

**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**

REFERENCE:  
AL PHL 4/2018

23 April 2018

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 situation of human rights defenders, and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 34/18, 34/5 and 31/3.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **vilifying public statements and threats made by President Rodrigo R. Duterte targeting the human rights organisation Karapatan**.

Karapatan is a human rights alliance which pursues advocacy for human rights among the poor and marginalised sectors in Philippines society through campaigns, networking, documentation, direct services and organising work for the victims of human rights violations, their families and communities.

Karapatan has been mentioned in 15 previous communications sent on 01 March 2004, case no. PHL 2/2004; 13 May 2004, case no. PHL 4/2004; 02 December 2005, case no. PHL 19/2005; 19 June 2006, case no. PHL 11/2006; 12 July 2006, case no. PHL 18/2006; 12 July 2006, case no. PHL 19/2006; 13 October 2006, case no. PHL 29/2006; 20 April 2007, case no. PHL 7/2007; 20 June 2008, case no. PHL 9/2008; 29 August 2008, case no. PHL 13/2008; 12 November 2008, case no. PHL 19/2008; 29 March 2011, case no. PHL 1/2011; 06 May 2014, case no. PHL 3/2014; 15 June 2015, case no. PHL 3/2015 and 26 February 2018, case no. PHL 2/2018. We acknowledge replies to 9 of the above mentioned communications, though not all were substantive, and urge the Government to provide responses to the rest of the communications sent.

According to the new information received:

Between the dates of 17 October 2017 and 09 February 2018, President Rodrigo R. Duterte made six speeches in various fora targeting and disparaging the work of the human rights organisation Karapatan. The speeches made reference to the organisation allegedly acting against the State's interest and participating in terrorist activities.

On 17 October 2017, in a speech delivered in Marawi City, the President stated “You know, you should look closely. You legal fronts, acting like you’re all legal, Karapatan (...) You really are the cover of the Communist Party of the Philippines (...) You are one great conspiracy. All of you are really committing rebellion right now (...) I will be frank with you. We kill each other, we kill each other, you will be killed”.

In a speech delivered the same day, in San Jose, Pili, Camarines Sur, President Duterte stated “Karapatan...they are just the legal fronts of the Communist Party of the Philippines. (...) It’s one big conspiracy. But they are at the same time, all of them are committing right now, rebellion”.

On 22 January 2018, in a speech delivered at Camp Mael T. Yan, Jr., 10th Infantry Division, Brgy. Tuburan, Mawab, Compostela Valley, President Duterte , stated that the organisation’s human rights work did not matter to him and that he would proceed regardless of the recommendations they made.

On 27 January 2018, in a speech delivered at the Davao International Airport, Davao City, President Duterte referred to the organisation as “terrorists”.

On 7 February 2018, in a speech delivered at Heroes Hall, Malacañang Palace, the President stated “Women, men, it doesn’t matter. Kill the NPA [New People’s Army]. (...) That Karapatan (...) They’re fools who will not obey”.

On 9 February 2018, in a Press Conference at the Matina Enclaves, Davao City, he stated “They really are legal fronts: (...) , Karapatan, and well - not this time but I’m warning you. Not this time. Do not fear dictatorship, all of you law-abiding citizens, but those who parade at the forefront, beware.”

Concern is expressed over the repeated, threatening and vilifying statements made by President Duterte, targeted at Karapatan, ostensibly due to the organisation’s continued work in the defence of human rights. Further concern is expressed over the impression that such alleged statements, which distort the public narrative on human rights defenders and conflate their work with threats to national security, may have on the public and civil society, especially when delivered by the Head of State. In particular, we are concerned that the President’s comments foster an intolerance and hostility which, considering his influence as a political leader, may lead to persons being incited to exercise violence against Karapatan and its members, who are already facing a severely hostile environment. 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.

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 with 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.

As 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/or any comment(s) you may have on the above-mentioned allegations.
2. Please explain how the alleged vilifying and stigmatising discourse detailed above is compliant with the Philippines' obligations under international human rights law, in particular the obligation to promote an enabling environment for freedom of expression and the work of human rights defenders.
3. Please provide information on measures undertaken to improve the responsiveness and effectiveness of domestic protection mechanisms available to human rights defenders, as well as measures undertaken to ensure human rights defenders do not face retaliation after having presented complaints to the relevant authorities.

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

Michel Forst  
Special Rapporteur on the situation of human rights defenders

Fionnuala Ní Aoláin  
Special Rapporteur on the promotion and protection of human rights and fundamental  
freedoms while countering terrorism

## **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 would like to draw your Excellency's Government's attention to articles 6, 9, 19, 20(2) and 22 of the International Covenant on Civil and Political Rights, which the Philippines ratified on 23 October 1986, and which guarantee the rights to life, security, freedom of opinion and expression, the prohibition on incitement to hatred, discrimination and violence, and the right to freedom of association.

Freedom of opinion and expression is protected under article 19 of the ICCPR. Article 20(2) of the ICCPR, which further requires States to prohibit "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence". Article 20(2) must be read in conjunction with the conditions for restrictions to the exercise of freedom of expression set out in article 19(3) of the ICCPR.

As pointed out by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, when high-level officials engage in hate speech, they undermine not only the right to non-discrimination of affected groups, but also the faith of such groups in State institutions and, thus, the quality and level of their participation in democracy (A/67/357, para. 67).

We would further like to refer to Human Rights Committee General Comment No. 35, which states that the right to personal security obliges States to take appropriate measures in response to death threats against persons in the public sphere, and more generally to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors. It further notes that States must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury (Paragraph 9).

We would also like to refer also to the Human Rights Council resolution 31/32 which in paragraph 2 calls upon all States to take all measures necessary to ensure the rights and safety of human rights defenders, including those working towards realisation of economic, social and cultural rights and who, in so doing, exercise other human rights, such as the rights to freedom of opinion, expression, peaceful assembly and association, to participate in public affairs, and to seek an effective remedy.

We would further like to refer to Operative Paragraph 10 of Human Rights Council resolution 22/6, which urges States to ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights. We also recall Human Rights Council resolution 34/5 which notes that in some instances, national security and counter-terrorism legislation and other measures, such as laws regulating civil society

organisations, have been misused to target human rights defenders or have hindered their work and endangered their safety in a manner contrary to international law.

We would like to refer to Human Rights Council Resolution 22/6, which urges States to acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law (OP 5).

We would finally like to refer to 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 articles 1, 2, 5(b) and 12(2 and 3) which state that everyone has the right to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels, that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, that everyone has the right to form, join and participate in non-governmental organisations, associations or groups, and that the State shall take all necessary measures to protect everyone, individually and in association with others, against any violence, threats, retaliation and adverse discrimination for his or her legitimate exercise of the rights contained in the Declaration.