

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; and the Working Group on discrimination against women and girls

REFERENCE:
AL PHL 5/2020

28 September 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 43/16, 44/5, 43/14 and 41/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the killings of human rights defenders **Carlito Badion** and **Zara Alvarez**.

Mr Carlito Badion was a human rights defender and National Secretary General of KADAMAY, the National Alliance of Filipino Urban Poor. He advocated for the universal right to adequate housing.

Ms Zara Alvarez was a women human rights defender and paralegal for the Alliance for the Advancement of People's Rights (Karapatan), a national alliance of human rights organisations and individual human rights defenders established in 1995. Ms Alvarez resided on Negros Island, where she had documented the killings and arrest of farmworkers and peasants since 2017.

A previous communication concerning Ms Alvarez was addressed to your Excellency's Government by various Special Procedures mandate holders on 8 June 2018 (case no AL PHL 5/2018). In said communication, serious concern was raised as to a petition filed by the Philippine Department of Justice proscribing the Communist Party of the Philippines and the New People's Army as 'terrorist' organisations that listed the names of a number of human rights defenders, including Ms Alvarez, de facto naming them as 'terrorists', in possible reprisal for their engagement with human rights mechanisms. While Ms Alvarez's name was removed from the petition in January 2019 following legal action, threats originating from her inclusion on the list continued to be made against her. We regret that no response was received from your Excellency's Government to this communication.

Further to this, multiple communications have previously been addressed to your Excellency's Government concerning the situation of human rights defenders in the Philippines, including the killings of human rights defenders specifically.

In this regard, we would like to make reference to the most recent such communication, which was addressed to your Excellency's Government by various

Special Procedures mandate holders and independent experts on 15 April 2020 (case no UA PHL 1/2020). This communication concerned the killings of human rights defenders Mr Ryan Hubilla and Ms Nelly Bagasala, as well as threats, arbitrary detention and legal cases brought against other human rights defenders including from the organisation Karapatan. In the communication of 15 April 2020, it was noted that, since 2014, Special Procedures mandate holders have attempted to engage your Excellency's Government as to credible information received documenting harassment, intimidatory acts, surveillance, threats, smear campaigns and killings of members of Karapatan on multiple occasions. We regret that, as of the sending of the present communication, no reply has been received from your Excellency's Government to the communication dated the 15 April 2020, and no substantive replies have been received to the previously sent communications listed therein.

Given the severity of the information which continues to be received concerning the Philippines by multiple Special Rapporteurs on matters pertinent to their mandates, and the urgency of the various human rights violations described therein, we urge your Excellency's Government to provide a substantive response to all pending communications and to engage with the concerned Special Procedures mandate holders, who stand ready to assist your Excellency's Government in the fulfillment of its international human rights obligations¹.

According to the information received:

The case of Carlito Badion

From 2014 onwards, Mr Badion was the target of intimidation and harassment in connection to his work on behalf of urban poor in the Philippines. This treatment intensified from 2017 onwards, in alleged retaliation for the human rights defender's role in the 'Occupy Bulacan' campaign. The campaign, which was led by KADAMAY, saw families of urban poor occupy over 5,000 public housing units which had been idle for a period of 5 years across six sites in the municipality of Pandi, Bulacan province.

On the evening of 26 May 2020, Mr Badion spoke with a family member by telephone, in what was the last known contact he made with his family. The contact was made in Ormoc City, Leyte province, where the human rights defender had been staying in a guest house belonging to a friend of his.

On 28 May 2020, having been missing for two nights, Mr Badion's body was found at a riverbank near his friend's house.

¹ Cases alleging violations of the right to life as the result of excessive use of force by the Philippine National Police and the security forces, were raised in communications PHL 2/2016, PHL 1/2017, PHL 3/2017, PHL 7/2017, PHL 7/2018, PHL 9/2018, and PHL 4/2019. Likewise, instances of alleged killings of human rights activists and defenders were brought to Your Excellency's Government attention in communications PHL 8/2017, PHL 12/2017, PHL 13/2017, PHL 2/2018, PHL 11/2018, PHL 5/2019, and most recently PHL 7/2019. We have expressed our gratitude for the responses received to communications PHL 11/2018, PHL 7/2018, PHL 2/2018, PHL 13/2017, PHL 8/2017, PHL 13/2017, PHL 7/2017, PHL 1/2017, PHL 2/2018, and PHL 11/2018. We regret, however, that no reply was received to the other communications.

The case of Zara Alvarez

In July 2019, the Karapatan National Office received an SMS message from an unknown individual containing a death threat against Ms Alvarez.

In April 2020, an SMS was sent to Ms Alvarez, purportedly from State security forces, harassing her after she had distributed rice to impoverished members of her community during lockdowns enforced in the context of the Covid-19 pandemic.

On 17 August 2020, at approximately 8 pm, Ms Alvarez was shot dead by an unknown assailant on Santa Maria Street in the Mandalagan neighbourhood of Bacolod City.

Without prejudging the accuracy of the information received, we wish to express our most serious concern at the killings of Mr Badion and Ms Alvarez, which appear to compound an ever further evidenced context of extreme risk for those promoting and protecting human rights in the Philippines.

In light of this, we wish to reiterate the serious concerns raised in the above-mentioned communication sent to your Excellency's Government on 15 April 2020. We note references in previous communications by various Special Procedures mandate holders to concerns expressed over the smearing of human rights defenders as 'terrorists', threats made against human rights organisations by way of public statements by high-level officials, and the extremely worrying trend of 'red-tagging' those carrying out human rights work in the country.

