

To: Hon. José Luis Martín C. Gascon, Chairperson of the Commission on Human Rights
Hon. Roberto Eugenio T. Cadiz, Chairperson of the Human Rights Defenders Inquiry Panel

cc: Office of the President, Republic of the Philippines

Commission on Human Rights of the Republic of the Philippines
SAAC Building, UP Complex, Commonwealth Avenue,
Diliman, Quezon City, 1101

9 September 2019

RE: Situation of Human Rights Defenders in the Philippines

Dear Hon. Chairperson Gascon and Hon. Commissioner Cadiz,

The Asian Forum for Human Rights and Development (FORUM-ASIA) would like to thank the Commission on Human Rights (CHR) of the Republic of the Philippines for the invitation to participate in the public inquiry regarding *'The Current Situation Impacting on the Work, Safety, and Security of Human Rights Defenders in the Philippines.'*

The promotion, respect and protection of human rights is a prerequisite for the establishment of a democratic society and the rule of law. This is enshrined in the Constitution of the Philippines.¹ As defined by the 'Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms' – often referred to as the 'Declaration on Human Rights Defenders,'² the term human rights defenders (HRD) is used to describe people who, individually or collectively, act to promote or protect human rights.³ This may include, but is not limited to human rights organisations and their staff, lawyers, journalists, and indigenous communities. HRDs play vital role in ensuring and promoting respect for human rights, fundamental freedoms, democracy and the rule of law in the country.⁴

As reflected in the Declaration on HRDs, the State is obliged to ensure that HRDs are able to operate freely without fear of reprisal.⁵ This obligation is also reflected in core international human rights treaties that have been ratified by the Government of the Philippines, such as the International Covenant on Civil and Political Rights (ICCPR). Furthermore, HRDs have the right to seek and hold information relating to human rights, as well as to submit to government officials their criticism and proposals for improving human rights in the country. HRDs are also entitled to make complaints about official policies and acts relating to human rights.⁶

¹ Article 13, Constitution of the Republic of the Philippines.

² General Assembly resolution 53/144, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144 (8 March 1999), available from <https://undocs.org/A/RES/53/144>

³ OHCHR | Who is a defender. (2019). Retrieved 6 September 2019, from <https://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Defender.aspx#ftn1>

⁴ *ibid.*

⁵ Article 2, 9, 12, 14, and 15, Declaration on human rights defenders.

⁶ Article 1, 5, 6, 7, 8, 9, 11, 12 and 13, Declaration on human rights defenders.

However, in the Philippines, HRDs are continuously being targeted for carrying out their peaceful human rights work. Particularly, instances of harassment against HRDs have been increasing under the administration of President Rodrigo Duterte. Between 2017 and 2018, FORUM-ASIA documented at least 59 emblematic cases of attacks, intimidation and harassment against HRDs in the Philippines. Of these cases, 39 or 66 per cent the total number of incidents were killings, mostly targeting land and environmental rights defenders and journalists, making the Philippines one of the deadliest countries in Asia for HRDs to operate in.⁷ The harassment of HRDs continued in 2019, FORUM-ASIA recorded 22 cases of harassment of HRDs, including ten cases of killings as of 30 June 2019.⁸

FORUM-ASIA is deeply concerned that often times, state actors are the main perpetrator or allegedly colluding with non-state actors, such as businesses, to suppress HRDs instead of providing protection for them. In the aforementioned cases, most of the perpetrators were allegedly linked to state actors, such as police and security forces, and they were often not held to account, while impunity for security forces prevails in the country. The Government of the Philippines itself is also often labels HRDs as criminals, including referring to them as supporters of drug dealers or terrorists.

A striking example can be seen in the case of the killing of Lumad community leaders and HRDs working to defend the rights of their communities. In December 2017, eight members of the T'boli-Manobo S'daf Claimants Organization (TAMASCO), who have been fighting against businesses and development projects occupying their ancestral lands, were killed by military personnel who opened fire at them. A month later, Ricky Olado, a member of an organisation that defends Lumad rights, was shot dead by two unknown assailants on a motorbike.⁹ To date, no perpetrator has been brought to justice, which further emboldens the culture of impunity.

