



**SUBMISSION TO THE UN SPECIAL RAPPORTEUR ON
FREEDOM OF OPINION AND EXPRESSION
January 2024**

Karapatan Alliance Philippines or KARAPATAN is an alliance of individuals, groups and organizations working for the promotion and defense of human rights in the Philippines.

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.

This submission focuses on laws, policies and practices that impact on the right to opinion and expression of the general public, people's organizations and human rights defenders.

NATIONAL NORMATIVE FRAMEWORK, PERTINENT LAWS RELATING TO FREEDOM OF OPINION AND EXPRESSION

The Bill of Rights in the 1987 Philippine Constitution¹ explicitly recognizes citizens' freedom of speech, expression, or of the press, the right of people to peaceably assemble and petition government for redress of grievances, as well as the rights to privacy of communications and correspondence, to be secure against unreasonable searches or seizures, free exercise of religion, to information on matters of public concern, and to form associations and unions.

The Civil Code² imposes civil liabilities on those who violate, impedes or impairs the following rights and liberties: freedom of speech, press freedom, privacy of communication and correspondence, right to freedom of association, freedom of religion, to peaceful assembly, among others.

There is no law that promotes or operationalizes the freedom of information regime in the Philippines. Executive Order No. 2 of 2016³, which covers only the executive branch of government, has several exceptions including those that are pertinent to public interest and may impede citizen's rights such as information covered by executive privilege, privileged information relating to national security, those concerning law enforcement and those deemed confidential for protection of privacy of persons and certain individuals, among others.

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

² <https://www.officialgazette.gov.ph/1949/06/18/republic-act-no-386/>

³ <https://www.officialgazette.gov.ph/2016/07/23/executive-order-no-02-s-2016/>

Republic Act No. 10173 or the Data Privacy Act of 2012⁴ outlines protection of individuals' personal information in information and communications systems in the government. There are no existing laws which explicitly address disinformation and hate speech. There is also no law on the recognition and protection of human rights defenders, though there have been proposed legislations since 2007, including provisions criminalizing labelling of human rights defenders.

LAWS, POLICIES AND PRACTICES WHICH AFFECT OR VIOLATE FREEDOM OF OPINION AND EXPRESSION AND OTHER FREEDOMS

The government's counter-insurgency programs has resulted in extrajudicial killings of civilians, including human rights defenders. At least 1,206 individuals, including 475 human rights defenders, were killed under former President Macapagal-Arroyo, in the course of Operational Plan (Oplan) Bantay Laya (Freedom Watch).⁵ During the Benigno Aquino III's Oplan Bayanihan, there are 333 victims of extrajudicial killings, 139 of them were human rights defenders, while there are 442 victims of killings, 222 of them human rights defenders, under the Duterte administration's Oplan Kapayapaan. Under Marcos Jr., there have been 87 victims, with four human rights defenders killed. The victims are peasants, indigenous and Moro peoples, environmental defenders, human rights workers and lawyers, church people, workers, women, youth and urban poor. In the past 13 years, 1-2 individuals a week were killed in line with these campaigns.⁶

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). This was documented in the various pronouncements of former presidents, particularly President Duterte and his officials,⁷ including those from the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC), which was created through Executive Order (EO) No. 70.⁸ Such policies and practices are continued by the Marcos Jr. administration with his National Security Policy for 2023 to 2028.⁹

Their statements, especially of military and police officials, incited violence and other forms of attacks amounting to hate speech, including violations on the right to freedom of expression and of association, against human rights defenders, political dissenters and critics. In May

⁴ <https://privacy.gov.ph/data-privacy-act/>

⁵ Karapatan documentation from January 2001 to June 30, 2010

⁶ Karapatan documentation from July 1, 2010 to November 30, 2023

⁷ UN SRs communication,

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

⁸ 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>

⁹ https://nsc.gov.ph/images/NSS_NSP/National_Security_Policy_Manual_FINAL_E-COPY_with_WATERMARK_140823.pdf

2017, Duterte threatened to behead human rights advocates.¹⁰ In October 2017, Duterte referred to Karapatan and other organizations as “legal fronts” of the Communist Party of the Philippines.” In August 2019, President Duterte declared that Karapatan is a “group of demons.”

