



PERMANENT MISSION OF THE REPUBLIC OF THE PHILIPPINES
TO THE UNITED NATIONS AND OTHER INTERNATIONAL
ORGANIZATIONS, GENEVA

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The Permanent Mission of the Republic of the Philippines to the United Nations and Other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights (Attn: Special Procedures Branch) and, with reference to the latter's note of 1 September conveying the questionnaire from the Special Rapporteur on the situation of human rights defenders, Ms. Mary Lawlor, has the honor to convey the enclosed response of the Philippine Government as provided by the Presidential Human Rights Committee Secretariat (PHRCS).

The enclosed response establishes the Philippine Government's strong recognition of the legitimacy of defence of human rights and the robust mechanisms and measures to protect the work of human rights defenders and hold perpetrators to account. It also cites cases of human rights defenders killed by the armed non-state actor and terrorist organization Communist Party of the Philippines-New People's Army-National Democratic Front (CPP-NPA-NDF) which has waged the longest-running and most brutal communist insurgency in Asia, in the Philippines, at over 50 years.

In its engagements with the Council and its mechanisms, the Philippines has cited concrete and well-documented cases of the CPP-NPA-NDF's deceptive employment of the cover of human rights defender to project legitimacy, attract funding support, and escape accountability while advancing its political agenda through violent means. This political context in the Philippines is discussed in length in Part 3 of the Philippine Human Rights Situationer.¹ The Philippines hopes that the thematic study of the Special Rapporteur would pay due attention to this issue of exploitation of human rights spaces by armed non-state actors, thus contributing to ensuring that the enabling environment for human rights defenders that we clearly commit to strengthen, does not enable those with criminal ends.

The Permanent Mission of the Republic of the Philippines to the United Nations and Other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights (Attn: Special Procedures Branch) the assurances of its highest consideration.

Geneva, 16 October 2020

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

Attn: Special Procedures Branch

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CH-1201 Geneva



Cc: defenders@ohchr.org

¹ <http://genevampm.ph/HRC/PHRS.pdf>

1. Does your Government accept the legitimate right to defend human rights?

The Philippine government does not only accept the legitimacy in the defense of rights, but it also assumes the role of defending these same rights congruent with its obligation as a duty-bearer of rights. The government also values the role of all stakeholders concerned, especially government, in defending human rights. Thus, the Philippine government believes that the title of “human rights defender” should also refer to States that strongly adhere to this role.

The foundation of the Philippines in promoting, protecting and defending human rights is the 1987 Constitution of the Philippines¹ -particularly the Bill of Rights (Article III)² and the eight core UN human rights treaties to which the State is signatory to.³

The Philippines was re-elected to the UN Human Rights Council in 2018 through the vote of 165 separate countries as a testament to the State’s role in defending human rights.⁴

Since 2008, the State has submitted 14 state compliance reports to their respective human rights bodies relating to the 8 UN core human rights treaties mentioned highlighting human rights protection and promotion, especially in the most vulnerable sectors of society.

To further underscore this role, no less than Philippine President Duterte made formal public declarations on the government’s role in defending human rights:

a. In State of the Nation Address in July 2016:

“My administration shall be sensitive to the State’s obligations to promote, protect, and fulfil the human rights of our citizens, especially the poor, the marginalized and the vulnerable, and social justice will be pursued, even as the rule of law shall at all times prevail. My administration shall implement a human rights approach to development and governance, as we improve our people’s welfare in the areas of health, education, adequate food and housing, environmental preservation, and respect for culture.”

¹ <https://www.officialgazette.gov.ph/constitutions/1987-constitution/>

² <https://www.officialgazette.gov.ph/constitutions/1987-constitution/#article-iii>

³ These treaties are the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), International Convention Against Torture, Cruel, Inhuman and Degrading Treatment or Punishment (CAT), Convention on the Protection of the Rights of All Migrant Workers and their Families (CMW), Convention on the Rights of Persons with Disabilities (CRPD) and Convention on the Rights of the Child (CRC).

