



INTERNATIONAL PEOPLE'S TRIBUNAL

KATARUNGAN: The Filipino People vs. The U.S. Government, Marcos and Duterte Regimes

INTERNATIONAL PEOPLE'S TRIBUNAL ON WAR CRIMES IN THE PHILIPPINES

Brussels, Belgium

2024

THE FILIPINO PEOPLE,

Complainants,

-versus-

For:

**VIOLATIONS OF
INTERNATIONAL
HUMANITARIAN
LAW OR WAR
CRIMES**

**PRESIDENT FERDINAND ROMUALDEZ
MARCOS JR., FORMER PRESIDENT
RODRIGO ROA DUTERTE, the
GOVERNMENT OF THE REPUBLIC OF THE
PHILIPPINES, PRESIDENT JOSEPH R.
BIDEN, and the GOVERNMENT OF THE
UNITED STATES OF AMERICA,**

Defendants.

X- -X

INDICTMENT

COMPLAINANTS, by counsel, aver that:

I. PREFATORY STATEMENT

1. The Philippines is in the midst of a decades-long armed conflict between the Government of the Republic of the Philippines (GRP), backed by the government of the United States of America, and revolutionary forces represented by its political authority the National Democratic Front of the Philippines (NDFP).

2. The NDFP, through its armed component, the New People's Army (NPA), wages a war of national liberation in the exercise of the Filipino people's inherent right of self-determination. This right, along with the concomitant right to engage in armed struggle in the exercise thereof, is recognized under international law. The response of the GRP, with the full support of the US government, has been the violent repression of the Filipino people through counterinsurgency and "counterterrorism" campaigns, the restriction of civic space and curtailment of democratic rights, and widespread violations of human rights and international humanitarian law (IHL). The extents of these human rights violations are well-documented and were the subject of judgments emanating from earlier people's tribunals, including, among others:

3. The Permanent People's Tribunal (PPT) held session in The Hague, The Netherlands on March 21-25, 2007 on charges brought by numerous human rights and people's organizations against the GRP under then President Gloria Macapagal-Arroyo and the US government under then President George W. Bush for: (a) gross and systematic violations of civil and political rights, including extrajudicial killings, abductions, disappearances, massacre and torture; (b) gross and systematic violations of economic, social and cultural rights; and (c) gross and systematic violations of the rights to self-determination and liberation.

4. The PPT ruled that all three charges were substantiated, and that "the systematic nature of the violations of the rights of the Filipino people committed by the governments of Mrs. Gloria Macapagal-Arroyo and with the support and full awareness of the government of George Walker Bush, qualify the same violations as crimes against humanity".¹

5. On July 16-18, 2015, an International People's Tribunal was convened in Washington, D.C., USA (the Washington Tribunal) to hear charges of widespread human rights violations likewise brought by local and foreign organizations against the GRP and US government, under then President Benigno Aquino III and President Barack Obama, respectively, the International Monetary Fund (IMF), the World Bank (WB), the World Trade Organization (WTO), and transnational corporations and foreign banks doing business in the Philippines.

6. The Washington Tribunal found the defendants guilty of:

(a) gross human rights violations involving extrajudicial killings, enforced disappearances, massacres, torture, arbitrary arrests and detentions, and brutal and systematic abuses and attacks on fundamental rights;

(b) gross and systematic violations of economic, social, and cultural rights through the imposition of neoliberal and "free market" policies leading to the exploitation of the Filipino people, the transgression of their economic sovereignty and plunder of national patrimony and economy, attacks on people's livelihoods, and environmental destruction; and

(c) gross and systematic violations of the Filipino people's rights to self-determination and liberation through US military intervention and its so-called "war of terror", the perpetration of crimes against humanity and war crimes, the misrepresentation of the exercise of the people's right to self-determination and liberation as "terrorism", and

the baseless designation of individuals, organizations, and other entities as “terrorists” by the US and other governments.

7. Thereafter, the International People’s Tribunal on the Philippines was convened on September 18-19, 2018 in Brussels, Belgium (the Brussels I Tribunal) and heard charges against the GRP and US government, under then President Rodrigo Duterte and President Donald Trump, respectively, the IMF, WB, WTO, and transnational corporations and foreign banks doing business in the Philippines.

8. The charges involved:

(a) gross and systematic violations of civil and political rights, particularly extrajudicial killings, massacres, arbitrary arrests and detentions, torture, political persecution, attacks on media, and multiple rights violations arising from the imposition of martial rule in Mindanao;

(b) gross and systematic violations of economic, social and cultural rights, with focus on labor, peasant, women, and migrants rights, and the rights to education, livelihood and housing, through the imposition of neoliberal policies and other imperialist impositions to exploit the people; transgression of their economic sovereignty and national patrimony; and various forms of economic plunder; and

(c) gross and systematic violations of the people’s rights to self-determination and development, violations of international humanitarian law with focus on attacks on civilian communities and schools, massacres of *hors de combat*, “terrorist” labeling and profiling, destructive mining and environmental degradation, and crimes against humanity; and misrepresentations and attacks on the people’s right to national liberation. The defendants were adjudged guilty of all three charges which the tribunal concluded involved conduct amounting to war crimes and crimes against humanity.

9. In the years that followed, reports from human rights and people’s organizations in the Philippines, fact-finding missions, and United Nations agencies and experts confirmed that the policies of the GRP and US government which created and maintained the conditions leading to widespread human rights violations remain firmly in place. As the Filipino people’s resistance to these policies grew, so too did the repressive measures undertaken by the GRP, primarily through its security forces and with the full backing of the US government.