UN Special Rapporteurs expressed concern over President Duterte’s statements, which “may lead to persons being incited to exercise violence against Karapatan and its members, who are facing a severely hostile environment.” They 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.”¹¹ However, through public vilification of President Duterte and NTF-ELCAC officials continued. Karapatan and other human rights, civil society and people’s organizations,¹² humanitarian NGOs and even foreign funders have been labelled.¹³ Leaflets, posters, infographics, streamers, and flyers have proliferated online and in various parts of the country and abroad, disseminated by State actors, vilifying leaders and members of these organizations.

These statements incite violence and killings, and are considered direct orders and policy pronouncements by State forces on the ground. Fifteen 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, Escalante city councilor Bernardino Patigas Sr., and paralegal Zara Alvarez were included in a poster of so-called “CNN personalities” disseminated in April 2018. From 2019 to 2020, all were killed.¹⁴

Karapatan Secretary General Cristina Palabay and Tanggol Bayi convenor Atty. Maria Sol Taule, as well as other human rights workers receive death threats and threats of violence, some misogynistic in nature, via calls, texts and online spaces.¹⁵

On March 7, 2021, simultaneous raids of the police and military against “communist terrorist groups” throughout tRegion IV led to the killings of nine individuals in what was called as the

¹⁰ 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/>

¹¹ 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?>

¹² “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/>

¹³ “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>

¹⁴ Karapatan documentation

¹⁵ References to these incidents in these

links: <https://www.omct.org/en/resources/urgent-interventions/threats-and-acts-of-intimidation-against-ms-cristina-tinay-palabay-secretary-general-of-karapatan>, <https://www.rappler.com/nation/247513-group-leader-gets-death-rape-threats-human-rights-day-2019/>

Bloody Sunday raids¹⁶ — 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.”¹⁷

Judicial harassment and the filing of trumped up criminal charges against activists and human rights defenders were also extensively conducted. As of November 30, 2023, of the 795 political prisoners in the country, 84 were arrested during Marcos Jr.’s term and nearly 600 were arrested under Duterte’s watch.¹⁸ 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.

The baseless perjury charge against officers of Karapatan and two other NGOs by then National Security Adviser is also a form of judicial harassment.¹⁹ Karapatan was subjected to a daily barrage of smear and defamation attacks and threats against its officers and members.

This practice, known as red-tagging²⁰, is considered by UN Special Rapporteur on human rights defenders Mary Lawlor as a context-specific death threat in the Philippines²¹, inciting harm and violence on individual defenders and their organizations. 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. In its complaint at the Ombudsman, Karapatan said this violates the principle of distinction under international humanitarian law and amounts to hate speech.²²

Online red-tagging and threats, as well as disinformation and false claims, against defenders have become pervasive,²³ 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

¹⁶ 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+victims+in+the+bloody+sunday+incidents+and+attacks+against+southern+tagalog+activists](https://www.karapatan.org/urgent+appeal+for+action+for+victims+in+the+bloody+sunday+incidents+and+attacks+against+southern+tagalog+activists)

¹⁷ <https://www.aljazeera.com/news/2021/3/6/kill-them-all-duterte-wants-communist-rebels-finished>

¹⁸ Karapatan documentation as of November 30, 2023

¹⁹ <https://www.omct.org/en/resources/urgent-interventions/judicial-harassment-against-ten-members-of-karapatan-rmp-and-gabriela>

²⁰ On redtagging in the Philippines: <https://globalvoices.org/2023/04/27/what-is-red-tagging-and-why-it-is-dangerous-in-the-philippines/>

²¹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/355/11/PDF/G2035511.pdf?OpenElement>

²² <https://www.rappler.com/nation/karapatan-files-suits-says-red-tagging-crime-against-humanity-persecution/>

²³ <https://www.rappler.com/newsbreak/investigative/how-propaganda-network-created-online-environment-justifies-shifted-killing-activists/>

news organizations. Karapatan's website was brought down for three weeks in 2019²⁴, and had endured millions of attacks in 2021²⁵. 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 Philippine government that there are "robust and functioning legal and judicial remedies" for this purpose.

