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Submission to the OHCHR for HRC Report 41/2 by ICHRP Canada

2 January 2020

In response to the Call for Submissions by the UN High Commissioner for Human Rights Michele Bachelet, in accordance to the UN Human Rights Council Resolution on the Philippines¹, the International Coalition for Human Rights in the Philippines – Canada (ICHRP-Canada), is submitting this report on the human rights situation in the Philippines. ICHRP-Canada, is a network of civil society, migrant, faith based and human rights organizations and advocates.

Based on documentation gathered by our network between July 1, 2016 to date and observations of our members during fact finding missions in the Philippines (July 2016, November 2018, July 2019, August 2019) we have concluded that the human rights situation in the Philippines is worsening. State attacks on human rights defenders, lawyers, clergy, community organizers, government critics, and all those working to improve the lives of ordinary Filipinos have escalated. The Duterte government has fostered a climate of impunity by its failure to hold human rights violators accountable and by allowing the disregard for human rights in the conduct of its wars on drugs and insurgency. Under Duterte's Presidency there is growing disrespect of the right to life and civil liberties and a closing of democratic space with attacks on freedom of the press, and judicial independence. In addition, there is a flagrant disregard for international humanitarian law, including the International Covenant on Civil and Political Rights, the International Covenant on Economic Social and cultural Rights, the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and other UN Instruments.

¹ Promotion and protection of human rights in the Philippines, OHCHR Website, 17 July 2019. <https://undocs.org/A/HRC/RES/41/2>

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The Rodrigo Duterte government has conducted with unabated brutality its “war on drugs” generating a human rights catastrophe. As confirmed by face to face meetings with families who have lost family members, killed, as a result of the <<war on drugs>>². Amnesty International reported in July, 2019 that “in the three years since President Rodrigo Duterte unleashed the crackdown almost 27,000 people have been killed in either police anti-drug operations or by unknown perpetrators. Of these killings, at least 6,600 of the killings have been attributed to the Philippine National Police (PNP) and local police anti-drug operations. The Duterte government has been relatively transparent about its anti-narcotics program, the President has repeatedly boasted about killing drug suspects. Early on in his Presidency in 2016 he was quoted as saying “Hitler massacred three million Jews, now there is three million drug addicts. I’d be happy to slaughter them.”³ There is little doubt about Command culpability in the war on drugs. It was initiative of the President, encouraged by the President, and he has removed any obstacles to its prosecution, including impeachment of a Chief Justice of the Supreme Court.

In addition to the War on Drugs, political killings, illegal arrest and detention, enforced disappearance, torture, and forced evacuation have occurred relentlessly throughout the Duterte Presidency. Karapatan reports more than 1,000 civilians killed in military actions related to the War on Terror in Marawi City. Since July 2016 across the Philippines there were over 293 political killings (including 167 human rights defenders), 629 political detainees (382 new detainees under Duterte), 204 documented instances of torture, and 94,075 victims of threat, harassment and

² 2 Observations of ICHRP Canada Chair Rev. Patricia Lisson from Aug 2019 fact finding mission

³ 3 www.Pbs.org Frontline Patrice Taddonio “If They Are Stubborn, Then We Will Kill Them”: Inside Rodrigo Duterte’s War on Drug Suspects in the Philippines. Oct 7, 2019.

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intimidation⁴. In the previous year it was also reported that indiscriminate firing and bombing during military operations caused suffering for 368,391 and forced evacuation resulted in the internal displacement of another 447,963 (Dec. 10, 2018). To protect itself from accountability the Duterte Regime has withdrawn from both the Rome Statute⁵ and the International Criminal Court. In this context ICHRP-Canada would like to highlight a few key areas of concern:

