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Hands off Human Rights Defenders! Stop the judicial harassment against Karapatan, Rural Missionaries of the Philippines and Gabriela!

Dear friends,

We would like to seek your help and support to stop the attacks, political persecution and judicial harassment against human rights defenders of Karapatan, the Rural Missionaries of the Philippines (RMP), and Gabriela. The malicious, absurd and trumped-up perjury case filed by Philippine National Security Adviser (NSA) retired general Hermogenes Esperon Jr. is a clear form of reprisal on the human rights defenders' efforts to hold government officials including Pres. Rodrigo Duterte accountable for the numerous threats, harassment, and other forms of attacks against them through their petition for the writs of amparo and habeas data. Karapatan, RMP, and Gabriela cited numerous cases of red-tagging, illegal arrests, and even extrajudicial killings targeted against members and affiliates of the three organizations in their court petition seeking legal protection. Our collective decision to avail of this legal remedy comes after a series of relentless red-tagging, amid other forms of harassment and human rights violations.

NSA Esperon's retaliatory lawsuit, along with the slew of similar forms of trumped up charges against other human rights defenders, civil society organizations, journalists and members of the political opposition, speaks of the government's dangerous policy and pattern of using the judicial system to persecute and harass critics and activists through false and malicious charges and of criminalizing political dissent.

This is also in line with the Duterte government's counterinsurgency program Oplan Kapayapaan/Kapanatagan and its devious agenda under Executive Order No. 70 issued in December 2018, which created a "National Task Force (NTF) to end local communist armed conflict."¹ The NTF, headed by Duterte and Esperon, has cited its whole-of-nation approach in dealing with the armed conflict, but all it had done so far is to place individuals, human rights and people's organizations, and communities in great danger of wholesale human rights violations. Wanton, slanderous and arbitrary red-tagging individual activists, lawyers, journalists, church institutions and people's organizations has been the NTF's main fare, laying pretext to more deleterious attacks. Far from solving the root causes of the armed conflict, this task force has merely cemented the vindictive and repressive nature of the state and its gamut of armed forces.

The NTF was the same entity that wasted public funds to go on government junkets aimed at red-tagging progressive organizations in diplomatic missions across Europe and the US. It falsely accused many organizations, including Karapatan, of terrorist financing. Recently, on August 27, 2019, the European Union, after a series of audits, concluded that these allegations were not true.

On the other hand, we continue to push back, resist, and confront the malicious allegations hurled against us. We face this perjury case, no matter its ridiculousness,

¹ <https://www.officialgazette.gov.ph/downloads/2018/12dec/20181204-EO-70-RRD.pdf>

with a determined resolve to bring the issue back to the main issue – the attacks faced by human rights defenders and the Filipino people in the course of their advocacy work. Karapatan has a proud 24 years of human rights defense in its record, Gabriela has 35 years in the promotion and defense of women’s rights, and RMP just celebrated its 50th anniversary since its founding in 1969. Our organizations have remained transparent throughout these years and the concrete efforts of our work – including the establishment of schools, the passage of legislation, campaigns and provision of aid and support for victims of rights violations – are all publicly available. We have likewise agreed to cooperate in impartial and participative audits, following malicious allegations by the government. Our partners know of our record and the extent of our work, unlike the government and the AFP’s own reputation that is heavily tainted with corruption, whitewashing of crimes, and human rights violations. This Duterte government, as of this writing, still refuses to allow and subject itself to UN-led investigations.

As we continue to confront attacks on all fronts, piled on top of the shrinking democratic space and passage of draconian laws, we enjoin fellow advocates to write to the Supreme Court to provide legal protection for human rights defenders at risk and to the Department of Justice to dismiss/junk the malicious and trumped-up perjury charges against Karapatan, RMP and Gabriela. We also invite you to release statements of support for the three organizations, and to call on the Duterte government to stop its attacks against critics and human rights defenders. We likewise call on your support to exhaust all means – including engagements within civil society, governments and intergovernmental bodies – to pursue independent investigations on the human rights situation in the Philippines.

Chronology

May 6, 2019: On May 6, 2019, Karapatan, Gabriela and RMP filed a petition for the writs of amparo and habeas data at the Supreme Court. The writs of amparo and habeas data are legal remedies afforded to any person whose rights to life, liberty, security are transgressed or are threatened to be violated by an unlawful act or omission of a public officer or private entities. This covers cases of extrajudicial killings and enforced disappearances.

