

(1) Submitting Organisation

The International Centre for Trade Union Rights (ICTUR) was founded in 1987 to defend, extend, and raise awareness of trade union rights and their violations worldwide. ICTUR was founded in response to ‘an attack on trade union rights by transnational employers’ and ‘to take up the struggle for liberation from neo-colonialist and transnational corporation exploitation’. ICTUR affiliates unions, lawyers and human rights organisations worldwide.

ICTUR has consultative (roster) status with the UN ECOSOC and it is accredited to the ILO Special List of INGOs, since 1993. ICTUR’s main activities include monitoring labour rights, letter writing, submissions to international supervisory systems, trial observations, research and publishing. Publications include: *International Union Rights* journal (since 1993, 4 editions per year); the *World Map of Freedom of Association* (7th edition, 2022, pending); and the reference book *Trade Unions of the World* (8th edition, 2021).

(2) Previous UPR cycle

Within the previous UPR cycle, the Government of the Philippines was urged to address extrajudicial executions, enforced disappearances, and unlawful arrests. A specific recommendation called for the authorities to investigate actions of the police¹. Other recommendations called for efforts to eliminate extrajudicial killings and enforced disappearances, to effectively prosecute such crimes², and to provide adequate protection to human rights defenders³. We note that the Government accepted calls for the adoption of a human rights action plan⁴, and also accepted calls for human rights training for State security forces in order to enhance their capacity to protect human rights⁵, and to strengthen criminal justice reform⁶.

From civil society, Karapatan noted violations against the COURAGE and KMU trade unions⁷. Karapatan also raised concerns over abduction of union leaders and stated that ‘enforced disappearances perpetrated by State security forces continued’⁸. Amnesty International observed that unlawful killings continued, and that ‘more than 1000 of these killings, many of which may amount to extrajudicial executions, have been committed by the police’⁹. Front Line Defenders noted that the killing, harassment and criminalisation of human rights defenders ‘remains common’, including for trade unionists¹⁰.

(3) Background

¹ 133.100 (Costa Rica), Philippines, 3rd UPR Cycle (2017)

² 133.117 (Norway), Philippines, 3rd UPR Cycle (2017)

³ 133.179 (Norway), Philippines, 3rd UPR Cycle (2017)

⁴ 133.37 (Libya); S – 13.38 (Thailand); 133.39 (Uganda); 133.40 (Kenya), Philippines, 3rd UPR Cycle (2017)

⁵ 133.42 (Ghana), Philippines, 3rd UPR Cycle (2017)

⁶ 133.132 (United States of America), Philippines, 3rd UPR Cycle (2017)

⁷ Submission of the Karapatan Alliance for the Advancement of People’s Rights, Philippines, 3rd UPR Cycle (2017)

⁸ Submission of the Karapatan Alliance for the Advancement of People’s Rights, Philippines, 3rd UPR Cycle (2017)

⁹ Submission of Amnesty International, Philippines, 3rd UPR Cycle (2017)

¹⁰ Submission of Front Line Defenders, Philippines, 3rd UPR Cycle (2017)

Our organisation welcomes the adoption on 17 January 2022 of the Human Rights Defenders Act by the Philippine House of Representatives. However, we recall previous initiatives that have failed to halt intense repression of trade union rights. A context of stigmatisation against trade unionists emanates directly from the State. It is perpetuated by the police and military, by employers and landowners, and by ‘unknown’ third parties.

We recall the anti-union violence discussed in the 2007 mission and 2009 follow-up of the UN Special Rapporteur on Extrajudicial Executions, which identified perceived convergence of political and industrial interests that placed trade unionists at risk

[D]isputes surrounding organising campaigns and collective bargaining negotiations appear often to be the motivating factor behind decisions to attack workers and organisers, but the likelihood that such an attack will take the extreme form of an extrajudicial execution appears to be far higher if the worker is associated with what is purported to be a CCP [leftist] front group.

Violence against trade unionists fell following that investigation, but the situation has escalated in recent years, a concern reflected in a request made by the ILO in 2019 that the Government should receive a high-level tripartite mission¹¹ (it has not yet done so).

One reason for the intersection of violence with industrial disputes is that collective bargaining and strike actions are difficult to implement lawfully. The enterprise bargaining system combined with a relative lack of protection against anti-union discrimination leads to relatively poor collective bargaining coverage. And a complex strike framework means that lawful industrial actions rarely take place. Public servants (widely defined) cannot lawfully strike, and the Secretary of Labour can order private sector strikers back to work. Strikes do - of course – occur but the lack of lawful status gives a veneer of legitimacy to the violent intervention by hired thugs or the police.