10. In particular, the GRP’s counterinsurgency and “counterterrorism” campaigns intensified both in terms of scale and brutality, resulting in conduct that constitute crimes under international law. The findings of the Brussels I Tribunal indicated that that the atrocities carried out by state forces were systemic in nature and that war crimes and crimes against humanity were committed by the GRP. The deepening of the GRP-NDFP conflict has led to an increase in reported violations attributed to state forces.

11. The present Indictment containing the charges enumerated hereunder, covering conduct taking place after the Brussels I Tribunal (September 2018 – April 2024), are brought before the International People’s Tribunal on War Crimes in the Philippines.

II. PARTIES

12. The Indictment is brought by the **FILIPINO PEOPLE**, at the instance of the individual victims of rights violations and their families, particularly the peasants, workers, urban and rural poor, fisherfolk, women, youth and students, indigenous peoples and national minorities, migrants, religious, journalists, legal professionals, and human rights defenders –

hereinafter collectively referred to as the “**Complainants**”.

13. The Indictment is made against:

PRESIDENT FERDINAND ROMUALDEZ MARCOS JR., the current President of the Philippines;

Former PRESIDENT RODRIGO ROA DUTERTE, Marcos Jr.’s predecessor;

The GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES;

PRESIDENT JOSEPH R. BIDEN, the current President of the United States of America; and

The GOVERNMENT OF THE UNITED STATES OF AMERICA,

hereinafter collectively referred to as the “**Defendants**”.

III. CHARGES

- I. **Serious violations of the laws applicable in armed conflict that constitute WAR CRIMES involving: the killing and massacre of civilians, the abduction, torture and other forms of cruel, degrading and inhuman treatment of civilians, directing attacks against civilians and civilian objects, the forced displacement of civilians, acts or threats of violence intended to spread terror among the civilian population, hamleting villages and communities and impeding humanitarian aid and relief, and the use of means and methods of warfare that are indiscriminate, cause superfluous injury or unnecessary suffering, or cause widespread, long-term and severe damage to the natural environment;**
- II. **Killing of persons *hors de combat* and members of the NDFP that do not perform combat functions, the desecration of bodies of slain combatants, outrages upon their personal dignity, the abduction, torture and**

other forms of cruel, degrading and inhuman treatment of the said persons; and

- III. Attacks, killings, abduction, arrests, detention, torture and other forms of cruel, inhuman and degrading treatment of NDFP consultants, peace advocates, activists, human rights and environmental defenders, humanitarian aid workers, journalists, and members of organizations red-tagged or terrorist-tagged as “fronts” of the Communist Party of the Philippines (CPP), the NPA, and the NDFP,**

committed in the context of the armed conflict between the Government of the Republic of the Philippines, aided and supported by the US Government, and the NDFP.

IV. ALLEGATIONS

Context: GRP-NDFP conflict

14. Since the re-establishment of the CPP in December 1968 and the NPA in March 1969 until the present, an armed conflict has existed between, on the one hand, revolutionary forces forming the NDFP and, on the other, the GRP backed by the US Government.

15. The war is fought in each of the Philippines' three major island groups (Luzon, Visayas, and Mindanao). The NPA, under the full command of the CPP, reportedly operates in 14 regional commands spread across the country's 17 administrative regions.

16. Against its adversary, the GRP deploys the full weight of the Armed Forces of the Philippines (AFP), the Philippine National Police (PNP), and government-trained paramilitary forces such as the Civilian Armed Forces Geographical Unit (CAFGU), death squads and mercenaries, and other similar groups which serve as an auxiliary force for the AFP. In Mindanao, the GRP also arms and employs militias such as the *Alamara* against civilian communities seen as sympathetic to the NPA.

17. Hostilities between the NPA and state forces occur regularly, the scale of which range from brief clashes between small fighting units to large-scale engagements involving battalion-size formations. By all accounts, the GRP-NDFP conflict satisfies the intensity and organizational thresholds for the existence of an armed conflict, triggering *ipso facto* the application of IHL.

18. The NDFP and the GRP intermittently engaged in peace talks resulting in multiple joint statements and agreements, including the 1992 GRP-NDFP Hague Joint Declaration whereby the parties set forth the purpose, nature and substantive agenda for the formal negotiations; the 1995 GRP-NDFP Joint Agreement on Safety and Immunity Guarantees (JASIG) which guarantees safe conduct and protection for peace negotiators and consultants; and the 1998 Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL),

whereby both parties recognized the existence of an armed conflict, agreed on the application of IHL and human rights rules, and created a joint monitoring committee to monitor observance of human rights and IHL rules and to accept complaints concerning violations thereof.

19. The NDFP unilaterally committed to apply Additional Protocol I of the 1949 Geneva Conventions when it issued an Article 96 Declaration of Undertaking in July 1996². The NDFP demonstrated that its armed struggle against US imperialism and the GRP, which serves as a puppet government of the US, is a national liberation movement exercising the Filipino people's right of self-determination as understood in Additional Protocol I, and that the NDFP has the status of a co-belligerent under international law.

GRP counterinsurgency campaign

20. Despite the GRP's own commitments, reflected in the CARHRIHL, to respect IHL and human rights in its war against the NDFP, and its obligations arising from treaty and customary international law, the counterinsurgency campaign waged by the GRP is marked by widespread and systematic human rights and IHL violations, ranging from the murder and torture of persons *hors de combat* and unarmed NDFP consultants, to the indiscriminate use of force and the deliberate targeting of civilians, to massacres and forced displacement of entire communities, to abductions and enforced disappearances. Such atrocities amount to crimes under international law and, in the context of an armed conflict, war crimes.

21. The GRP's counterinsurgency campaign came to be identified by different names: *Oplan Lambat Bitag* under the Corazon Aquino and Ramos administrations, *Oplan Bantay Laya* under the Macapagal-Arroyo administration, *Oplan Bayanihan* under the Benigno Aquino III administration, and *Oplan Kapayapaan* under the Duterte administration.

