

Mandates of the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Ref.: AL PHL 2/2022
(Please use this reference in your reply)

4 August 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, pursuant to Human Rights Council resolutions 43/16 and 46/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest and detention of environmental woman human rights defender Ms. **Vertudez "Daisy" Macapanpan**.

Ms. Vertudez "Daisy" Macapanpan is a 69 year old environmental woman human rights defender who has for many years advocated peacefully in defence of the environment in Southern Luzon, the Philippines. She is the lead convenor of Protect Sierra Madre for the People and a member of the Network Opposed to Kaliwa-Kanan-Laiban Dam movement. She has been leading opposition to the proposed Ahunan Pumped-Storage Hydropower Project in Mount Inumpong in the Sierra Madre, which local communities believe could affect their drinking water, religious practices and could lead to increased flooding during typhoon season.

According to the information received:

On 11 June 2022, at 16:00, over 20 armed police and military agents entered Ms. Vertudez Macapanpan's home in the village of Barangay Burgos, Pakil, Laguna province. Ms. Macapanpan was handcuffed and dragged to the police car. She repeatedly asked the officers why she was being arrested, but they reportedly did not give her an answer. Police officers also initially refused to tell family members where Ms. Macapanpan was being taken. The arrest came several hours after Ms. Macapanpan spoke at a community meeting opposing the Ahunan Pumped Storage Hydropower Project in Pakil, Laguna.

Ms. Macapanpan was brought to Quezon Provincial Police Office in Camp General Nakar, in Lucena city. There, she was presented a warrant on the charge of "rebellion" in relation to an incident that took place in 2008. The warrant lists a number of aliases and names, among which Ms. Macapanpan's name does not appear. Ms. Macapanpan did not know of the existence of the investigation prior to her arrest. The incident reportedly relates to an armed encounter between the Philippine Army and New People's Army in Quezon Province in April 2008.

In the first few days after her arrest, the Macapanpans' lawyer was reportedly verbally harassed by chief of police at the General Nakar Police Station, when he came to request legal documents pertaining to the case. He was allegedly called a "communist lawyer" and some legal documents were withheld from

him. Similarly, some members of Ms. Macapanpan's family who came to visit Ms. Macapanpan were accused by the chief of police as being members of the New People's Army.

Ms. Macapanpan was held at General Nakar Municipal Police Station for five days before she was transferred to Pagbilao District Jail for COVID-19 quarantine. A week later, she was moved to Lucena City District Jail in Quezon province, where she is currently detained.

On 16 June 2022, Ms. Macapanpan's legal counsel filed an urgent motion to quash, on the basis that the warrant does not "state her name or any description by which she can be identified." The prosecutor was given 10 days to comment on the motion to quash, which it failed to do. On 5 July, Ms. Macapanpan's lawyer requested the court to resolve the filed motion to quash.

Ms. Macapanpan's family have reportedly been further intimidated since her arrest. On 29 June 2022, a military tank and army truck parked beside Ms. Macapanpan's home and police presence has reportedly increased in the area since her arrest.

Without wishing to prejudge the accuracy of the information, we express our deep concern at the alleged arbitrary arrest and detention of woman human rights defender Ms. Vertudez "Daisy" Macapanpan, which we fear may be in retaliation for her work opposing the Ahunan Pumped-Storage Hydropower Project. We are concerned by the alleged lack of due process that has been followed, in particular regarding the arrest warrant, which was reportedly not presented to her at the time of arrest, and which does not list Ms. Macapanpan among the accused. We are additionally concerned by allegations that the prosecution has not complied with the courts request for comment on the motion to quash.

Furthermore, we find it disturbing that Ms. Macapanpan, her lawyers and family have been intimidated and red-tagged by members of the police and armed forces. We have previously communicated concerns to your Excellency's Government about widespread red-tagging of human rights defenders (see for example PHL 6/2021 sent on 28 October 2021, PHL 5/2021 sent on 8 October 2021, PHL 3/2021 sent on 27 May 2022 among many others) which seeks to delegitimise and creates misunderstanding about their work and puts them at increased risk of attacks, threats and smears. We fear that the detention and red-tagging of Ms. Macapanpan will have a devastating impact on her human rights work defending a clean, healthy and sustainable environment, regardless of the outcome of the case, and urge your Excellency's government to take measures to safeguard and support her work.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide details on the factual and legal basis for the alleged arbitrary arrest of woman human rights defender Ms. Vertudez “Daisy” Macapanpan, and how this complies with your obligations under international law.
3. Please provide information regarding allegations of lack of due process that was followed during the arrest of Ms. Macapanpan, in particular why she was not informed about the reason for her arrest until after her detention, why her family were not promptly informed of the place of detention and why her lawyer was denied some files relating to the case.

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

David R. Boyd
Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to of the International Covenant on Civil and Political Rights, ratified by the Philippines on 23 October 1986.

In particular, we refer to article 9 of the ICCPR, which guarantees the rights to liberty and security of person, and provides that no person should be arbitrarily arrested, detained or deprived of their liberty and that one must be promptly informed of the charges against them. Article 9 (4) also entitles everyone detained to challenge the legality of such detention before a judicial authority. United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court state that the right to challenge the

lawfulness of detention before a court is a self-standing human right, the absence of which constitutes a human rights violation. We also draw your attention to article 14 of the ICCPR, which enshrines that all persons are to be seen as equal before the courts and tribunals. In this article, the presumption of innocence before proven guilty as well as explicit fair trial guarantees are outlined. Furthermore, article 14 states the right of all persons to have adequate time and facilities to prepare their defence, either on their own or in consultation with a legal representative of their own choosing.

Furthermore, in its General Comment No 35, the Human Rights Committee has found that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), freedom of assembly (art. 21), freedom of association (art. 22) and freedom of religion (art. 18). This has also been established in consistent jurisprudence of the Working Group on Arbitrary Detention.

Relating to the fundamental rights of freedom of expression and association, we refer to articles 19 and 22 of the above-mentioned Covenant. Article 19 refers to the right to hold opinions without interference, and the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, through any medium they wish. Article 22 of the ICCPR directly addresses the basic right of all individuals to freely associate with others, including the association of organisations, unions and alliances. Embedded in this article is that there shall be no restrictions placed on exercising this right, and that no one shall be prosecuted for doing so.

The Human Rights Council recognized the right to a clean, healthy and sustainable environment with the adoption of resolution 48/13 on 8 October 2021. As detailed in the Framework Principles on Human Rights and the Environment (A/HRC/37/59), annex), which summarize the main human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights (Framework Principle 1).

Furthermore, States should respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment (Principle 2). Principle

4 provides, specifically, that “States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence.” In addition, States should also ensure the effective enforcement of their environmental standards against public and private actors (Principle 12), and they should take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities (Principle 14).

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, 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.

Finally, 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 5 (b) and (c), which provides for the right of all persons to form, join and participate in non-governmental organizations, associations and groups; and to communicate with non-governmental or intergovernmental organizations.
- article 6 point which provides (a) and (b), which provides for the right of all persons to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms and freely to publish, impart or disseminate to others views on these matters.
- 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.