Trade unionism is, however, a growing force in the Philippines. In December 2021 the Department of Labor and Employment (DOLE) reported ‘112,821 labor organizations registered nationwide with reported membership of about 4.8 million workers’¹². These figures have been growing for some years. We welcome the increasing participation of workers in trade unions in the Philippines, and we encourage the Government to recognise the potential to engage constructively with trade unions to seek to build a more cohesive society and to strengthen democratic participation and accountability.

(4) Our present concerns

We are greatly concerned at the present time by:

¹¹ Report of the Committee of Experts on the Application of Conventions and Recommendations (CEACR), ILO, 2021

¹² Number of Existing Labor Organizations and CBAs (reports for various years up to 2021), DOLE, at: <https://blr.dole.gov.ph/2014/12/11/statistical-reports/>

Red-tagging

The stigmatising of trade unionists by raising allegations of links with illegal armed groups ('red-tagging'). The State's involvement in 'red-tagging' sends a clear signal to the perpetrators of anti-union violence, to the police, and other agencies of State, establishing a context within which anti-union violence and impunity flourish. For this submission the names of individual victims have been redacted but are on file with ICTUR.

- In July 2019, posters circulated in Northern Mindanao portraying members of the journalists' union NUJP as 'fronts' of the Communist Party of the Philippines (CPP) and the New People's Army (NPA).
- 12 September 2019, a member of the teachers' union Alliance of Concerned Teachers (ACT), was pictured on posters in Cagayan de Oro City, labelled as a 'communist' and her son as a 'leader of the NPA'. The same day she received a threatening message.
- In February 2021, a Dutch missionary and labour activist resident in the Philippines for 30 years had his permanent residency visa withdrawn and was expelled from the country on vague grounds of supporting 'terrorist' groups.
- 17 March 2021, the Secretary General of the 13th region of the ACT teachers' union was arrested and 'red-tagged' during a police press conference. The red-tagging allegations were repeated by the State-owned Philippine News Agency¹³.
- 11 April 2021, the Philippine News Agency published allegations concerning the public sector union COURAGE. The Agency described COURAGE as being 'under' NPA 'fronts'¹⁴.
- 7 August 2021, anti-communist task force NTF-ELCAC officials visited the home of the vice president of the SENTRO-affiliated SOCURU-FCCU and called for the removal of the union's President, claiming that he was linked to the NPA.
- On 22 August 2021, at a press conference, National Security Adviser, Secretary Hermogenes Esperon, Jr., made statements (repeated by a State media agency) suggesting that 'front groups of communist terrorists' 'control' the ACT¹⁵

Extrajudicial killings of trade unionists

Extrajudicial killings of trade unionists at the hands of State forces or unknown attackers frequently coincide with episodes of 'red-tagging' or during industrial unrest or where both factors are present. From 2019 to 2021 we recorded the following cases:

¹³ Arcilla, G. 'Teacher-member of 'commie' underground group falls', *Philippine News Agency* (18 March 2021), at: <https://www.pna.gov.ph/articles/1133995>

¹⁴ Moaje, M. 'COURAGE yet to account for SWEAP members monthly dues', *Philippine News Agency* (11 April 2021), at: <https://www.pna.gov.ph/articles/1136379>

¹⁵ Nepomuceno, P., 'CPP-NPA anti-family, Esperon says', *Philippine News Agency* (22 August 2021), at: <https://www.pna.gov.ph/articles/1151235>

- 2 June 2019, a labour activist with the Partido Manggagawa (Labour Party), was shot dead by an unidentified gunman after conducting a labour rights seminar in Cavite.
- 7 June 2019, an activist with the KMU-affiliated National Federation of Sugar Worker (NFSW) in Negros Occidental was shot and killed at his home.
- 4 November 2019, a member of the KMU-affiliated union PAMANTI-K was shot and killed while out walking with his wife outside their home. He was campaigning for the release of detained Nutriasia Laguna strikers.
- 23 June 2020, a local representative of the NFSW was shot and killed outside his home in Negros Occidental.
- 17 August 2020, the Co-ordinator for the ACT teachers' union in Bacolod City was shot dead in the street. Prior to the murder, she had complained of 'red-tagging', in which she had been called a 'terrorist' and a 'communist'.
- 2 February 2021, the Chair of the PMSB within the NSFW farmers' union was shot and killed by a group of four unidentified killers in Escalante City.
- 7 February 2021 the president of the NMPI-NAFLU union at the ICTSI port operator was shot and killed by two unidentified attackers in Tondo Manila. His 4-year old niece also sustained injuries. The union leader had earlier received death threats.
- 7 March 2021, the Secretary General of the Solidarity of Cavite Workers, was killed by police when they raided a local labour NGO office at which he was working.
- 28 March 2021, the Vice Chair of PAMANTI-K was shot and killed by an unidentified assassin.