1. Impunity and Intensifying Repression

Every day the situation appears to become graver with new measures by the Duterte Regime to oppress, harass and murder social and human rights activists and drug suspects. More recently in Negros the government has begun blurring the lines between drug suspects and those it considers as its critics. Even though Martial Law has now “formally” ended in Mindanao the government has imposed Martial Law measures in many other areas of the country including Negros, Samar, Leyte and Southern Luzon. In late November 2018, under the pretext of suppressing “lawlessness”, the Philippine government announced Memorandum Order 32, and deployed more police and ground troops to intensify on-going counter-insurgency operations in the Bicol Region of Luzon, Samar and Negros placing more civilians in harm’s way. The result was Memorandum Order 32 intensified repression throughout the Central Philippines in 2019. Negros is an area where a number of ICHRP members have visited and where ICHRP Canada have received reports of a spike in human rights violations over the past 15 months. On 20 October 2018, nine farmworkers were killed as private security forces open fired on members of the National

⁴ www.karapatan.org Karapatan National Press Release, “Karapatan cites urgency of the human rights crisis in the country presses for probe and accountability during 2019 IHRD.” Dec 10, 2019.

⁵ The Rome Statute established four core international crimes: genocide, crimes against humanity, war crimes, and the crime of aggression.

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Federation of Sugar Cane Workers in Sagay, Negros Occidental. Shortly thereafter on November 5th, 2019 human rights lawyer Benjamin Ramos, was gunned down in the street by motorcycle riding gunmen, Ramos had been involved in the Sagay 9 case as well as many other human rights cases in Negros. No one has been held accountable for the killing of either the Sagay 9 or Attorney Ramos. Since the deployment of more troops in late 2018 there has been a proliferation of extra-judicial killing involving the military and para-military forces. In Negros there have been 3 distinct killing clusters involving the Armed Forces of the Philippines and local police:

- the first instance was a large-scale AFP-PNP military operation carried out in Negros Oriental from Dec. 27 to Jan. 15, 2019. The operations resulted in seven persons killed and 40 others arrested and charged, invariably, with illegal possession of firearms and explosives.
- A second operation was carried out on March 30 in Canlaon City and the towns of Majuyod and Sta. Catalina. Result: 14 farmer-activists were killed in their homes during the search operations for alleged illegal firearms some were declared to be drug suspect at the time of the incident.
- The third operation took place in July in NEGROS Oriental, Philippines - At least 17 civilians - were killed following a string of shooting incidents in this province over just 10 days, from July 18 to July 28, 2019. Most of the victims were in their homes sleeping when armed men attacked them. These killings continued into the month of August, claiming at least 4 more lives. Again no one has been charged in any of these killings and in fact some military and police personnel received commendations for their work. This is not surprising in light of the President's own direction.

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2. Attacks on Journalists

Journalism is also under attack in the Philippines. The Freedom for Media, Freedom for All Network reported at least 128 threats and attacks against members of the press under Duterte including the killings of 12 journalists⁶. According to the media freedom organization Reporters without Borders, the Philippines remains one of the most dangerous countries for media in the Asia Pacific. Journalist and NDFP peace consultant Randy Malayo was one of the victims, Malayo was assassinated while asleep on a bus in Nueva Viscaya (January 30, 2019) by suspected military agents. Duterte himself has fueled the risk to journalists stating “Just because you’re a journalist you are not exempted from assassination, if you’re a son of a bitch,”⁷ Another area of concern has been attacks on not just individual journalists, but corporate entities that have run afoul of the Duterte government. The owners of the formerly independent broadsheet, the Philippine Daily Inquirer, opted to sell their paper to a Duterte ally in the face of unrelenting pressure from the Duterte administration⁸. The independent news service, Rappler, has been under constant attack in recent months and its editor has been charged with tax evasion following their in-depth reporting on the War on Drugs. In recent weeks Duterte has threatened to not renew licensing for ABS-CBN the largest media conglomerate in the Philippines advising them to sell out before their license expires⁹.

⁶ www.Rappler.com “Over 100 attacks vs journalists since Duterte assumed office – monitor” Rambo Talabong, May 3, 2019.