22. This counterinsurgency campaign, especially its permutations under *Bayanihan* and *Kapayapaan*, deceptively portrays itself as departing from the military-centric, clear-hold-build approach towards a more people-centered approach that focuses on developing conflict areas. Under Duterte, the GRP formally adopted and institutionalized the "whole-of-nation approach" which claims to "prioritize and harmonize the delivery of basic services and social development packages in conflict-affected areas and vulnerable communities, facilitate societal inclusivity, and ensure active participation of all sectors of society".³

23. The GRP is doubling down under the Marcos Jr. administration when, in its National Security Policy 2023-2028, it declares that it "shall strengthen the whole-of-nation approach in attaining inclusive and sustainable peace" and ensure that its so-called peace gains are "sustained through more focused development interventions in all cleared barangays and communities."⁴

24. Events under the current and previous administrations belie any claim of people-centeredness. At its core, the GRP's counterinsurgency strategy is patterned after the US model, which remains military-centered albeit with the

trappings of civil-military operations and “development” work designed to give the illusion that the state is addressing the roots of armed conflict.

25. The provision of humanitarian and development aid is, in fact, determined by and ultimately serves military objectives instead of the socio-economic needs of the beneficiary population. Under this model, the structural causes of poverty such as landlessness, unemployment, low wages, and inadequate social services as well as systemic issues giving rise to human rights violations are completely ignored.

26. Each of the annual national budgets enacted by the GRP in the last three years (2022-2024) gave a larger allocation for defense than it did for agriculture, agrarian reform, and food security. A similarly sizeable budget is given separately to the police force, itself responsible for some of the worst atrocities documented including multiple massacres of activists and indigenous peoples. On top of that, the GRP is in the middle of a 15-year military modernization program for the purchase of modern combat planes, attack helicopters, ships, drones, and bombs.

US involvement in counterinsurgency

27. The GRP’s foreign and domestic policies remain subservient to and are dictated by the United States. In national security terms, this subservience is reflected in US involvement in the campaign against the NDFP through policy-setting, training in counterinsurgency warfare, financing and supply of weapons and war material used against civilians and revolutionaries alike.

28. In the last decade, with America’s so-called “pivot” to Asia as part of a scrambling effort to contain an emerging rival in the People’s Republic of China, US military presence in the Asia-Pacific, and the Philippines in particular, and its involvement in counterinsurgency has only increased. Through policy direction and a steady supply of funds, equipment, and training, the US government is pushing the GRP to quash the NDFP in order to secure the former’s hold in the region.

29. Much of the military equipment and training procured by the GRP came from the US and have been used to commit widespread IHL and human rights violations. The GRP is the largest recipient of US military assistance in the Indo-Pacific region, with more than \$1.14 billion worth of equipment and training delivered since 2015.⁵

30. In October 2022, active arms sales to the Philippines under the US foreign military sales system were at \$1.033 billion, with hundreds of millions more in direct commercial sales.

31. The GRP and US armed forces regularly conduct military exercises with 1,321 bilateral exercises in the 2015-2020 period alone. In April 2023, it involved more than 5,000 Filipino and 12,000 American soldiers. In April-May 2024, a joint force of around 16,700 troops participated in such exercises dubbed as “Balikatan” or “shoulder to shoulder”.⁶

32. In April 2023, the US and Philippine governments adopted the Bilateral Defense Guidelines “to modernize alliance cooperation in service of the United States and the Philippines’ shared vision for a free and open Indo-Pacific region.”⁷ The guidelines reiterated the 1951 Mutual Defense Treaty and called for, among others, the deepening of US-Philippine defense interoperability through the Enhanced Defense Cooperation Arrangement (EDCA).

33. Prior to the adoption of the guidelines, Marcos announced the establishment of four additional EDCA sites in Cagayan, Isabela and Palawan in February 2023, increasing the total number of EDCA sites to nine. Following the April 2024 US-Philippines Bilateral Strategic Dialogue in Washington, the Biden-Marcos partnership announced the earmarking of \$128 million for infrastructure to build more EDCA sites.⁸

34. The US-Marcos partnership also plans to conclude the Philippines – Security Sector Assistance Roadmap (P-SSAR) as well as a General Security of Military Information Agreement within 2024.⁹ According to the Institute for Security Governance, overseeing the design and implementation of the roadmap, the PSSA-R “aims to address shared security challenges by investing in capabilities agreed upon bilaterally, fostering efficiency in the expenditure of foreign military financing (FMF) and International Security Cooperation Program (ISCP) funds.”¹⁰

IHL and human rights violations

35. Since September 2018, when the Brussels I Tribunal came up with its judgment which concluded that the GRP committed war crimes and crimes against humanity, similar conduct continued and even intensified.

36. With greater resources and modern weaponry at its disposal, the AFP intensified its operations and frequently resorted to airstrikes, artillery bombardment, and strafing in rural areas with civilian communities and farmlands. These indiscriminate attacks terrorized and displaced the residents in these areas and led to the forced evacuation of almost half a million people under the Duterte administration (2016–2022), and such attacks continue under the current Marcos administration. Entire families are uprooted from their ancestral lands and forced to relocate to other areas with little or no government support, while children are forced to abandon school.

37. Deliberate attacks against protected persons are carried out through the extrajudicial killing of civilians as well as persons *hors de combat* during AFP and PNP operations. The GRP attempts to cover up these crimes through widespread disinformation and AFP/PNP reports containing fabricated accounts of the circumstances surrounding the killings, particularly, by claiming that the civilians were rebels who died during “encounters” or that persons *hors de combat* were killed during firefights.