Another emblematic case is the ongoing judicial harassment of Maria Ressa, a prominent journalist and the co-founder and Executive Editor of Rappler, an investigative news site. According to Rappler, 11 cases have been filed against Ressa, Rappler, and its staff since January 2018.¹⁰ FORUM-ASIA is of the view that the judicial harassment of Ressa¹¹ and Rappler is politically motivated, and based on their criticism of the Government of the Philippines, particularly their reporting on official complicity in the deaths in the 'war on drugs'.¹²

FORUM-ASIA observed that there is also a continuously growing negative narrative against HRDs across Asia. The Philippines is no exception. President Duterte has threatened to kill HRDs on multiple occasions for criticising his administration.¹³

⁷ de Leon, S. *Defending in Numbers: Resistance in the Face of Repression*. Bangkok: FORUM-ASIA, p. 32. Retrieved from: <https://www.forum-asia.org/uploads/wp/2019/05/DEFENDING-IN-NUMBERS-2019-FINAL-ONLINE-1.pdf>

⁸ Cases can be consulted at: <https://asianhrds.forum-asia.org/cases-of-hrds/>

⁹ *ibid*, n.9, p. 32.

¹⁰ Rappler. (2019). Maria Ressa, Rappler board members charged again over anti-dummy law. Retrieved 6 September 2019, from <https://www.rappler.com/nation/226047-maria-ressa-board-directors-charged-anti-dummy-law-violation-march-2019>

¹¹ FORUM-ASIA. (2019). Philippines: Drop cyber-libel charges against Maria Ressa and Reynaldo Santos Jr. Retrieved 6 September 2019, from <https://www.forum-asia.org/?p=28050>

¹² FORUM-ASIA. (2018). Grave Concern about Undermining of Press Freedom in the Philippines. Retrieved 6 September 2019, from <https://www.forum-asia.org/?p=25449>

¹³ See: GMA News Online. (2017). Duterte threatens to behead human rights advocates. Retrieved 6 September 2019, from <https://www.gmanetwork.com/news/news/nation/611343/duterte-threatens-to-behead-human-rights-advocates/story/>

& Rappler. (2016). Duterte's threats alarm rights groups. Retrieved 6 September 2019, from <https://www.rappler.com/nation/154110-duterte-threats-alarm-rights-groups>

In 2018, the Department of Justice released a list of 649 names and aliases of people who were allegedly linked with communist terrorist groups, which included Victoria Tauli-Corpuz, the United Nations (UN) Special Rapporteur on the rights of indigenous peoples¹⁴ and some HRDs. Being on the list, compromised UN Special Rapporteur Tauli-Corpuz security and forced her to leave her home country for few months.¹⁵ Although the names of Tauli-Corpuz and others were eventually removed, the damage to her reputation is difficult to be reversed.

Other UN special rapporteur, Agnes Callamard, who has been vocal about extrajudicial killings and the deteriorating human rights situation in the country, also became a target of a smear campaign.¹⁶ Meanwhile, individuals and organisations calling for accountability for extrajudicial killings have been labelled as being pro-drug lords.¹⁷

Furthermore, a senior diplomat from the Philippines, Ambassador Rosario Manalo called Philippines human rights group attending discussions during an informal session about a resolution about the Philippines of the 41st session of the Un Human Rights Council in June 2019 in Geneva treacherous.¹⁸ ¹⁹ This incident further contributed to the fear of reprisals for those engaging international human rights mechanisms, including United Nations forum.

FORUM-ASIA noted that labelling a person, group or entity as being affiliated with the Communist Party of the Philippines (CPP) or the New People's Army (NPA), a practice which is commonly known as 'red tagging', is a strategy used delegitimise the work of said HRD and human rights organisation.

Similar to practice of red-tagging in the case of UN Special Rapporteur Tauli-Corpuz, on 8 May 2019, a prominent human rights organisation, the Philippine Alliance of Human Rights Advocates (PAHRA), was featured in an article released by the state-owned media, the Philippines News Agency. The article claimed that PAHRA's organisational license had been revoked, and that the organisation had ties with CPP-NPA.²⁰ However, the fact is that PAHRA has been re-registered since 2010 and has been operating legally since then. Although the article was later refuted as false information,²¹ the news article has severely damaged the reputation of the organisation.

