

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

REFERENCE:
AL PHL 5/2021

8 October 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 43/16, 43/4 and 41/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **cyber-attacks in May and June 2021 against independent media outlets, Bulatlat and Altermidya, and the civil society alliance Karapatan** allegedly conducted by the Department of Science and Technology (DOST) and the Armed Forces of the Philippines (AFP).

Bulatlat is a long-running independent online media outlet in the Philippines. Altermidya (People's Alternative Media Network) is a coalition of independent media outfits, institutions and individuals, founded in 2014. Karapatan is a civil society alliance of individuals, groups and organizations working for the promotion and protection of human rights in the Philippines, founded in 1995.

Karapatan was the subject of a previous communication sent to your Excellency's Government by special procedures mandate holders on 23 April 2018 (PHL 4/2018), which noted the organization's mention in 15 earlier communications from 2004 to 2018. Concerns regarding the 'red-tagging' of human rights defenders were raised in a previous communication sent to your Excellency's Government by special procedures mandate holders on 22 January 2021 (PHL 1/2021), wherein the mandate holders highlighted that 'red-tagging' would "contribute to a chilling effect on civil society" and "a deterioration of human rights in the Philippines".

According to information received:

On 17 May 2021, at 02:24 and 02:40 (UTC), the webpages of Bulatlat and Karapatan were subject to cyber-attacks, through HTTP POST flooding and HTTP GET flooding respectively. On 18 May 2021, at 06:06 (UTC), the webpage of Altermidya was subject to a cyber-attack through flood requests using the Apache Benchmark tool and about 90 minutes later, a machine allegedly linked to the Department of Science and Technology (DOST) with IP address 202.90.137{.}42 launched a vulnerability scan against Bulatlat. The conducting of a vulnerability scan indicated that the perpetrators of the cyber-attack were checking to see if the attack on the platform had been successful. From the information we received, the IP address reportedly belonged to The Philippine Research, Education, and Government Information Network (PREGINET) – a unit within the Advanced Science and Technology Institute

(ASTI) of the Department of Science and Technology.

On 20 May 2021, at 13:05 (UTC), the webpage of Karapatan was attacked with a small flood with user-agent AdobeUxTechC4-Async/3.0.12 (win32). On 16 June 2021, at 06:42 (UTC), the webpages of Altermidya and Bulatlat were subject to large flood cyber-attacks from multiple IP addresses. Between 22 June 2021 22:50 (UTC) and 23 June 2021 03:00 (UTC), the webpages of Altermidya and Bulatlat were subject to DDOS cyber-attacks for several hours.

As of 1 July 2021, another set-up with identical firewall configuration was noted, strongly suggesting that the machine was set up and operated by the same entity. The firewall digital certificate indicated that the machine was linked to the email address, acepcionejr@army.mil.ph, and the Office of the Assistant Chief of Staff for Intelligence (OG2-PA) of the Philippine army (AFP).

On 24 June 2021, the DOST's Advanced Science and Technology Institute (ASTI) which oversees the Philippine Research, Education, and Government Information Network (PREGINET) – to which one IP address linked to a cyber-attack allegedly belonged – responded to note that “the implication of DOST's involvement in (the) said cyberattacks is unfounded and patently false”, and that the tracked IP addresses “do not translate to the Department's involvement in the matter”. We are also aware of the statement of the DOST's Undersecretary for Research and Development who stated that the IP addresses had been “distributed across government agencies for their organizational networks' connectivity”, that the management of each network fell under the ambit of each agency, and that “it is clear that the DOST did not take part in the alleged cyber-attacks”.^[1] To date, however, the DOST, whether through its ASTI office or otherwise, has yet to identify the agency to which the IP address in question had been assigned – noting that the Department is refraining from doing so to allow for the Department of Information and Communications Technology (DICT) to conduct a “proper and clinical” investigation into the cyber-attacks.^[2]

Altermidya, Bulatlat and Karapatan previously have been presented as a threat to national security and labelled as “communist” or “terrorist” organisations – including through statements made by representatives of your Excellency's Government, both online and offline.

Also, Bulatlat has been facing several cyber-attacks since late January 2019 by “click farms” – troll factories which hire people to inundate webpages. In late 2018 and early 2019, Karapatan was subject to a targeted DDoS attack against its website, in which Suniway Group of Companies, a Chinese/Philippine telecommunications company with tight connections to online gaming, was allegedly involved.