38. The practice of “throw-downs” or placing firearms on or near the bodies of the victims is commonplace, making it appear that they fought back prior to being killed. These methods are essentially similar to those used to cover up extrajudicial

killings by the Colombian military in *falsos positivos* (false positives) cases during its counterinsurgency campaign, by Australian special forces in the murder of civilians in Afghanistan, and by the PNP in executions carried out during anti-narcotics operations.¹¹

39. Another method involves the murder of civilians – NDFP consultants, peace advocates, activists, human rights and environmental defenders, journalists, and unarmed members of the NDFP tasked with non-combat functions – by suspected state forces in vigilante-style killings. The GRP denies involvement in these assassinations, but prior to the murders, the victims are subjected to state surveillance, threats, harassment, trumped-up charges, and red-tagging¹².

40. These cases are left unresolved, with no genuine investigations conducted by law enforcement agencies. Notably, the agencies primarily tasked to investigate these atrocities, the PNP and the Department of Justice, are themselves complicit in numerous IHL and human rights violations.

41. The GRP has also increasingly resorted to torture, abductions and enforced disappearance of persons suspected of being members of the CPP-NPA-NDFP, sympathizers or supporters, or members of organizations frequently red-tagged by the GRP. Despite efforts to deny its involvement in these incidents, many of the victims eventually turned up in the custody of the AFP, confirming that the GRP is engaged in the systematic kidnapping and torture of protected persons.

42. The militarization of civilian communities is another integral part of the GRP's counterinsurgency strategy. Under its Re-tooled Community Support Program and similar programs for civil-military operations, the GRP deploys military units that encamp in civilian communities for weeks or months at a time.

43. Soldiers use civilian infrastructure such as community centers, health facilities, and schools as military outposts or barracks. They hamlet villages, monitor and restrict the movement of residents, and impose curfews. They also go on armed patrols, set up checkpoints, and force residents to act as guides and human shields when operating in the area.

44. Military units also carry out surveillance activities, and conduct warrantless searches of homes. Under coercive and intimidating circumstances, soldiers interrogate residents, gather their personal information and seek out members of people's organizations who are then red-tagged, harassed, and subjected to attacks and other human rights violations. Moreover, the residents of militarized communities are threatened or discouraged from joining or engaging with people's organizations.

45. As part of its counterinsurgency strategy, government aid, in the form of financial subsidies and projects under the Barangay Development Program (BDP), is made available to communities that have been "cleared" of rebels and organizations red-tagged as "fronts" of the CPP-NPA-NDFP. The delivery of aid becomes contingent on military involvement and approval, effectively undermining the local civilian government in these areas and making the latter subservient to military policies and directives.

46. The AFP resorts to the practice of “forced surrenders” under the Enhanced Comprehensive Local Integration Program (E-CLIP) and similar programs implemented throughout the country. Civilians in militarized communities are coerced into making false declarations that they are members of the CPP-NPA-NDFP who were surrendering to avail of government aid.

47. On occasion, these activities are carried out *en masse*. Soldiers gather civilians in village centers, have them hold rebel flags and firearms provided by the military for photographs, then declare them as “rebel returnees” reintegrating into society. The government claims that in the 2016-2021 period alone, it facilitated the surrender of 25,000 rebels, even though the military claimed in 2013 that only around 4,000 rebels remained.

48. Aside from institutionalizing the whole-of-nation approach, Executive Order No. 70 created the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC), an inter-agency body that would eventually lead the crackdown on civil society, the persecution of activists and people’s organizations, and the GRP’s red-tagging and disinformation campaign. Under E.O. 70, all government agencies must cooperate with the NTF-ELCAC.

49. In June 2020, the GRP enacted Republic Act No. 11479 or the Anti-Terrorism Act (ATA). This draconian law utilizes vague and overbroad definitions of terrorism and terrorism-related offenses and unduly expanded state authority to allow warrantless arrest and detention based on mere suspicion of “terrorist” activities, the imposition of travel restrictions, the conduct of surveillance, government access to bank and other financial records, and seizure of private property. The ATA also enables the GRP, through its Anti-Terrorism Council to designate any organization or person as a “terrorist” without prior notice or an opportunity to be heard and to refute the charges.

50. The GRP weaponized its laws and legal procedures to justify the persecution of individuals and organizations based on their political beliefs and affiliations, and to carry out IHL and human rights violations.

51. These methods include the improvident and shotgun issuance of judicial warrants, the simulated service of legal notices to fictitious addresses, the planting and fabrication of evidence and use of perjured professional witnesses, the filing of trumped-up charges especially in remote places the accused have never been to in their lives, the terrorist-designations rendered without due process, the freezing and seizure of property intended for humanitarian and human rights work, and the arrest and detention of NDFP peace consultants, peace advocates, activists, human rights and environmental defenders, humanitarian aid workers, and journalists particularly on non-bailable charges. The GRP also used search warrants as a pretext for joint AFP-PNP raids whereby state forces massacred civilians in different provinces across the country.

Extent and impact of violations

52. Under the Duterte administration (July 2016–June 2022), there were 442 documented victims of extrajudicial killings (EJKs) carried out as part of the GRP’s counterinsurgency campaign, with another 574 victims of frustrated EJKs. During this period, 26 massacres (three or more victims in a single incident) were carried out by state forces. There were also 233 victims of torture; 21 victims of enforced disappearance; and 4,298 victims of arbitrary deprivation of liberty (1,341 arrests and detention, 2,957 arrests without detention).¹³

53. Only a year-and-a-half into the presidency of Ferdinand R. Marcos Jr. (July 2022 – December 2023), there were 89 victims of extrajudicial killings and 53 victims of frustrated EJKs. Five massacres had been documented with children and elderly women among the victims. In the same period, there were 18 cases of torture and 329 of arbitrary deprivation of liberty (122 arrests and detention, 207 arrests without detention).