⁴ <https://www.un.org/press/en/2018/ga12077.doc.htm>

- b. In State of the Nation Address in July 2018:
“Human rights to me means giving Filipinos, especially those at the society’s fringes, a decent and dignified future through the social and physical infrastructures necessary to better their lives. The lives and freedoms and the hard-earned property of every Filipino whose condition we wish to improve shall be protected from criminals, terrorists, corrupt officials, and traffickers [of] contrabands.”
- c. In State of the Nation Address in July 2020:
“My administration always believed that freedom from illegal drugs, terrorism, corruption and criminality, is itself a human right.”⁵
- d. At the 75th United Nations General Assembly on 22 September 2020:
“The Philippines will continue to protect the human rights of its people, especially from the scourge of illegal drugs, criminality and terrorism”⁶

If a defender is killed in the course of their work, do you publicly condemn them?

Yes. No less than the President himself publicly condemned the killing of alleged human rights lawyer, Anthony Trinidad, in July 2019 and ordered an investigation⁷

2. Have there been cases of human rights defenders killed in your country since 1 January 2019 up to 30 June 2020?

The country’s independent National Human Rights Institution – the Commission on Human Rights of the Philippines – reported two incidents to the UN OHCHR of alleged killings of individuals during the above-mentioned period whom it identified as “human rights defenders.” They are those involving Bernardo Patigas, killed on 22 April 2019, and lawyer Anthony Trinidad, killed on 25 July 2019.

Bernardo Patigas’ case has significant implications because of the nature of his death. Patigas, a government official of Escalante City in the Province of Negros Occidental was killed during the election period as he was seeking re-election. As a result of the killing, the City Council of Escalante declared the perpetrators, the Communist Party of the Philippines–New People’s Army (CPP-NPA), as persona non

⁵ <https://www.officialgazette.gov.ph/2020/07/27/rodrigo-roa-duterte-fifth-state-of-the-nation-address-july-27-2020/>

⁶ <https://pcoo.gov.ph/presidential-speech/statement-of-president-rodrigo-roa-duterte-during-the-general-debate-of-the-75th-session-of-the-united-nations-general-assembly/>

⁷ <https://mb.com.ph/2019/07/25/duterte-orders-investigation-of-killing-of-negros-oriental-lawyer/>

grata⁸, even as the group's human rights atrocities were strongly denounced by the people.⁹

Note that the UN Security Council specifically identified the CPP-NPA as committing grave violations against children in numerous Resolutions namely, 1379 (2002), 1882 (2009), 1998 (2011) and 2225 (2015).

The European Union -through Council Resolution (CSFP) 2019/1341, renewed the terror designation of the CPP-NPA¹⁰ while the United States -through State Department Executive Order No. 13224 specifically listed CPP-NPA's founder, Jose Maria "Joma" Sison as a terrorist¹¹

Sadly, indigenous peoples human rights workers were killed by the CPP-NPA during the pandemic despite a ceasefire declared by the State on 18 March 2020¹² and by the UN Secretary General in his appeal for a global ceasefire on 23 March 2020. These human rights victims of CPP-NPA atrocities are:

- a. Barly Magante of the Subanen Cultural Community on 25 April 2020,
- b. Datu Arman Mansaguida Mangumahay of the Higaonon Cultural Community on 21 April 2020,
- c. Wilson Estar Behing of the Manobo Tribe on 14 April 2020¹³,
- d. Nora Apique¹⁴ of the Manobo Cultural Community and member of a rural workers rights organization¹⁵ on 31 March 2020,
- e. Hawudon Bernardino "Bandi" Astudillo, Tribal Chief of the Manobo Cultural Community on 19 March 2020¹⁶, and,
- f. Zaldy Ibañez of the Manobo Cultural Community on 19 March 2020¹⁷

3. How many convictions of perpetrators of killings of human rights defenders were there in your country since 1 January 2019 up to 30 June 2020?