FORUM-ASIA is also concerned about the drafting of policies that could potentially further limit the work of HRDs and human rights organisation. For instance, the Securities and Exchange Commission (SEC) Memo Circular 15 obliges non-profit organisations (NPO) to disclose sensitive and confidential information that might put their clients and partners at risk. The SEC Memo Circular 15 also requires

¹⁴ Rappler. (2018). PH seeks terrorist tag for Joma Sison, 648 others. Retrieved 6 September 2019, from <https://www.rappler.com/nation/197764-philippines-terrorist-tag-communist-rebels>

¹⁵ She Stands Up to Power. Now, She's Afraid to Go Home. (2018). Retrieved 6 September 2019, from <http://unsr.vtaulicorpuz.org/site/index.php/en/interviews/227-nytimes-profile>

¹⁶ Philippine News Agency. (2019). UN experts' call for probe on PH biased, made in bad faith: DFA. Retrieved 6 September, from <https://www.pna.gov.ph/articles/1071854>

¹⁷ Inquirer.net. (2018). Palace insists: Rights groups 'unwitting tools of drug lords'. Retrieved 6 September 2019, from <https://newsinfo.inquirer.net/978431/palace-insists-rights-groups-unwitting-tools-of-drug-lords>

¹⁸ Conde, C. (2019). PH's disinformation campaign in Geneva. Inquirer.Net. Retrieved 6 September 2019, from <https://opinion.inquirer.net/122418/phs-disinformation-campaign-in-geneva>

¹⁹ Al Jazeera. (2019). UN approves resolution to probe Duterte's 'war on drugs'. Retrieved 6 September 2019, from <https://www.aljazeera.com/news/2019/07/approves-resolution-probe-duterte-war-drugs-19071111144270.html>

²⁰ Philippine News Agency. (2019). Karapatan, 4 other NGOs have revoked SEC registration. Retrieved 6 September 2019, from <https://www.pna.gov.ph/articles/1069216>

²¹ iDEFEND. (2019). Reported revocation of PAHRA SEC registration a gag order. Retrieved 6 September 2019, from <https://idefend.ph/news/statements/reported-revocation-of-pahra-sec-registration-a-gag-order-idefend>

NPOs to undergo a risk assessment, so that they are not 'misused by terrorist organisations'. An incomplete submission will be deemed a failure to comply, and can result in the revocation of an organisation's registration. However, the vague formulation of the criteria makes this policy prone to be abused as a tool to administratively harass civil society organisations.²² The Government has increasingly used laws on sedition, tax evasion, and others to target HRDs and other critics.

FORUM-ASIA has documented an increasing trend across the region of using such policies to administratively harass civil society, for example the use of tax and registration policies to harass and even shut down the operation of civil society organisations in Cambodia, and the draft Law on International Non-Governmental Organisation in Myanmar, which contain vague provisions that can be used by Governments to suspend the work of civil society organisations.

The abovementioned facts and figures show a very worrying trend of the deterioration of human rights in the Philippines. Therefore, the existing process to pass the Human Rights Defenders Protection Act is becoming very crucial. The Bill has been passed by the House of Representatives in June 2019 and the enactment of the Act will be a substantial support to ensure the protection of HRDs in the country.

As a regional voice for human rights, FORUM-ASIA calls on the Government of the Philippines to ensure the protection of HRDs and specifically recommends the Government to:

- Conduct an impartial and thorough investigation of killings and other types of harassment against HRDs, and to hold the perpetrators of these violations to account,
- Fulfil its obligations to promote, respect, and protect human rights, by taking meaningful steps to combat the negative narrative and harassment of HRDs,
- Take concrete steps to enact domestic laws including the Human Rights Defenders Protection Act that recognise and protect HRDs substantially,
- Ensure that HRDs are free to share their thoughts publicly on both the national and international level, without any fear of reprisal,
- Allow HRDs and civil society organisations to cooperate and communicate freely with the UN human rights mechanisms, in particular in the context of the comprehensive written report mandated by the UN Human Rights Council resolution 41/2,²³ without fear of reprisals, and
- Refrain from drafting and using repressive laws, and to take steps to review or repeal existing laws and policies that are being used to harass HRDs.

We thank you for your attention on these pressing issues, and are available to provide you with any further information if so required.

Sincerely,

John Samuel
Executive Director of FORUM-ASIA

²² FORUM-ASIA. (2019). The Philippines: Immediately rescind SEC Memorandum Circular No. 15 (s. 2018). Retrieved 6 September 2019, from <https://www.forum-asia.org/?p=28255>

²³ UN Human Rights Council Resolution 41/2, Promotion and protection of human rights in the Philippines, A/HRC/RES/41/2 (11 July 2019), available from <https://undocs.org/A/HRC/RES/41/2>