

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders

REFERENCE: AL
PHL 3/2015:

15 June 2015

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of **surveillance of the Southern Mindanao office of the Alliance for the Advancement of People's Rights (Karapatan) and the intimidation of its members.**

Karapatan is an alliance of individuals, groups and organisations who advocate for the promotion and protection of human rights in the Philippines. It is committed to the defense of human rights through education, training, advocacy, research and network building. Members of Karapatan were the subject of two communications to your Excellency's government by various mandate holders on 6 May 2014 (PHL 3/2014) and on 29 March 2011 (case no. PHL 1/2011). We regret that no response has been received to these two communications.

Mr. **Eduardo Regidor** is a staff member of Karapatan and is also the acting Chairperson of the **Paquibato District Peasants Alliance.**

According to the information received:

On 26 April 2015, a number of unidentified men in uniform were seen carrying out surveillance of the Southern Mindanao office of Karapatan.

The same day, upon leaving the Karapatan office, Mr. Eduardo Regidor and his three sons were followed by three armed unidentified men. One of the men reportedly shouted "Aha, dito lang pala kayo nagtatago" ("So, you are hiding

here”). Mr. Regidor and his sons got into a taxi and were followed by the unidentified men on motorbikes. The Karapatan staff subsequently filed a report with the police regarding the two incidents.

On 27 April 2015, at approximately 7 p.m., three men, who refused to identify themselves, attempted to enter the Southern Mindanao office of Karapatan. Several staff members, including Mr. Regidor, were in the office at the time. It is reported that one of the men had been seen outside the office the previous day and that he was carrying something wrapped in a towel which was perceived to be a gun. One of the men pushed against the gate, while the other two attempted to climb a wall to enter the compound in which the office is located. The three men left when police officers and reporters arrived at the scene. The staff members of Karapatan were subsequently escorted to the San Pedro Police Station where they filed a report on the incident.

Concern is expressed at the surveillance and intimidation of the members of Karapatan, as well as the surveillance on their office. Concern is also expressed that this may be as a result of their peaceful and legitimate human rights activities and their exercise of the rights to freedom of expression and association.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency’s Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection to the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide any information on the laws or regulations under which the alleged surveillance activities occurred and how these measures are compatible with international norms and standards as stated, *inter alia*, in the UDHR and the ICCPR.
3. Please provide the details, and where available the results, of any investigation carried out in relation to the surveillance of the Karapatan office. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. Please provide the full details of any protective measures put in place to ensure the physical and psychological security and integrity of the staff and members of Karapatan and their families.

5. Please kindly indicate what measures have been taken to ensure that human rights defenders in the Philippines are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst
Special Rapporteur on the situation of human rights defenders

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

We draw the attention of your Excellency's Government to Articles 19 and 22 of the International Covenant on Civil and Political Rights, ratified by the Philippines in 1986, respectively providing that everyone shall have the rights to freedom of expression and to freedom of association.

We would like to refer your Excellency's Government to the fundamental principles set forth in 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

We would also like to refer to Human Rights Council Resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

In addition, we refer to Human Rights Council resolution 24/5, which “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the

context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law” (its operative paragraph 2)

Moreover, United Nations General Assembly Resolution 68/167 emphasizes that “unlawful or arbitrary surveillance and/or interception of communications, as well as unlawful or arbitrary collection of personal data, as highly intrusive acts, violate the rights to privacy and to freedom of expression and may contradict the tenets of a democratic society” and calls States to “review their procedures, practices and legislation regarding the surveillance of communications.”