shall be “coursed” through the agency “for appropriate clearance.” In a February 24, 2021 tweet, DFA Secretary Teodoro Locsin Jr. stated that the note verbale supposedly “doesn’t affect legit NGOs” for “it is how a responsible government monitors where money comes from and goes to in the face of insurgent and terrorist-secessionist threats” and therefore “it should encourage funding from the well-meaning to know their generosity is not misdirected to evil.” Such policy violates the UN Declaration on Human Rights Defenders, which states in Article 13 that “[e]veryone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means.”

111. In November 2018, the Philippine Securities and Exchange Commission (SEC) released Memorandum Nos. 1583 and 1784. Many non-profit and non-governmental organizations (NPOs/NGOs) opined that the memoranda infringe on their independence, as these will enable undue classification and regulation of the organizations, government interference in their activities, and violations on the right to privacy and the right to freedom of religious and political beliefs, which all may lead to the blacklisting or illegalization of human rights and development NGOs.

112. Meanwhile, efforts to legislate a Human Rights Protection Bill has been repeatedly frustrated by inaction of the Philippine Senate on the pending measure as well as opposition by the executive branch through the NTF-ELCAC and government organized NGOs. The attacks against human rights defenders continue with impunity, without a domestic law and mechanism for the protection of human rights defenders.

113. RECOMMENDATIONS: The State party should stop the threats and defamatory red-tagging attacks against human rights defenders, journalists, members of the academe, and members of the political opposition, and it should hold accountable those who continue to incite violence and disseminate false information on the individuals and groups.

114. RECOMMENDATIONS: The State party should stop the judicial harassment and reprisal suits against human rights defenders and journalists, including the use of cyberlibel laws against them. The laws criminalizing libel should be repealed.

115. RECOMMENDATIONS: The State party should repeal Republic Act Nos. 10168 and 11479, considering both legislations have resulted in attacks against freedom of association and the rights of defenders. The State party should also be urged to resume peace talks with the National Democratic Front of the Philippines. It should likewise rescind the note verbale in relation to foreign funding of NGOs and the memoranda by the Securities and Exchange Commission which similarly impact of civil liberties and rights of human rights defenders.

116. RECOMMENDATIONS: The State party should immediately enact the Human Rights Defenders Protection Bill that is according to international human rights

standards and provide support and protection mechanisms for human rights defenders at risk, their families, organizations and communities.

Internally displaced persons (articles 12, 17, 24 and 27)

117. Through counterinsurgency and counter-terror campaigns, military operations in civilian communities intensified, especially in Mindanao where foreign and local mining and other agro-industrial businesses operate. The deployment of soldiers and paramilitary forces resulted in massive human rights abuses, such as military occupation of schools, forcible evacuation, among others. From June 2016 to July 2022, Karapatan documented 481,918 victims of forced evacuations due to military operations, particularly affecting indigenous and Muslim communities, many were unable to return to their communities for months due to continuing military operations. There were 378,203 victims of bombings conducted by the Armed Forces of the Philippines, resulting in destruction of homes and farms and affecting the livelihood of mostly peasant communities.¹⁵⁸

118. Through Oplan Kapayapaan (Peace) and Oplan Kapanatagan (Stability), a militarist “whole-of-nation” approach is adopted by government to address the ongoing armed conflict in the country. The establishment of the NTF-ELCAC through EO 70 systematizes and institutionalizes such approach. These counterinsurgency programs, like the previous ones, does not distinguish civilians, or non-armed individuals, from armed combatants, resulting in widespread, systematic and grave violations of human rights and civil liberties such as the right to life, to due process, against arbitrary or unlawful arrests and detention, the right to freedom of association and expression.

119. RECOMMENDATIONS: The State party should stop military operations that result in internal displacement or forced evacuation of civilians. It should particularly stop bombing operations and ensure that rights of civilians under international humanitarian law are respected and upheld.

¹⁵⁸ Statistics provided by Karapatan Documentation Unit