⁸ Escalante City Resolution 2019-050 dated 19 July 2019

⁹ <https://www.sunstar.com.ph/article/1814983/Bacolod/Local-News/Escalante-City-Council-declares-CPP-NPA-persona-non-grata>

¹⁰ <https://eur-lex.europa.eu/legal-content/en/TXT/HTML/?uri=CELEX:32019D1341&from=en>

¹¹ <https://www.state.gov/executive-order-13224/>

¹² <https://www.manilatimes.net/2020/03/18/second-headline/duterte-declares-ceasefire-with-communists-amid-covid-19-fight/704151/>

¹³ <https://www.pna.gov.ph/articles/1099958>

¹⁴ <https://www.pna.gov.ph/articles/1098583>

¹⁵ Kasamahan ng Mag-Uuma sa Surigao Del Sur (KAMASS) or Surigao del Sur Farmers Organization

¹⁶ <https://www.manilatimes.net/2020/03/22/news/regions/npa-rebels-execute-2-elderly-men-in-south/704934/>

¹⁷ Supra

The deaths of two human rights lawyers – Atty. Faridah Sabdulah and Atty. Concepcion Brizuela – who were killed together with the 34 journalists in the Maguindanao massacre in 2009 were finally given justice with the 43 convictions in the Maguindanao Massacre verdict in December 2019.

Of the 43 convictions, 25 were government officials. And of the 25 government officials convicted, 6 were high-ranking elected local government officials and 19 were police officers.¹⁸

The following were the 25 State officials convicted for the killing of the aforementioned human rights workers:

Police officers convicted:

1. PInsp. Saudi M. Mukamad
2. PO1 Jonathan Engid
3. PCI Sukarno Dicay
4. PSupt. Abusama Mundas Maguid
5. PSupt. Bahnarin Kamaong
6. PInsp. Michael Joy Macaraeg
7. PO3 Felix E. Eñate, Jr.
8. PO3 Abibudin Abdulgani
9. PO3 Rasid Anton
10. PO2 Hamad Nana
11. PO2 Saudi Pasutan
12. PO2 Saudiar Ulah
13. PO1 Esprielito Lejarso
14. PO1 Narkouk Mascud
15. PO1 Pia Kamidon
16. PO1 Esmael Guialal
17. PO1 Arnulfo Soriano
18. PO1 Herich Amaba
19. PSI Abdulgapor Abad

On the other hand, these were the high-ranking elected local government officials convicted:

1. Datu Zaldy “Puti” Ampatuan, former governor of the Autonomous Region in Muslim Mindanao;
2. Datu Andal “Unsay” Ampatuan Jr., former mayor of Datu Unsay town in Maguindanao
3. Datu Anwar Ampatuan, Sr., former vice mayor of Shariff Aguak, Maguindanao
4. Datu Anwar Sajid “Datu Ulo” Ampatuan, elected mayor of Shariff Saydona Mustapha
5. Datu Anwar “Ipi” Ampatuan, Jr., former councilor of Shariff Aguak, Maguindanao
6. Datu Andal “Andy” Ampatuan, Sr., former mayor of Shariff Aguak, Maguindanao.

4. Does your government have a procedure to respond to death threats to human rights defenders?

¹⁸ <http://sc.judiciary.gov.ph/9464/>

The State has Judicial and Executive-branch procedures to counter all forms of death threats, coercion, harassments and intimidation. The State ensures that these procedures are inclusive and not restricted only to a specially classified sector such as those who wish to monopolize ownership of the term “human rights defenders.”