Without prejudging the accuracy of these allegations, we express serious concerns that the reported cyber-attacks against Bulatlat, Altermidya and Karapatan

^[1] <https://www.pna.gov.ph/articles/1144854>

^[2] <https://news.abs-cbn.com/news/07/01/21/investigation-ongoing-dost-wont-name-agency-linked-to-media-cyberattacks>

may be linked to their human rights advocacy and independent media reporting. We are concerned that these attacks appear to have been carried out at a time the three organizations were reporting on a request by the Chief Prosecutor of the International Criminal Court to open a full investigation into potential crimes against humanity committed in the Philippine administration's 'War on Drugs'^[3]; as well as arrests of peasant leaders and activists in Mindanao region; the designation in May of human rights defenders as "terrorists" by the Anti-Terrorism Council and on continuing low mass testing rates for Covid-19.

In connection with 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 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 information of the actions taken by the Philippine authorities to investigate the abovementioned apparent cyber-attacks against Bulatlat, Altermidya and Karapatan, including further details regarding the ongoing investigation conducted by the Department of Information and Communications Technology (DICT). In this regard, please clarify whether the results of this investigation will be made accessible to the public.
3. Please provide information of the actions taken by the Armed Forces of the Philippines to carry out an effective internal investigation into the abovementioned apparent cyber-attacks against Bulatlat, Altermidya and Karapatan. In this regard, please clarify any results of this investigation.
4. Please provide any information you have gathered on the abovementioned apparent cyber-attacks, including any information regarding allegations of government or military involvement in the attacks as well as the role played by digital access companies, including internet service providers.
5. Please provide any further information you may have gathered regarding similar or related apparent cyber-attacks on independent media platforms, non-governmental organizations, civil society organizations or human rights defenders and on any support provided to these organisations to respond to and recover from these incidents.
6. Please provide information as to concrete steps that have been taken or may be in the process of being taken to prevent further cyber-attacks

^[3] <https://www.bulatlat.com/2021/06/20/icc-probe-on-drug-war-must-be-pursued/>;
<https://www.karapatan.org/on+icc+chief+prosecutor+bensoudas+request+to+formally+investigate+dutertes+crimes+against+humanity>

against independent media platforms, non-governmental organizations, civil society organizations or human rights defenders. In this regard, please clarify if there have been mechanisms instituted for reporting of network abuse, particularly at the Department of Science and Technology and Department of Information and Communications Technology. If no such steps have been taken, please indicate a manner in which we may be able to engage with your Excellency's Government to develop and implement such concrete steps.

7. Please indicate what steps have been taken and measures put in place by your Excellency's Government to ensure that all non-governmental organizations, civil society organizations, independent media platforms and human rights defenders can carry out their peaceful and professional duties online and offline free from fear of threat, violence, harassment or retaliation of any sort.

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

Irene Khan

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

Clément Nyaletsossi Voule

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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the right to freedom of opinion and expression, and to freedom of peaceful association, as set forth in articles 19 and 20(1) of the Universal Declaration of Human Rights and articles 19 and 22(1) of the International Covenant on Civil and Political Rights, ratified by Philippines on 23 October 1986.

Article 19 of the International Covenant on Civil and Political Rights protects press freedom as it provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice". Article 22(2) of the International Covenant on Civil and Political Rights further provides that "No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others".

We recall that the former Special Rapporteur on freedom of opinion and expression called for a suitable legal and policy framework for regulation, accountability and transparency of surveillance technologies. We reiterate his call "for a moratorium on the global sale and transfer of private surveillance technology until rigorous human rights safeguards are put in place to regulate such practices and guarantee that Governments and non-State actors use the tools in legitimate ways" ((see A/HRC/41/35, para. 66).

We would also like to recall that the Special Rapporteur on the rights to freedom of peaceful assembly and of association has recognized, in previous reports, that digital technology is integral to the exercise of the rights of peaceful assembly and association (see A/HRC/20/27 and A/HRC/38/34). Technology serves both as a means to facilitate the exercise of the rights of assembly and association offline, and as virtual spaces where the rights themselves can be actively exercised (see A/HRC/29/25/Add.1, para. 53).

We would also 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 and 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.

Moreover, we would like to draw your Government attention to the principles enunciated by Human Rights Council resolution 24/5, and in particular operative paragraph 2, which "reminds States of their obligation to respect and fully protect the [right] of all individuals to... associate freely, online as well as offline... including human rights defenders... 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 [right] to freedom of... association are in accordance with their obligations under

international human rights law”.