In relation to these concerns, we would like to refer your Excellency's Government to the report of the High Commissioner for Human Rights on the human rights situation in the Philippines, presented at the 44th session of the Human Rights Council in June of this year. In her report, the High Commissioner highlighted the extremely negative impact the current focus on national security policy has had on human rights in the country, underlining that this impact has been compounded by harmful rhetoric by high-level officials. As the State has scaled up its response to countering 'terrorism', the High Commissioner noted, through key national security laws and policies, those working to promote and protect human rights have been acutely affected, particularly in the context of 'red-tagging' smears, whereby individuals or groups are labelled, at times interchangeably, as communists or 'terrorists'. As an example of this, the report highlighted a publicly displayed poster purporting to depict 'terrorists' that included a photo of Ms Alvarez.

Our specific concerns relating to this pattern are the following: between January 2015 and December 2019, the OHCHR was able to verify the killing of 208 human rights defenders, including 30 women human rights defenders. Since the beginning of 2020, we have received credible information detailing the killing of at least six further human rights defenders, along with information as to threats made against many more. The killing of human rights defenders often follows a pattern of escalating threats. In a large number of cases, these can be witnessed beginning with smear and defamation campaigns, both offline and online, fueled by hate speech

undermining the crucial human rights work that defenders carry out. This stigmatization subsequently grows, and with its growth human rights defenders become exposed, to an evermore serious degree, to physical attacks.

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

As it is our responsibility, under the respective 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 comments which you may have on the above mentioned allegations.
2. Please provide information, and where available, the results of any investigations into the killings of Mr Badion and Ms Alvarez. If such investigations have proved inconclusive, please explain why and how this is compatible with the Philippine's international human rights obligations.
3. Please provide information as to concrete steps that have been taken or may be in the process of being taken to prevent further killings of human rights defenders in the Philippines from occurring. Please indicate how these measures have sought to protect women human rights defenders in particular. If no such steps have been taken on either of these points, please indicate a manner in which we may be able to engage with your Government as to the development and implementation of such concrete steps.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Balakrishnan Rajagopal
Special Rapporteur on adequate housing as a component of the right to an adequate
standard of living, and on the right to non-discrimination in this context

Elizabeth Broderick
Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection to the above alleged facts and our related concerns, we would like to refer your Excellency's Government to article 3 of the Universal Declaration of Human Rights which states that “Everyone has the right to life, liberty and security of person”, and to article 6 of the International Covenant on Civil and Political Rights, ratified by the Philippines on 23 October 1986, which states that “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”

We also wish to recall that, according to international human rights law, States have an obligation to protect individuals’ right to life not only from acts committed by State actors, but also from those committed by non-State actors. They are required to act with due diligence to prevent arbitrary deprivation of life. The standard of due diligence, as applied to the responsibility of preventing arbitrary killing by non-State actors, relies on an assessment of how much the State knew, the risks or likelihood of harms, and the seriousness of harm.

We would also like to stress that it is incumbent upon the State to undertake independent, impartial and prompt investigations in response to all cases of extra-legal, arbitrary and summary executions, as set forth in the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) and the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (1989). Failure to conduct such an investigation may trigger additional violations of the right to life. In this regard, we wish to recall that Principle 4 states that effective protection through judicial or other means shall be provided to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats.

We would like to reiterate to your Excellency’s Government the obligations of the Philippines through its ratification in 1981 of the International Convention on the Elimination of Discrimination against Women (CEDAW) in particular Article 7 which provides that States shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country, including the right to participate in non-governmental organizations and associations concerned with the public and political life of the country.

As stressed by the Working Group on discrimination against women and girl’s in one of its reports to the Human Rights Council (A/HRC/23/50), stigmatization, harassment and outright attacks are used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Women defenders are often the target of gender-specific violence, such as verbal abuse based on their sex, sexual abuse or rape; they may experience intimidation, attacks, death threats and even murder. Violence against women defenders is sometimes condoned or perpetrated by State actors. The Working Group recommended to accelerate efforts to eliminate all forms of violence against women, including through a comprehensive legal framework to combat impunity, in order to

fulfil women's human rights and to improve the enabling conditions for women's participation in political and public life.

In a joint declaration, the Working Group on discrimination against women and girls emphasised that women human rights defenders face unique challenges, driven by deep-rooted discrimination against women and stereotypes about their appropriate role in society. Today's rising fundamentalisms of all kinds and political populism, as well as unchecked authoritarian rule further fuel discrimination against women, intensifying the obstacles facing women human rights defenders. In addition to the risks of threats, attacks and violence faced by all human rights defenders, women human rights defenders are exposed to specific risks, such as misogynistic attacks, gender-based violence (including sexual violence) and lack of protection and access to justice. (<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20938&LangID=E>)

We would also like to refer 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, 2, 5, 6 and 12 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.

Finally, we would like to refer to General Assembly resolution 68/181, adopted on 18 December 2013, on the protection of women human rights defenders. Specifically, we would like to refer to articles 7, 9 and 10, whereby States are called upon to, respectively, publicly acknowledge the important role played by women human rights defenders, take practical steps to prevent threats, harassment and violence against them and to combat impunity for such violations and abuses, and ensure that all legal provisions, administrative measures and policies affecting women human rights defenders are compatible with relevant provisions of international human rights law.