We are also aware of numerous extrajudicial killings of trade unionists pre-dating this list.

Impunity

Impunity remains widespread in trade union cases.

- Between 2001 and 2016 of 65 cases of extrajudicial killing of trade unionists that were brought to the NTIPC-MB monitoring mechanism only 28 were assessed as 'possibly labour-related', while only 11 were assessed as potentially cases of extrajudicial killing, with only 4 of the 65 were assessed as meeting both criteria¹⁶.
- Concerning the 2004 mass killings of striking workers at Hacienda Luisita, two

¹⁶ These issues are discussed in *Addressing impunity: A review of the three monitoring mechanisms* (ILO, 2019), at: https://www.ilo.org/wcmsp5/groups/public/--asia/--ro-bangkok/--ilo-manila/documents/publication/wcms_713337.pdf

police commanders were dismissed but the investigation was criticised as ‘a whitewash’ and found no police guilty¹⁷. In 2020, the ILO Committee on Freedom of Association observed that ‘at least seven trade union leaders and members’ were killed in the 2004 incident and a further 70 were injured¹⁸. Although ‘nine police officers had previously been identified as suspects and recommended to be charged for multiple homicide’ the case remains in impunity, and ‘the Government does not provide any information on the eventual progress made in the investigation and resolution of the case’¹⁹.

Other violations

We are aware of numerous cases of threats, violence, harassment, dismissal and arrest against trade unionists, including from State agencies pressuring trade unionists to disaffiliate from organisations.

- 11 January 2019, the General Secretary of the ACT, received death threats on his mobile phone during an ACT press conference. At the same time there were reports of police officers visiting schools asking for information about ACT members, and members also reported police visiting them at their homes.
- 1 May 2019, some twenty assailants with knives attacked a strike picket by members of the SENTRO-affiliated union at a LafargeHolcim facility in Davao. The workers were demanding regularisation of their employment status.
- 28 June 2019, a gang of masked men attacked striking workers of the Peerless Products Manufacturing Corporation in Calamba during a strike over irregular employment and working conditions. Picket line camps were destroyed and a number of workers were hospitalised with injuries.
- In July 2019, around 400 workers of NutriAsia in the Light Industry and Science Park, Cabuyao City, went on strike to demand regularisation of their employment status (previously recommended by the local Department of Labour office). On 6 July, police dispersed protesting workers and arrested seventeen strikers, including officials from two KMU-affiliated unions KASAPINAOLALIA and KASAPINA. Criminal charges were brought against the arrested workers.
- 19 August 2019, the Philippine National Police dispersed the picket line at Peerless Products Manufacturing Corporation in Calamba, Laguna and arrested 18 workers. The KMU-affiliated Pamantik union reported that the workers were detained without charge before being released the following day.
- 15 October 2019, two members of the ACT teachers’ union were shot at by masked

¹⁷ Annual Survey of Violations of Trade Union Rights (Brussels, ITUC, 2006)

¹⁸ Effect given to the recommendations of the committee and the Governing Body - Report No 392, October 2020 Case No 2528 (Philippines)

¹⁹ Effect given to the recommendations of the committee and the Governing Body - Report No 392, October 2020 Case No 2528 (Philippines)

gunmen in a classroom. One of them was hit by six bullets and was hospitalised with serious injuries.

- 8 May 2020, Three officials of the SENTRO-affiliated SOCURU-FCCU Coca-Cola workers' union were dismissed after protesting over safety concerns at their workplace during the pandemic. A number of protestors were later arrested on 9 June, although the charges against them were dismissed.
- 20 November 2020, five trade union activists were arrested at the MEPZ export zone while holding a protest against the dismissal of 300 workers.
- On 4 March 2021, an NEC-member of COURAGE and Secretary General of COURAGE's WATER section was arrested at his home in Laguna Province. Three days later the National Vice President of KMU's agro-industrial OLALIA union and a leader of the Rizal section of COURAGE were also arrested.
- On 6 May 2021, more than 600 teachers in Butuan City division were required to attend a meeting organised by the NTF-ELCAC at which they were instructed to publicly sign a document renouncing membership of the ACT teachers' union.