54. As of April 2024, there were already 23 documented cases of enforced disappearance under the Marcos Jr. administration, already exceeding the total under Duterte’s. In some cases, after continuous pressure from human rights groups to surface the victims, the AFP presented them as “rebel returnees”, claims belied by the victims themselves who gave harrowing accounts of their abduction. The vast majority of victims, however, remain missing and are among more than 2,100 abducted activists who are yet to be found.¹⁴

55. Units of the AFP and PNP militarized and attacked communities and abducted, tortured, and killed civilians, including indigenous peoples, in the provinces of Abra, Albay, Antique, Batangas, Benguet, Bohol, Bukidnon, Bulacan, Cagayan, Camarines Sur, Capiz, Cavite, Cebu, Cotabato, Davao de Oro, Iloilo, Kalinga, Laguna, Lanao del Norte, Lanao del Sur, Leyte, Maguindanao, Masbate, Negros Occidental, Negros Oriental, Nueva Ecija, Occidental Mindoro, Oriental Mindoro, Palawan, Quezon, Rizal, Samar, Sarangani, Sorsogon, South Cotabato, Surigao del Norte, Surigao del Sur, among others.

56. The subjects of these attacks included schools that served indigenous communities, such as the *Salugpungan* schools which were set up by non-profit organizations to provide education services to *Lumad* communities in Mindanao. They were forced to close down following orders from the GRP’s Education Department and threats from military and paramilitary forces. Former President Duterte himself publicly threatened to bomb these schools. *Salugpungan* teachers, staff, and students were harassed, red-tagged, threatened, and even killed, while school facilities were strafed and destroyed.

57. There were 481,918 victims of forced displacement due to airstrikes, shelling, and military operations from July 2016 to June 2022.¹⁵ AFP launched bombing campaigns in 36 out of the country’s 82 provinces, with more than 60% of bombing raids occurring in Mindanao. Since President Marcos Jr. took office, counterinsurgency operations led to the displacement of another 24,670 persons.¹⁶

58. The AFP and PNP also abducted, tortured, and killed CPP members and NPA fighters whom they captured or those already wounded, sick, or were no

longer taking part in armed hostilities. Some of the victims were seeking medical attention when they were abducted and subsequently executed by state forces. NDFP consultants were also assassinated while in transit or in their own homes by suspected state agents. In some cases, the victims' bodies were transported to different locations where state forces could stage "encounters" to justify the murders.

59. Among the persons *hors de combat* abducted and tortured were pregnant members of the NPA. Government forces also held the children of alleged NPA members hostage and threatened their families in order to force guerillas to surrender.

60. Attacks against civil society actors have focused on activists and members of, among others:

- progressive groups such as *Bagong Alyansang Makabayan* (New Patriotic Alliance);
- networks for indigenous peoples like the Cordillera People's Alliance, the *SANDUGO* Movement of Moro and Indigenous Peoples for Self-determination, and *TUMANDUK*;
- labor unions, federations, and organizations such as *Kilusang Mayo Uno* (May One Movement);
- organizations for peasants, small farmers, and farm workers like the *Kilusang Magbubukid ng Pilipinas* (Peasant Movement of the Philippines) and the *Unyon ng mga Manggagawa sa Agrikultura* (Union of Agricultural Workers);
- GABRIELA – National Alliance of Women;
- youth and student groups like *Anakbayan* and the League of Filipino Students;
- environmental organizations such as Kalikasan People's Network for the Environment and Center for Environmental Concerns;
- Urban poor alliance *Kalipunan ng Damayang Mahihirap* and its member organizations;
- human rights alliance *Karapatan* and human rights lawyers' group the National Union of Peoples' Lawyers;
- independent or alternative media outfits *Bulatlat* and *Altermidya* People's Alternative Media Network, Inc.;
- progressive government workers' organizations like the Confederation for Unity Recognition and Advancement of Government Employees and the Alliance of Concerned Teachers;
- progressive party-lists *Kabataan Partylist*, *Gabriela Women's Party*, *ACT Teachers Partylist*, *Bayan Muna*, and *Anakpawis*;
- migrant groups like *Migrante*;
- entities providing specialized services such as *IBON Foundation*, *Save our Schools (SOS) Network*, and the *Alternative Learning Center for Agricultural and Livelihood Development*; and

- faith-based, humanitarian groups like the Rural Missionaries of the Philippines (RMP); the United Church of Christ in the Philippines and the *Iglesia Filipina Independiente*.

61. Through the Anti-Terrorism Council (ATC), the GRP designated the NDFP, its member-organizations, individual members, as well as NDFP consultants, activists, and leaders of people's organizations as terrorists.¹⁷ The assets of persons and entities suspected of having connections with the NDFP, despite the absence of credible and competent proof therefor, were frozen and subjected to confiscation proceedings, including funds intended for humanitarian work.

62. Using fabricated evidence and false testimonies, the GRP brought trumped-up charges for terrorism, terrorism-related offenses, illegal possession of firearms and explosives, rebellion, murder, homicide or attempts thereof, arson, and other crimes in order to justify the arrest, detention, or persecution of NDFP peace consultants, peace advocates, activists, human rights and environmental defenders, humanitarian aid workers, and journalists. There are, at present, 799 political prisoners in the Philippines, including 188 sick or elderly individuals, 164 women, and 17 NDFP consultants.¹⁸

Characterization of criminal conduct

63. The GRP, in the course of its counterinsurgency campaign and through its various departments, agencies, offices, units, officials and agents, and represented by Defendant President Ferdinand R. Marcos Jr., in whom executive power is vested and who serves as commander-in-chief of the AFP, engaged in, among others, the following CRIMINAL CONDUCT in the context of the GRP-NDFP armed conflict:

- a. Willful killing of civilians;**
- b. Intentionally directing attacks against civilian populations and against individual civilians not taking direct part in hostilities;**
- c. Willful killing of persons no longer taking an active part in hostilities or those rendered *hors de combat*;**
- d. Torture, and other forms of cruel, degrading and inhuman treatment;**
- e. Desecration of bodies of combatants, the commission of outrages upon personal dignity, and humiliating and degrading treatment;**
- f. Abduction, detention, and enforced disappearance;**
- g. Collective punishment of communities or local populations and reprisal killings of protected persons;**
- h. Intentionally directing attacks against civilian objects, including residences, farmhouses, and other privately-owned properties, schools, health facilities, and community centers;**
- i. Using weapons and methods of warfare which, by their nature, cause superfluous injury or unnecessary suffering;**

- j. Using indiscriminate weapons;**
- k. Launching indiscriminate attacks resulting in loss of life or injury to civilians or damage to civilian objects;**
- l. Use of means and methods of warfare expected to cause widespread, long-term and severe damage to the natural environment;**
- m. Impeding humanitarian aid and relief supplies intended for civilians and civilian communities;**
- n. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population;**
- o. Utilizing the presence of civilians or protected persons to render certain points, areas or military forces immune from military operations; and**
- p. Forcibly displacing the civilian population through aerial and artillery bombardment, military operations, and attacks against civilians.**

64. The US government, represented by President Joseph R. Biden, aided, assisted, and provided the means necessary for the commission of the aforementioned criminal conduct through the provision of military equipment and training, financial and intelligence support, diplomatic cover, and other forms of support to the GRP in its counterinsurgency campaign.

65. The victims of the aforementioned criminal conduct, all of whom enjoyed the status of protected persons under IHL, include:

- a. Individual civilians and civilian populations, including indigenous peoples and communities;
- b. Members of the NPA who have been rendered *hors de combat*;
- c. Members of revolutionary organizations that form part of the NDFP who do not perform combat functions;
- d. NDFP peace consultants, peace advocates, activists, human rights and environmental defenders, humanitarian aid workers, and journalists;
- e. People's organizations, humanitarian and human rights organizations, environmental groups, labor unions and federations, and faith-based organizations and the individual members of the said organizations that have been red-tagged or labeled as "fronts" of the CPP-NPA-NDFP or as "terrorists";
- f. Individuals and communities suspected of being members, affiliates, supporters, or sympathizers of the CPP-NPA-NDFP; and
- g. The families of the aforementioned victims.

66. Additional information on the charges and specific allegations related thereto shall be provided and substantiated in the course of the Tribunal proceedings.

V. VIOLATIONS OF INTERNATIONAL LAW

67. The aforementioned conduct attributed to the Defendants are serious violations of IHL and gross violations of international human rights law rules and standards applicable in situations of armed conflict forming part of conventional or customary international law and reflected in the following instruments, among others:

- a. 1949 Geneva Conventions and the 1977 Additional Protocols;
- b. 1966 International Covenant on Civil and Political Rights (ICCPR) and its Optional Protocols;
- c. 1966 International Convention on Economic, Social and Cultural Rights (ICESCR);
- d. 1966 Convention on the Elimination of All Forms of Racial Discrimination (CERD);
- e. 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- f. 1980 Convention on Certain Conventional Weapons (CCW) and its Protocols;
- g. 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- h. 1989 Convention on the Rights of the Child (CRC) and its Optional Protocols;
- i. 1998 Rome Statute of the International Criminal Court;
- j. 2006 Convention for the Protection of All Persons from Enforced Disappearance (CED);
- k. 1948 Universal Declaration of Human Rights (UDHR);
- l. UN General Assembly Resolution 95(I)(1946) Affirmation of the Principles of International Law recognized by the Charter of the Nuremberg Tribunal;¹⁹
- m. 1992 GRP-NDFP Hague Joint Declaration;
- n. 1995 GRP-NDFP Joint Agreement on Safety and Immunity Guarantees (JASIG);
- o. 1998 GRP-NDFP Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL);
- p. 1998 UN Declaration on the Rights of Human Rights Defenders;²⁰
- q. 2005 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law;²¹
- r. 2007 UN Declaration on the Rights of Indigenous Peoples;²²
- s. 2015 UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules);²³ and

- t. Pertinent UN General Assembly resolutions affirming the legitimacy of national liberation movements, the right of peoples to self-determination and the right to resort to armed struggle in the exercise thereof.²⁴

68. Furthermore, the conduct attributed to the Defendants are serious violations of customary international humanitarian law,²⁵ binding on states and parties to an armed conflict irrespective of treaty obligations, and of *jus cogens* norms, as well as generally accepted principles of law.

69. During the course of the proceedings and in subsequent submissions, references shall be made to the relevant convention, instrument, legal provision or rule vis-à-vis the specific violation being addressed.

VI. EVIDENCE

70. The specific allegations related to the charges shall be substantiated and proven by oral and written testimonies of victims, witnesses, resource persons and experts having knowledge of the issues and on the following specific incidents or emblematic cases which will be presented in open court before the Tribunal:

a. Under Defendant Duterte's term:

(1) Randall Echanis extrajudicial killing of peace consultant on August 10, 2020 in Quezon City, Luzon and on violations against peasant and land rights advocates and communities;

(2) Brandon Lee attempted killing of civilian on August 6, 2019 in Ifugao, Luzon;

(3) J Evelyn Cullamat desecration of remains of combatant on November 28, 2020 in Surigao del Sur, Mindanao;

(4) Tumandok massacre of civilians, fake surrender and denial of humanitarian aid on December 30, 2020 in Capiz, Visayas;

(5) New Bataan 5 massacre of unarmed civilians on February 23, 2022 in Davao del Oro, Mindanao;

b. Under Defendant Marcos Jr.'s term:

(6) Jhed Tamano and Jonila Castro fake and forced surrenders of unarmed civilians on September 2, 2023 in Bataan, Luzon;

(7) Dexter Capuyan and Gene Roz de Jesus enforced disappearance on April 28, 2023 in Rizal, Luzon;

(8) Kalinga communities aerial bombing, shelling, military occupation of civilian communities, hamletting, denial of humanitarian access, arbitrary detention and attempted killing on March 5, 2023 in Kalinga, Luzon;

(9) Fausto family killing of unarmed civilians, including minor children, and use of civilians as guide in combat operations on June 14, 2023 in Negros Occidental, Visayas;

(10) Bilar 5 *hors de combat* killing on February 23, 2024; and

(11) Hailey Pelayo terrorist labelling, false charges, killing of unarmed civilians including minor children in August 2023 in Southern Tagalog, Luzon.

71. Apart from these emblematic cases, there are other significant incidents that would illustrate the breadth, magnitude and intensity of IHL violations, the executive summaries of which shall be submitted before the Tribunal, namely:

- (a) Rural Missionaries of the Philippines and Rural Missionaries of the Philippines-Northern Mindanao arbitrary asset freezing and misuse of finance terrorism laws against religious organizations on December 26, 2019 in Manila;
- (b) Kerima Lorena "Ka Ella" Tariman killing of hors de combat on August 20, 2021 in Negros Occidental, Visayas;
- (c) Dr. Ma. Natividad Castro illegal arrest and detention, trumped up criminal cases and arbitrary terrorist designation on February 18, 2022 in Metro Manila, Luzon;
- (d) Jacolbe family killing of pregnant woman and minor on July 26, 2022 in Negros Oriental; Visayas;
- (e) Steve Tauli abduction and forced surrender of indigenous peoples' rights defender on August 20, 2022 in Kalinga, Luzon;
- (f) Adora Faye de Vera illegal arrest and detention and trumped up cases on August 24, 2022;
- (g) April Dyan Gumanao and Armand Dayoha abduction, forced surrender and torture on January 10, 2023; and

(h) Oriental Mindoro indiscriminate bombings and strafing of communities on May 8, 2023 in Oriental Mindoro, Luzon.

72. Additionally, there are about 481 complaints for 534 incidents of alleged violations of IHL against the GRP during the period July 2016 to June 2019 under Defendant Duterte filed before the Joint Monitoring Committee of the CARHRIHL, the abstracts of which shall also be submitted before the Tribunal.²⁶ Among these include:

(i) Noel Gulmatico torture and desecration of remains of *hors de combat* on July 1, 2016 in North Cotabato, Mindanao;

(ii) Remond and Gegi Lino killing of child of NPA father on July 12, 2017 in Compostela Valley, Mindanao;

(iii) NDFP consultant Lora Manipis and NPA commander Jeruel Domingo disappearance on February 24, 2018 in Kidapawan, Mindanao;

(iv) Patalunan massacre of farmers on May 13, 2018 in Camarines Sur, Luzon;

(v) Beverly Geronimo extrajudicial killing of farmer on May 26, 2018 in Agusan del Sur, Mindanao;

(vi) Antique 7 massacre of unarmed CPP and NDFP members on August 15, 2018 in Antique, Visayas; and

(vii) Marian Uy Jacob extrajudicial killing of human rights worker on September 23, 2018 in Maguindanao, Mindanao.

74. The violations continue as of date.²⁷

75. Other forms of evidence such as reports, statements, publications and similar documents, photographs, audio/video recordings, images, transcripts and summaries thereof will likewise be submitted in support of the charges and for the due consideration of the Tribunal.

May 9, 2024. Brussels, Belgium.

THE PANEL OF PEOPLE'S PROSECUTORS
Counsel for the Complainants

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¹ Permanent Peoples' Tribunal: Second Session on the Philippines, Indicting the U.S. Backed Arroyo Regime and its accomplices for Human Rights Violations, Economic Plunder and Transgression of the Filipino People's Sovereignty, Verdict (21-25 March 2007) p.12.

²

Additional Protocol I supplements the Geneva Conventions of 1949 and expands the application of the rules of war governing international armed conflicts to "armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist régimes in the exercise of their right of self-determination" (Article 1(4), Protocol I Additional to the 1949 Geneva Conventions). Prior to its Article 96 declaration in 1996, the NDFP, on 15 August 1991, unilaterally issued a Declaration of Adherence to International Humanitarian Law, signifying its commitment to IHL and the standards set forth in Common Article 3 of the 1949 Geneva Conventions and Additional Protocol II thereof.

³ Office of the President, Executive Order No. 70 s. 2018 'Institutionalizing the Whole-of-Nation Approach in Attaining Inclusive and Sustainable Peace, Creating a National Task Force to End Local Communist Armed Conflict, and Directing the Adoption of a National Peace Framework' (4 December 2018) Section 1.

⁴ Office of the President, National Security Policy 2023-2028 (August 2023) p.22.

⁵

U.S. Embassy Manila, Fact Sheet: U.S.-Philippines Defense and Security Partnership (11 February 2022), Accessed at <https://ph.usembassy.gov/fact-sheet-u-s-philippines-defense-and-security-partnership/#:~:text=The%20Philippines%20is%20the%20largest,and%20training%20to%20the%20Philippines.>

⁶ Reuters, Philippines, US troops begin annual combat drills (22 April 2024), Accessed at <https://www.reuters.com/world/philippines-us-troops-begin-annual-combat-drills-2024-04-22/>

⁷

US State Department, FACT SHEET: U.S.- PHILIPPINES BILATERAL DEFENSE GUIDELINES (May 2023), Accessed <https://www.defense.gov/News/Releases/Release/Article/3383607/fact-sheet-us-philippines-bilateral-defense-guidelines/>

⁸

Joint Statement on the Philippines-United States Bilateral Strategic Dialogue (24 April 2024), Accessed at <https://www.state.gov/joint-statement-on-the-philippines-united-states-bilateral-strategic-dialogue/>

⁹

Ibid.