⁷ www.time.com Duterte Says Journalists in the Philippines are “Not Exempted from Assassination” Simon Lewis, June 1, 2016

⁸ www.rappler.com, Jodesz Gavilan, Duterte’s target: The Philippine Daily Inquirer, August 16, 2017

⁹ <https://www.aljazeera.com/ajimpact/philippines-duterte-tells-media-conglomerate-owners-sell-191230114922285.html>, Philippines’ Duterte tells media conglomerate owners to sell out, January 1, 2020.

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3. Attacks on the Judiciary

Duterte's presidency has been marked by attacks on legal institutions in the Philippines and the independence of the judiciary. According to the National Union of Peoples' Lawyers (NUPL), 34 lawyers have been killed in the Philippines during the first two-years reign of the Duterte Presidency (including judges and prosecutors). Counsels for victims of human rights violations, in particular, are targets of attack. The November 2018 killing of Attorney Ben Ramos, mentioned earlier in this paper, is not an isolated case. The killing of Judge Mario Anacleto Bañez on November 5, 2019 while onboard his vehicle in San Fernando, La Union has been linked to his acquittal of health worker, Rachel Mariano, who was accused of being a member of the New People's Army and masterminding the murder of a soldier. The Chief Justice of the Philippine Supreme Court, Maria Lourdes Serrano was impeached by Duterte in May 2018. According to the NY Times Serrano had been at odds with Duterte over the legality of his conduct of the "War on Drugs"¹⁰. Serrano had also voted against Duterte's declaration of military rule in the southern Philippines. The impeachment of Serrano for blatantly political reasons undermines the independence of the Philippine judiciary. Another former justice official who clashed with Duterte over the War on Drugs was former Minister of Justice Senator Leila De Lima, for her efforts she was imprisoned in February 2017¹¹, on what appear to be trumped up drug charges. Prior to her arrest De Lima had led a series of Senate investigations over allegations that police officers were involved in the anti-drug killings and that hired killers were operating under orders from police.

¹⁰ NY Times, May 11, 2018 "Philippines' Top Judge Took on Duterte Now, She's Out".

¹¹ Aljazeera.com Feb 24, 2017 "Senator Leila de Lima Arrested in the Philippines".

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4. Red Tagging and Suppression of Dissent

Those who oppose or speak out against the Duterte regime are Red-Tagged. In February 2018, the Department of Justice issued a petition that identified over 600 individuals as terrorists. The long list tagged as “terrorists” include NGO representatives, peace proponents, human rights advocates, among those identified was Victoria Tauli-Corpuz, the United Nations special rapporteur on the rights of indigenous peoples. Among those most vulnerable to Red-Tagging are the human rights workers carrying out the work on the ground. Cristina Palabay, the general secretary of Karapatan, a national alliance of human rights organizations, is the subject of ongoing death threats sent as text messages to her telephone. In many cases, red-tagging precedes extrajudicial killings of human rights defenders as in the case of Ben Ramos. This type of judicial harassment is ongoing used again en mass on December 8, 2018 when 700 political and social activists in Mindanao had trumped up charges filed against them. The most recent series of mass political arrests occurred in late October 2019 when around 60 peasants, women, trade union and other activists in Negros and Manila following searches of their offices on dubious pretexts (October 31, 2019). In late December 2018, Duterte called on the military to destroy the underground and all of its alleged front organizations. In a speech to the troops on December 22, Duterte stated “Change your paradigm, do not fight them (the NPA), destroy them. There is evident danger in the President’s direction to the troops in that all legal organizations that are maliciously suspected of being legal fronts of the CPP become targets of the lethal actions of the armed forces. He has set- up a potential human rights catastrophe, unleashing the Philippine military on civil society. The Red-tagging, trumped up charges, weaponizing of the law against critics, opposition, are all components of the government’s “whole of nation approach” under Executive Order #70.