The following are examples of these procedures:

Judicial

1. Criminal procedure of filing a case in Court for threats and coercion in Article 282 to 289 of the Revised Penal Code of the Philippines which is a remedy available for the protection of another against any person who shall threaten another with the infliction upon the person, honor or property of the latter or of his family of any wrong amounting to a crime.¹⁹
2. Petition for a Writ of Amparo in Court which is a remedy available to any person whose right to life, liberty security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity.²⁰

Executive-branch

3. Administrative Order No. 1 s. 2016 creating the Presidential Task Force on Media Security (PTFoMS)²¹.

Protocols on threats under the published PTFoMS mechanisms are focused on media workers/ journalists in response to the Maguindanao Massacre incident. It is however inclusive in the event that human rights work uses media as a platform and does not exclude any person by virtue of identification as a human rights defender. PTFoMS protocols even cover online threats.

4. Administrative Order No. 35 s. 2012 on the creation of the Inter-Agency Committee on Extra-Legal Killings, Enforced Disappearance, Torture and other grave violations on the right to life, liberty and security of persons²²

5. Does your government have or would be willing to put in place legal guarantees and other protection measures to allow human rights defenders to their work without prosecution?

Persecution may only be possible in States that have not adopted a Bill of Rights. Such is the opposite in the case of the Philippines where a wide democratic space for multi-stakeholder advocacy for human rights prevails and flourishes.

The Bill of Rights under the 1987 Constitution of the Philippines²³ is the most effective legal guarantee and protection measure against any form of persecution.

¹⁹ <https://www.officialgazette.gov.ph/1930/12/08/act-no-3815-s-1930/>

²⁰ <http://sc.judiciary.gov.ph/2697/>

²¹ <https://www.officialgazette.gov.ph/2016/10/11/administrative-order-no-1-s-2016/>

²² <https://www.officialgazette.gov.ph/2012/11/22/administrative-order-no-35-s-2012/>

A Court-issued Writ of Amparo and Habeas Data ensures the protection of rights enshrined in the Constitution such as the rights to life, liberty, security and privacy.

The following are examples of guarantees against any form of persecution covered by the Philippine Constitution and enforced by an accessible and independent judiciary through its Courts:

- a. Equal protection and due process of law²⁴,
- b. Free access to courts and legal assistance for the poor²⁵,
- c. Presumption of innocence²⁶,
- d. Right to an impartial public trial²⁷,

The Court has formally declared that the effectiveness of these measures is undermined by the indiscriminate filing of petitions on the basis of unsubstantiated allegations²⁸. The Court made this declaration in one particular case filed by persons who identified themselves as human rights defenders²⁹

6. Could you please share good practices (evidence-based) that have proved effective to respond to death threats? And to prevent them from escalating into the killing(s) of human rights defenders?

As good practice to respond to death threats, the State's mechanisms are inclusive, not merely restricted to a specially classified sector identifying themselves as human rights workers.

Considering the inclusivity of these mechanisms, any person may access the independent judicial mechanism of protection through the Writ of Amparo without the necessity of, as mentioned, being classified as a member of a particular sector such as a human rights defender.

²³ <https://www.officialgazette.gov.ph/constitutions/1987-constitution/>

²⁴ Article III, Section 1 of the 1987 Constitution "No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."

²⁵ Article III, Section 11 of the 1987 Constitution "Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty."

²⁶ Article III, Section 14 (2) of the 1987 Constitution "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable."

²⁷ Supra

²⁸ Supreme Court (SC) G.R. No. 246502/ Court of Appeals (CA) G.R. S.P. No. 00067

²⁹ Petitioners Karapatan, Gabriela and Rural Missionaries of the Philippines

The following are examples of evidence-based inclusive good practices in the granting of Writ Amparo

- a. Grant of a permanent protection order in favor of one Ms. Vivian Sanchez against the members of the police on 15 October 2019³⁰
- b. Issuance of Writ of Amparo and Habeas Data in favor the NUPL on 3 May 2019 on 3 May 2019³¹ (G.R. 246175 – 3 May 2019)

It may be noted that the above-mentioned recipients of the Writ of Amparo are free to represent or identify themselves as human rights defenders or as members of any other sector/ organization.

³⁰ SC G.R. No. 242257

³¹ SC G.R. No. 246175