

Threat Situation of Human Rights Defenders in the Philippines

AMP Briefing Paper | September 2023

Attacks, vilifications, criminalization, and violence against human rights defenders (HRDs) in the Philippines are continuing under the new administration of President Ferdinand Marcos Jr. Accessing protection measures for HRDs at risk has become more important, especially in a country that is still deeply shaped by a “culture of impunity.” Against this backdrop, the German Action Network Human Rights (Aktionbündnis Menschenrechte Philippinen/AMP) organized an online workshop on June 13, 2023, to map main threats against HRDs of all kinds of human rights sectors in the Philippines as well as the needs and challenges to respond to the situation of HRDs at risk. This briefing paper is based on discussions during the workshop, statements by participants, and further complementing research.

A. Main threats against HRDs

“Red-tagging”: The so-called practice of “red-tagging”, meaning individuals and/or organizations are labelled or accused of being terrorists or supporting the communist insurgency in the Philippines, of HRDs often leads to vilification, harassment, criminalization, and in some instances even to killings. “Red-tagging” of HRDs is often carried out by government officials in form of “declarations, videos, PowerPoint presentations shown to schools and local communities, posters in Barangay halls, leaflets given out to the public, banners and streamers in public areas, press releases by the State media, posts in official social media accounts of different divisions of the state security sector [...] [, or] individual social media posts of government officials and members of the security sector”¹.

Since its passage, the controversial Anti-Terrorism-Act (ATA) of 2020, was frequently used by the government to designate HRDs as “terrorists.” The ATA allows “red-tagging” even in the absence of any evidence. Moreover, suspects can be imprisoned for up to 24 days without an arrest warrant and their bank accounts frozen with no due process in place to challenge the allegations.² Local human rights organizations consider this pattern a tactic to intimidate and harass those who are critical towards the government for its gaps in protecting human rights.

Since the new administration of President Marcos took office in July 2022, human rights organization observed more rampant “red-tagging” incidents, especially through the usage of the ATA. “Red-tagging” cases occur across the whole country, especially in the Cordillera Region on the island of Luzon as well as on the islands of Negros, Panay, and Mindanao. “Red-tagging” affects mostly individual HRDs, human rights organizations, journalists, but also alternative and indigenous schools in Mindanao as well as politicians, and civilians.

The lack of political will to put an end to the problematic ATA and continuous lack of legal national protection measures for threatened HRDs (such as the Human Rights Defenders Protection Bill) has drastically increased the fear among HRDs to become victims of “red-tagging.”

SLAPP or harassment suits: Individual HRDs and/or human rights organizations are frequently charged with strategic lawsuits against public participation (SLAPP suits), aiming to silence and intimidate them and produce negative publicity. SLAPP suits in the Philippines are often affecting environmental defenders due to speaking out against mining corporations. Frequent charges of SLAPP suits are, among others, cyber libel, or rebellion.

¹ Commission on Human Rights (2020): Report on the Situation of Human Rights Defenders. Available online: <https://chr.gov.ph/wp-content/uploads/2020/07/CHRP-2020-Report-on-the-Situation-of-Human-Rights-Defenders.pdf> [Accessed: 20.09.2023]

² Government of the Philippines (2020): Republic Act No 11479. Available online: <https://www.officialgazette.gov.ph/2020/07/03/republic-act-no-11479/> [Accessed: 20.09.2023]

Fabricated or trumped-up charges are a form of criminalization, frequently applied to HRDs who are critical against the government, in which fake evidence is used to accuse the victims of an alleged crime. This rampant criminalization is usually accompanied by vilification, death threats, immense psychosocial stress, substantial legal uncertainty for individuals and institutions, as well as murder.

Typical charges are illegal possession of firearms and explosives, arson, robbery, kidnapping, murder, and terrorist financing. In many instances, victims are also indicted for participating in an armed encounter between the Armed Forces of the Philippines (AFP) and the communist rebel group, the New People's Army (NPA). For many charges, bail can only be granted in exceptional cases, which results in pretrial custody until the court concludes the case. Trials are usually also lengthy due to overtaxed courts, slow bureaucracy, and corruption within the judicial system. Once a HRD is imprisoned, further charges often follow. In most cases, victims have also only limited financial capacities for legal representation, increasing the financial burden for the relatives and organizations.

Under the new administration of President Marcos, arbitrary arrests and unlawful detentions based on fabricated charges against HRDs have continued. Fabricated charges seem to aim to discredit HRDs and harm their human rights work and organizations. The lack of forensic expertise makes it also an easy game to fabricate false evidence and rely on witness testimonials for investigations, especially in murder cases. Trump-up charges occur across the whole country and often follow a campaign of intimidation, harassment, and abuse, especially through "red-tagging" and public defamation.

Enforced disappearances of HRDs is a common tool of oppression against civil society and is frequently employed by autocratic governments. Enforced disappearances means that state agents were involved in the abduction and arrest of an HRD, and concealment of the victim's whereabouts. In the case of the resurface of disappeared victims, the filing of criminal charges becomes difficult as perpetrators can often not be identified during the investigation and state security forces usually deny any involvement. In most instances, however, the involuntarily disappeared persons reappear after a while as deceased. In the first quarter of 2023 under the President Marcos administration, at least four HRDs were forcibly disappeared in different provinces, of which to date only two surfaced.