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5. Political Prisoners

As noted above the number of political detainees has grown significantly under the Duterte government. One case in particular that ICHRP Canada would like to highlight is that of Rowena “Weng” Rosales she is just one of the 382 political detainees incarcerated under Duterte. Many of us in the Canadian Human Rights and Labour community have met Weng over the past decade in her role as the International Solidarity Officer for the Public Sector Union formation COURAGE. COURAGE represents workers in a range of functions at National, Regional and Local government levels. COURAGE has a long-standing partnership with the Canadian Union of Public Employees and Weng served as the primary connection in this partnership for many years. She arranged for numerous labour and human rights delegations to visit the Philippines. Over the years we were made aware that Weng had been subjected to surveillance and ongoing harassment for her union activities, the persecution she experienced culminated in her arrest in July 2018. Like most of the 629 political detainees she was arrested on non-bailable charges. Rowena Rosales was detained in August 2018 with her husband Olivier Rosales on fabricated charges. Both were forcibly taken by armed men while on board their tricycle at Galvez St., Brgy. Wawa, Balagtas, Bulacan. They were later taken to Camp Crame, Quezon City, where Weng was shown a warrant of arrest charging her with illegal possession of firearms and explosives. The normal process for political detainees is that they must fight the charges in court, a process that takes five to six years before the charges will ultimately be dismissed for lack of evidence. In many instances the government will file cases in other jurisdictions to ensure the accused will be denied liberty indefinitely.

With the War on Drugs, the Philippine courts are choked with a backlog of new cases creating further delays, leaving the accused to languish in over-crowded prisons for long periods of time. For over six months the Rosales were held in terrible conditions

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at the National Capital Region office of the Philippine National Police-Criminal Investigation and Detection Group (PNP-CIDG), The PNP CIDG-NCR detention facility in Camp Crame is supposed to be a temporary facility for persons arrested by its operations. Hence, the 1m x 3m cell for women and 3m x 7m for male detainees, sandwiched between the offices and the kitchen. Oliver Rosales was crammed together with 30 other inmates in a cell that was meant to be for 10 persons, with only two makeshift beds. Rowena Rosales was detained with three women, in a cell designed for two medium-built persons lying on the floor. At the time of her arrival in the facility she was considered “fortunate” as prior to her, detention, there had been eight detainees in the same cell. Rowena and Olivier are now in their 3rd year of detention, with little progress towards resolution of their cases. ICHRP Canada highlights their cases as examples of the risks associated with being labour and political activists in the current situation and for the intolerable conditions that are experienced by political detainees.

6. Marawi City: Humanitarian Disaster

In May 2017, an incursion by approximately 200 members of the Maute Terrorist group into Marawi City and subsequent six-month siege of the city of 300,000 by the Philippine military led to over 1,000 civilian deaths and the total destruction of one of the largest Islamic cities in the Philippines. The Philippine government then expropriated much of the lands in the center of the city as a military reservation, permanently displacing more than 300,000 residents of the city. In a huge land grab operation, the military is asserting legal rights to 6,000 of the 8,000 hectares of land in Marawi in order to construct a second military camp in Marawi City. As of October 2019, more than 100,000 people, or half of Marawi's pre conflict population, were still in temporary government-built shelters unable to return to their homes in the city's centre, where most of the fighting took place.

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7. The War on Indigenous Peoples