We are aware of many more arrest cases than we have space to report here.

(5) International Human Rights Obligations

The Universal Declaration of Human Rights states “everyone has the right to form and to join trade unions for the protection of his interests” (Article 23(4)).

In 1974, the Philippines ratified the International Covenant on Economic, Social and Cultural Rights ("CESCR") which obliges State parties to ensure the right to form and join trade unions, and further states that trade unions have the right to function freely and to take strike action (Article 8). In 1986 the country ratified the International Covenant on Civil and Political Rights ("CCPR"), which stipulates that, “everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests” (Article 22).

The Philippines ratified ILO Convention No. 87 (Freedom of Association and Protection of the Right to Organise, 1948) and Convention No. 98 (Right to Organise and Collective Bargaining, 1949) in 1953. A brief overview of relevant ILO principles demonstrates that there is much to be done to improve respect for freedom of association:

- Further to the proliferation of ‘red-tagging’, the ILO’s Committee on Freedom of Association (hereafter, ‘the Committee’) has stated that ‘blanket linkages of trade unions to an insurgency have a stigmatising effect and often place union leaders and members in a situation of extreme insecurity (*Freedom of Association: Compilation of decisions of the Committee on Freedom of Association*, 6th Edition (2018), Para. 90).

- Concerning the murder of trade unionists, the Committee finds that ‘a climate of violence, such as that surrounding the murder or disappearance of trade union leaders, or one in which the premises and property of workers and employers are attacked, constitutes a serious obstacle to the exercise of trade union rights; such acts require severe measures to be taken by the authorities’ (*Freedom of Association*, Para. 89).
- Concerning impunity surrounding the murder of trade unionists, the view of the Committee is that independent judicial inquiries must be established ‘in order to shed full light, at the earliest date, on the facts and the circumstances in which such actions occurred and in this way, to the extent possible, determine where responsibilities lie, punish the guilty parties and prevent the repetition of similar events’ (*Freedom of Association*, paras. 81-89, 94).
- Regarding the arrests of trade unionists, the Committee affirms that ‘measures depriving trade unionists of their freedom on grounds related to their trade union activity, even where they are merely summoned or questioned for a short period, constitute an obstacle to the exercise of trade union rights’ (*Freedom of Association*, paras. 122-128).
- Addressing specifically the police and military, and during the context of industrial disputes, the Committee has insisted upon ‘guarantees that the legitimate rights of workers’ organisations can be exercised in a climate that is free from violence, pressure or threats of any kind against their leaders and members’ (*Freedom of Association*, para. 100).

(7) Recommendations

The International Centre for Trade Union Rights calls on the Philippines Government to:

Human rights and civil liberties

- Cease ‘red-tagging’ by public officials and the media
- Enact a new national protection law for human rights defenders that specifically emphasises protection of trade unionists²⁰.
- Publicly acknowledge and condemn all unlawful killings and enforced disappearances, and facilitate the prompt, impartial investigation of these cases
- Give due consideration to the recommendations of the report published by the ILO Philippines Office in 2019 *Addressing impunity: A review of the three monitoring mechanisms*, with particularly attention to improving classification of cases by monitoring mechanisms and improvement of witness protection.

Industrial law and the workplace

- Improve legal protection against discrimination and dismissal for union organisers

²⁰ Further to the passage of the Human Rights Defenders Act by the Philippine House of Representatives on 17 January 2022

- Remove barriers to the adoption of collective agreements
- Require employers to respect the bargaining process and to bargain in good faith
- Broaden the scope for lawful strike action and cease using force to bring an end to strikes.

Cooperation

- Engage constructively with all sections of the trade union movement in the Philippines, including specifically those suffering the majority of serious violence and trade union rights violations, namely: KMU, SENTRO, COURAGE and ACT
- Expedite the ILO high-level tripartite mission requested in 2019²¹ and facilitate its work
- Seek the assistance of the ILO and other relevant UN agencies in making amendments to domestic law and practice.

²¹ ILO CEACR report, 2021