¹⁰

Institute for Security Governance, TRANSFORMING ALLIANCES: THE PIVOTAL ROLE OF THE U.S.-PHILIPPINES BILATERAL STRATEGIC DIALOG IN REGIONAL SECURITY (31 January 2024), Accessed at <https://instituteforsecuritygovernance.org/-/transforming-alliances-the-pivotal-role-of-the-us-philippines-bilateral-strategic-dialog-in-regional-security>

¹¹

International Criminal Court, Situation in Colombia Interim Report (November 2012), accessed at <https://www.icc-cpi.int/sites/default/files/2022-09/OTPCOLOMBIAPublicInterimReportNovember2012.pdf>; Shannon Torrens, War Crimes in Afghanistan: the Brereton report and the Office of the Special Investigator (accessed 14 April 2024) https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BriefingBook47p/BreretonReport; ICC, Decision on the request for authorisation of investigation, ICC-01/21 (15 September 2021) accessed https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2021_08044.PDF.

¹² Red-tagging has been defined as “the malicious blacklisting of individuals or organizations critical or not fully supportive of the actions of a sitting government or administration as members of CPP-NPA”, and is considered “a pernicious practice that poses a threat to the security of activists”; Regional Trial Court of NCR Br. 19, *Department of Justice v. CPP-NPA* (Resolution of the DOJ petition to proscribe the CPP-NPA under Republic Act No. 9372) Case No. R-MNL-18-00925-CV (21 September 2022) p.130. See also *Zarate v. Aquino* G.R. No. 220028 (10 November 10, 2015) J. Leonen, dissenting.

¹³ KARAPATAN, Rodrigo Duterte and his crass legacy of mass murder and state terror: Term end report on the human rights situation in the Philippines, accessed 14 April 2024 at <https://www.karapatan.org/wp-content/uploads/2023/04/Duterte-Term-Ender-and-Marcos-Jr-6mos.pdf>.

¹⁴ Karapatan documented cases of enforced disappearance under previous administrations: Marcos Sr. – 1,000 (estimated), C. Aquino – 821, Ramos – 39, Estrada – 26, Macapagal-Arroyo – 206, B. Aquino III – 9, Duterte – 20.

¹⁵

KARAPATAN Duterte Term-end report, supra at 45.

¹⁶

KARAPATAN, The Monstrosity of Ferdinand Marcos Jr: 2023 year-end report on the human rights situation in the Philippines, accessed 14 April 2024 at https://www.karapatan.org/wp-content/uploads/2024/03/Karapatan_YearendReport2023.pdf.

¹⁷ Anti-Terrorism Council (ATC) Resolution No. 12-2020 (9 December 2020); ATC Reso. 17-2021 (21 April 2021); ATC Reso. 28-2022 (26 January 2022); ATC Reso. 31-2022 (25 May 2022); ATC Reso. 35 (7 December 2022); ATC Reso. 41 (7 June 2023) and ATC Reso. 53 (21 April 2024).

¹⁸ KARAPATAN 2023 Year-end report, supra at 36.

¹⁹

UNGA Res 95(I) (11 December 1946) UN doc A/RES/95.

²⁰

UNGA Res 53/144 ‘Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms’ (9 December 1998) UN doc A/RES/53/144.

²¹

UNGA Res 60/147 ‘Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law’ (15 December 2005) UN doc A/RES/60/147.

²² UNGA Res 61/295 (13 September 2007) UN doc A/RES/61/295.

²³

UNGA Res 70/175 (17 December 2015) UN doc A/RES/70/175.

²⁴

UNGA Res 1514(XV) (14 December 1960) UN doc A/RES/1514(XV); UNGA Res 2105(XX) (20 December 1965) UN doc A/RES/2105(XX); UNGA Res 2621 (12 October 1970) UN doc A/RES/2621; UNGA Res 2625(XXV) (24 October 1970) UN doc A/RES/2625(XXV); UNGA Res 3070(XXVIII) (30 November 1973) UN doc A/RES/3070(XXVIII); UNGA Res 3103 (12 December 1973) UN doc A/RES/3103; UNGA Res 32/14 (7 November 1977) UN doc A/RES/31/14; UNGA Res 37/43 (3 December 1982) UN doc A/RES/37/43; UNGA Res 48/94 (20 December 1993) UN doc A/RES/48/94.

In 2005 the International Committee of the Red Cross published the results of a major study enumerating existing rules of customary IHL; Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law Volume I: Rules* (Cambridge University Press 2005).

²⁶Summary of Complaints Filed through the Joint Monitoring Committee of the CARHRIHL against former President Rodrigo R. Duterteon Violations of International Humanitarian Law, July 2016-June2019.

²⁷

On March 24, 2024, environmental advocates Francisco Eco Dangla III and Joxielle Jak Tiong were abducted by suspected military elements and surfaced on March 28 in La Union, Luzon after being detained and tortured.

As of this writing, progressive partylist leader Nathanael Santiago, peasant advocate Servillano Luna Jr., development worker Rosario Brenda Gonzales and church lay worker Anasusa San Gabriel were falsely implicated by the military with murder, violation of a domestic IHL legislation and the anti-terrorism law for their supposed involvement in an armed encounter as NPAs on October 8, 2023.

Also, most recently, the AMLC arbitrarily froze the bank accounts of an Eastern Visayas-based development and disaster relief organization and its officer Jazmin "Minet" Jerusalem for alleged links to the CPP.