In 2012, the Philippines passed the Anti-Enforced or Involuntary Disappearance Act, making it the first Asian country to criminalize the practice of enforced disappearances. The law also prohibits the use of secret detention facilities and makes provisions for the compensation and restitution of victims and their relatives. To date, however, no perpetrators of enforced disappearances have been convicted under this law. The judicial system of the Philippines continues to be dysfunctional and investigations, especially into crimes involving state security forces, remain insufficient under President Marcos.

Militarization intensified across the whole country since the adoption of Executive Order No. 70 (EO70) or the so-called "whole-of-nation" approach to end communist insurgency in the Philippines under former President Rodrigo Duterte in 2018. Especially the islands of Mindanao, Negros, and Panay have been targeted under the decree, which were already in focus of the earlier adoption of Memorandum Order No. 32, instructing the defense and interior ministry to send further reinforcements to the islands to escalate the campaign against terrorist forces. Yet, EO70 and MO32 have been also utilized to intimidate HRDs as well as indigenous and small-scale farmer communities, especially those who have been claiming their rights to land under the National Agrarian Reform Program or Indigenous People's Rights Act as well as those opposing large infrastructure projects in their territories.

These problematic policies led to several military and police crackdowns in the past years where numerous HRDs were killed. Usually, those police and military operations are based on accusations of illegal possession of firearms and explosives. Investigations in those cases have been widely insufficient as security forces insist on the narrative of "self-defense" to justify the killings. In addition, the lack of forensics makes the filing of criminal charges even more difficult. The often-subsequent continuous presence of military forces in the community areas increase the fear to testify against the perpetrators of those human rights violations.

Further AFP operations against alleged terrorists, such as bombings in the hinterlands, also affect in many instances nearby communities. Based on reports from domestic human rights groups, so-called “fake surrender seminars” which are part of the government's Enhanced Comprehensive Local Integration Programme (E-CLIP) became more frequent. According to human rights groups, community members and HRDs are encouraged in those “seminars” to admit being NPA members and sometimes the names of persons making critical remarks will be noted down for further monitoring. E-CLIP also promises allowances for ex-members of the communist insurgency if they make their membership public. Under the pretext of eliminating the communist counterinsurgency the AFP forces also target alternative and indigenous schools in Mindanao who are claimed to be so-called NPA recruiting centers. In many instances, those schools were forced to be closed due to continuous harassment of AFP forces against parents of students and teachers.

At the forefront of those interventions is the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC) which has been leading “red-tagging” attacks against HRDs since its creation in 2018 under the EO70. The Marcos administration has continued the problematic EO70 and MO32 without acknowledging its misuse by targeting government critical HRDs as well as indigenous and small-scale farmer communities.

B. Needs and challenges to address the situation of HRDs at risk:

Paralegal development and legal support services or legal representation for HRDs at risk to strengthen their capacities to counter legal attacks such as trumped-up charges or designations as alleged “terrorists” under the ATA. Due to financial constraints, only a limited number of lawyers are trained in applying the international human rights law, which becomes a hurdle to ensure affordable, adequate, and timely legal support/representation to HRDs.

Digital communication training for HRDs and organizations to counter disinformation³ as well as hardware to improve digital security and apply protocols. The need for more information and training on digital forensics was also mentioned. It was further suggested to use [Jitsi](#) or [Big Blue Button](#) as online meeting and conference tool rather than zoom.⁴

Psychosocial and mental health support services for HRDs who have experienced violations of their rights, especially for those HRDs located in the provincial areas of the Philippines.⁵

Security measures and services such as sanctuaries for threatened HRDs in the Philippines as well as ad-hoc financial support for relevant technical security equipment needed as well as an exchange of experiences regarding sanctuaries with HRDs from other countries.

International advocacy on the threat situation of HRDs, especially with regards to the problematic implications of “red-tagging” of HRDs and the thereby prominent role of the NTF-ELCAC as well as the enactment of the HRD protection bill to ensure that HRD can pursue their work in a safe environment where their rights are protected.

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³ The Data Detox Kit provides valuable information on how to identify bots (<https://datadetoxkit.org/en/misinformation/botornot/>) or how to identify visual misinformation (<https://datadetoxkit.org/en/misinformation/visualinfo/>). If you are looking for concrete trainings, the AMP may assist you in looking for them, please contact humanrights.education@amp.ngo.

⁴ Front Line Defenders provides a guide to secure group chat and conference tools: <https://www.frontlinedefenders.org/resource-publication/guide-secure-group-chat-and-conferencing-tools>

⁵ AMP guideline on how to access further information: <https://amp.ngo/en/protection-for-human-rights-defenders/self-care-and-wellbeing/>. Funds for psycho-social support can be accessed through applications with international organizations like Front Line Defenders, CSO Lifeline, United Action Fund and others. The AMP has no program or funding itself but can support HRDs in accessing information on existing programs.