Previous NTF-ELCAC functionaries, running online and TV programs, and current officials, which includes Vice President Sara Duterte, continue the deadly practice to date. Young women environmental activists Jonila Castro and Jhed Tamano,²⁶ union organizers April Dyan Gumanao and Armand Dayoha,²⁷ and indigenous peoples leader Steve Tauli²⁸ – all abduction and enforced disappearance survivors - are among the most recent victims.

The Human Security Act (HSA), which has since been replaced with the Anti-Terrorism Act or Republic Act No. 11479, 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 defenders and peace advocates were included in a Justice Department petition proscribing the CPP and NPA as terrorist organizations.

Human rights defenders, including a former Karapatan human rights worker Dr. Natividad Castro and young paralegals in Southern Tagalog, are facing arbitrary designations and trumped criminal charges under Republic Act No. 11479.²⁹ Republic Act No. 10168 or the Terrorism Financing Prevention and Suppression Act is being increasingly used to target NGOs and humanitarian organizations.³⁰ In a manner of speaking, red-tagging has quickly evolved into terrorist-tagging and the use of such laws to impede human rights and development work and quell free expression and dissent – all under the pretext of counterinsurgency and counter-terrorism.

RECOMMENDATIONS:

1. Put a stop to threats and red-tagging against human rights defenders, journalists, members of the academe, among others, and hold accountable those who continue to incite violence and disseminate false information on individuals and groups.

²⁴ <https://srdefenders.org/philippines-cyber-attacks-against-independent-media-outlets-allegedly-conducted-by-government-and-armed-forces-joint-communication/>

²⁵ <https://restofworld.org/2021/philippines-human-rights-cyberattack/>

²⁶ <https://www.aljazeera.com/news/2023/10/19/we-will-cut-out-your-tongue-filipino-activists-recount-military-kidnap>

²⁷ <https://www.rappler.com/nation/visayas/cebu-development-workers-share-abduction-ordeal/>

²⁸ <https://nordis.net/2022/08/29/article/news/cordillera-activist-recalls-ordeal-days-after-abduction/>

²⁹ See the references: https://www.karapatan.org/urgent_appeal/urgent_appeal-for-action-on-the-arbitrary-and-baseless-designation-of-indigenous-peoples-rights-activists-as-terrorist-individuals/, https://www.karapatan.org/urgent_appeal/urgent_appeal-for-action-against-the-arbitrary-and-baseless-filing-of-anti-terrorism-cases-against-southern-tagalog-activists/

³⁰ https://www.karapatan.org/urgent_appeal/urgent_appeal-for-action-on-the-use-of-the-anti-terrorism-financing-law-against-faith-based-institutions-or-groups-and-human-rights-defenders/

2. Abolish the NTF-ELCAC and rescind Executive Order No. 70. Resume the peacetalks between the Philippine government and the NDFP.
3. Stop the judicial harassment and reprisal suits against human rights defenders and journalists, and release all political prisoners.
4. Repeal Republic Act Nos. 10168 and 11479, considering both legislations have resulted in attacks against freedom of expression and association.
5. Enact the Human Rights Defenders Protection law, according to international human rights standards and provide support and protection mechanisms for human rights defenders at risk, their families, organizations and communities. Enact a genuine Freedom of Information law that upholds citizens' right to information and promotes real transparency and accountability.