On behalf of their organizations and/or on their personal capacities, the following individuals filed the petition: For Karapatan, its Chairperson Elisa Tita Lubi, Secretary General Cristina Palabay, Vice Chairperson Reylan Vergara, Deputy Secretary General Roneo Clamor, Treasurer Kiri Dalena, and National Council members Dr. Edita Burgos, Fr. Wilfredo Ruazol, and Jose Mari Callueng. For the RMP, its National Coordinator Sr. Elen Bernardo and Sr. Emma Cupin of its Northern Mindanao unit. For Gabriela, its acting Chairperson Gertrudes Libang and Secretary General Joan May Salvador.

Respondents in the said petition are President Rodrigo Duterte, Gen. (Ret.) Hermogenes Esperon Jr., Maj. Gen. (Ret.) Delfin Lorenzana, Presidential Spokesperson Salvador Panelo, Gen. Benjamin Madrigal Jr., Brig. Gen. Fernando Trinidad, Maj. Gen. Erwin Bernard Neri, Lt. Gen. Macairog Alberto, Maj. Gen. Antonio Parlade Jr., Alex Paul Montegudo, Vicente Agdamag, Senior Supt. Omega Jireh Fidel, and Undersecretaries Joel Sy Egco, Severo Catura and Lorraine Marie Badoy.

Through the filing of a petition for the writ of amparo, the petitioners asked the Supreme Court to grant a temporary protection order, prohibiting the respondents from “threatening to commit or committing, personally or through another, any acts violative of the rights to life, liberty, and security.” Their plea for the petition on habeas data seeks court action for government officials to provide the petitioners with all information pertaining to each of them in their files or record and to subsequently destroy said information.

In its petition, Karapatan has cited various threats confronted by the organization under the previous administrations of Gloria Macapagal-Arroyo, Benigno Simeon Aquino III, and finally under the current Duterte government. This includes the extrajudicial killings of Karapatan human rights workers Benjaline Hernandez in April 2002, Eden Marcellana in April 2003, Elisa Badayos in November 2017, Mariam Acob in September 2018, and Bernardino Patigas in April 2019. Karapatan also cited that from 2001 to 2019, at least 63 of its human rights workers have been killed by State forces, and seven among them were killed under the current administration.

May 24, 2019: The Supreme Court, in an en banc session, issued a writ of amparo and habeas data for petitioners Karapatan, Gabriela, and Rural Missionaries of the Philippines (RMP), as it directed the 14th Division of the Court of Appeals to hear the petition on June 18, 2019, and to submit a decision on the case.

The petitioners prepared their witnesses and their judicial affidavits. One of Karapatan's supposed witnesses was Ryan Hubilla, a senior high school student and Karapatan Sorsogon staff member who experienced threats and harassment from suspected military agents. However, Hubilla was killed on June 15 together with another Karapatan human rights worker Nelly Bagasala.

June 18, 2019: The CA's 14th Division held a three-hour summary hearing on the petitions filed by the groups, but the court justices did not allow the petitioners to present testimonial evidence and other documents to prove their allegations in the petition on technical grounds.

June 28, 2019: The petition was dismissed by the Court of Appeals' 14th Division. Karapatan immediately contested the decision of the appellate court and called it "a gross disservice to all human rights defenders who continue to face perilous conditions."² Karapatan questioned why the CA's ruling parroted the line of the respondents and quickly absolved the government's role in it.

July 2, 2019: NSA Esperon filed a perjury complaint against the petitioners in relation to their amparo and habeas data petition. This is the first known case of judicial harassment faced by those who availed the amparo and habeas data remedies. Of the 600-page amparo petition submitted by said groups, Esperon nitpicked on one procedural issue, which targeted RMP. Esperon accused RMP of making a false statement by claiming it is a duly registered organization, following his allegation that RMP's registration with the Securities and Exchange Commission (SEC) was revoked in August 2003.

As far as RMP is concerned, they received no notification from SEC on the alleged revocation of their registration and thus have remained operational as a de facto corporation/non-governmental organization in order to fulfill their missionary work. They filed for re-registration in 2010, complying with requirements for re-registration, as well as their substantial compliance to all reportorial requirements for NGOs by the SEC. Acting on good faith and in accordance to their belief and conviction, they have stated their said status as an NGO in the amparo petition.