The Duterte Regime like its predecessors has continued a low-level counter-insurgency campaign against Lumad or indigenous communities to create a more favorable business climate for domestic and multinational mining operations. Of the 68 extra-judicial killings that occurred in the first 12 months of Duterte's Regime 46 took place in Mindanao and 21 involved Indigenous Peoples¹². Lumads, or the non-Muslim indigenous peoples of Mindanao, have been vocal against the repression experienced by their communities, numerous human rights violations were recorded by independent human rights organizations including the occupation and bombing of Lumad schools by the Armed Forces of the Philippines and the Philippine National Police, food blockades against Lumad communities, the capturing of ancestral lands from indigenous Lumad, the killing of suspected Lumad alleged to be affiliated with rebel groups, the censorship of various media outlets in Lumad communities, and the killing of numerous Lumad leaders. Martial Law in Mindanao has also resulted in the occupation of indigenous communities and schools by military and para-military forces. Since the opening of the school year in May 2018, Save Our School Network has recorded seven cases of military encampment in Salugpongan Ta Tunu Igkanugon Community Learning Center schools in Talingod. Since the implementation of Martial Law in Mindanao in 2017, all of the 180 Lumad Schools in Mindanao have been closed by military occupation or via order from the Department of Education. In Central Luzon thousands of Aeta are being displaced without compensation as a result of the massive New Clark City development. Planned hydroelectric projects associated with the New Clark City project will also flood upland valleys displacing more Aeta communities. These communities are now increasingly militarized.

¹² Karapatan Monitor, Issue No.2 April-June 2017. P. 9

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8. Attacks on Human Rights Defenders

Attacks on Human Rights defenders continue to intensify across the Philippines. Human Rights defenders were the most targeted political group since Duterte came to power in June 2016, with 167 human rights defenders killed over that period. Civil society organizations including Human Rights groups, humanitarian NGO's and sectoral groups such as Karapatan have been stigmatized by public vilification campaigns linked to Executive Order 70, where by leaflets, posters and flyers have proliferated on-line and in public spaces. At least 12 Human Rights workers from Karapatan have been killed after public statements to incite violence against individuals. ICHRP Canada is alarmed at the new level of impunity and the deterioration of the rights situation and democratic spaces. The Duterte government's track record regarding human rights and democracy is alarming. Its campaign to silence any opposition to its authority is characterized by the same scale and ruthlessness with which it wages the brutal drug war. In both its wars on drugs and on political opposition, the Duterte government is running rough shod over human rights and the rule of law, sanctioning the use of extra-legal means, including extrajudicial killings. It has weaponized the legal system against its political opponents, critics of its policies and human rights defenders. Under the Duterte Governments counter-insurgency program and Executive Order 70, Martial Law is virtually in place all across the country. Since it assumed power in 2016. the Duterte government has systematically and rapidly disabled and dismantled the country's democratic systems and institutions.

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Recommendations:

1. For the UN Human Rights Council to adopt a resolution providing for the initiation of an independent fact-finding mission or a Commission of Inquiry regarding the Human Rights Situation in the Philippines.
2. For the Philippine government to officially invite UN special procedures¹³, including those on extrajudicial killings, human rights defenders, indigenous peoples, political prisoners, freedom of association and peaceful assembly freedom of expression, to conduct independent investigation on allegations of rights violations in the Philippines.
3. For the Philippine government to stop extrajudicial killings, enforced disappearances, torture, illegal or arbitrary arrests and detention and other human rights violations and provide measures to ensure accountability of perpetrators.
4. For the Philippine government to rescind its policies and program pertaining to its campaign against illegal drugs and counterinsurgency campaigns that gravely impact on the human rights situation.
5. For the Philippine government to release all political prisoners and to halt the policy and practice of judicial harassment, criminalization of human rights work and political dissent.

¹³ Special procedures are individual independent human rights experts, or groups of such experts, who report and advise on human rights issues. They are called by many names including Special Rapporteurs, Special Representatives, Working Groups, and Independent Experts.

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6. For the Philippine government to work for the legislation of the Human Rights Defenders Protection Bill.
7. The Philippine government should put an end to the practice of red-tagging and end the public disclosure of drug lists.
8. The Philippine government should allow Lumad schools to re-open and reinstate their charters under the Department of Education.
9. For the Philippine government to abide by all international instruments pertaining to human rights and international humanitarian law.
10. For the Philippine government to demilitarize Marawi City and provide full compensation to the original inhabitants for loss of domicile and loss of livelihood, to all for the reconstruction of their homes.