July 29, 2019: Karapatan, RMP, and Gabriela challenged the Court of Appeals' dismissal of their amparo and habeas data petition through a petition for review at the Supreme Court, asking the SC to annul the decision of the CA's 14th Division.

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<https://www.karapatan.org/Karapatan%3A+Dismissal+of+amparo+petition+is+a+gross+disservice+to+all+human+rights+defenders+>

August 1, 2019: Officers of Karapatan, RMP, and Gabriela attended the first hearing of the preliminary investigation on the malicious perjury charges filed by Esperon at the Quezon City Prosecutor's Office of the Department of Justice.

August 15, 2019: Counter-affidavits by officers of Karapatan, RMP, and Gabriela were filed at the Quezon City Prosecutor's Office of the Department of Justice. In their joint counter-affidavit, Karapatan officers Cristina Palabay, Reylan Vergara, Roneo Clamor, Kiri Dalena, Dr. Edita Burgos, Fr. Wilfredo Ruazol, and Jose Mari Callueng said that they filed the amparo and habeas data petition based on their personal knowledge of facts pertaining to Karapatan and that RMP did not commit perjury.

In her letter to her fellow human rights defenders, Karapatan Chairperson Elisa Tita Lubi, stated that she is waiving her right to file a counter affidavit, as she sees that the charges imputed are against an organization and not against an individual as no specific act in the charges are attributed to her. According to Lubi, her non-filing of counter affidavit is not an admission of guilt nor does it prejudice the presumption of her innocence in a clearly trumped-up case which was done in retaliation for the three organizations' filing of their petitions for the writs of amparo and habeas data.

The next hearing is set on September 5, 2010, wherein NSA Esperon will file a reply to the counter-affidavits submitted by Karapatan, RMP, and Gabriela on August 15.

We expect the case to be resolved by the Quezon City Prosecutor's Office of the Department of Justice by October 2019.

We urgently appeal for your support and solidarity by:

1. Writing to the Justices of the Supreme Court to grant the petition for review filed by Karapatan, RMP and Gabriela and eventually grant their petition for the writ of amparo and habeas data, especially with the increasing attacks against human rights defenders through the following:

Supreme Court of the Philippines

Padre Faura St., Ermita, Manila, Philippines 1000

E-mail address: pio@sc.judiciary.gov.ph

Website: <http://www.sc.judiciary.gov.ph/>

2. Writing to the Department of Justice Secretary Menardo Guevarra and Quezon City Senior Assistant Prosecutor Nilo Penaflor to dismiss the malicious and trumped-up perjury charges against Karapatan, RMP and Gabriela through the following:

Mr. Menardo Guevarra

Secretary, Department of Justice

Padre Faura St., Ermita, Manila, Philippines 1000

Email: osecmig@gmail.com, osec@doj.gov.ph, communications@doj.gov.ph

Website: <https://www.doj.gov.ph/>

Mr. Nilo Penaflor

Senior Assistant Prosecutor

Office of the City Prosecutor, Quezon City

DOJ Building/Justice Cecilia Palma Building,

beside Hall of Justice, Quezon City Hall,

Elliptical Road, Quezon City, Philippines 1100

3. Issuing statements of solidarity for Karapatan, RMP and Gabriela, to be circulated to the public and media circles, and calling on the Philippine government to:

- a. Stop its smear campaigns, through red-tagging and judicial harassment against human rights defenders and their organizations;
- b. Grant the petition for review filed by Karapatan, RMP and Gabriela and eventually grant their petition for the writ of amparo and habeas data, especially with the increasing attacks against human rights defenders;
- c. Dismiss/junk the perjury charges against Karapatan, RMP, and Gabriela;
- d. Recall Executive Order No. 70, creating a national task force (NTF) to end local communist armed conflict and institutionalizing the so-called whole of nation approach; to stop all activities emanating from this order, including the smear campaigns and judicial harassment against human rights activists;
- e. Withdraw its counterinsurgency program Oplan Kapanatagan, which victimizes innocent and unarmed civilians, and human rights defenders;
- f. Prioritize the enactment and full implementation of a Human Rights Defenders Protection Bill that will give legal recognition and safeguard rights defenders in the conduct of their work, in accordance with the UN Declaration on the Rights of Human Rights Defenders; and
- g. Adhere to and respect the Universal Declaration of Human Rights, the International Convention on Civil and Political Rights, and all major Human Rights instruments that it is a party and signatory.

Publish these on your websites, social media platforms among others.

Please send us a copy of your email to the above-named officials, to our address below:

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