



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

INTERNATIONAL PEOPLES' TRIBUNAL
On the Philippines
Brussels, Belgium

**THE FILIPINO PEOPLE, at the suit of
BAYAN, KMU, KMP, GABRIELA,
ANAKBAYAN, MIGRANTE, KADAMAY,
KARAPATAN, HUSTISYA,
DESAPARECIDOS, SELDA, SANDUGO,
and Rise Up for Life and for Rights**

Complainants,

For:

**I. Gross and systematic violations
of civil and political rights;**

**II. Gross and systematic violations
of economic, social and cultural rights;
and**

**III. Gross and systematic violations
of the rights of the people to national
self-determination and development
and violations of international
humanitarian law**

-versus-

**PRESIDENT RODRIGO ROA DUTERTE,
the GOVERNMENT of the REPUBLIC of
the PHILIPPINES, PRESIDENT DONALD
JOHN TRUMP, the GOVERNMENT of the
UNITED STATES of AMERICA, the
International Monetary Fund, the World
Bank, World Trade Organization,
transnational corporations and foreign
banks doing business in the Philippines,**

Defendants.

X-----X



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

INDICTMENT

COMPLAINANTS, by counsel, aver that:

PREFATORY

The people's resistance against the US-backed Marcos fascist dictatorship reached a high point in 1980 when the National Democratic Front of the Philippines (NDFP) and the Moro National Liberation Front (MNLF) appealed to the Permanent Peoples' Tribunal (PPT) to look into the situation in the country.

The Tribunal held in Antwerp, Belgium found Marcos "guilty of grave and numerous economic and political crimes against his own people and against the Bangsa Moro People and declares him unfit to govern, and subject to severe punishment for his past wrongs, including economic plunder and failure to protect the sovereignty of his country from neo-colonial interventions."

The Antwerp Tribunal also condemned the US government for its dominant political, economic and military role in the Philippines and censured the International Monetary Fund-World Bank (IMF-WB), the Asian Development Bank (ADB) and foreign transnational corporations and banks operating in the Philippines for supporting, encouraging and sustaining the Marcos dictatorship in contravention of the sovereign rights of the Filipino people.

The successive regimes after the Marcos dictatorship were essentially subservient to the US, the IMF-WB and transnationals and banks, and became the chief instruments under what the Antwerp Tribunal called the "neocolonial system (that) breeds criminal enterprise under international law."

In March 2007, a Second Session on the Philippines in the Hague, the Netherlands, was held by the same Permanent Peoples' Tribunal, this time on an appeal by HUSTISYA, DESAPARECIDOS, SELDA and BAYAN. The Hague Tribunal overwhelmingly found Gloria Macapagal Arroyo, the Government of the Republic of the Philippines, George Walker Bush, the Government of the USA, and the IMF-WB-WTO and transnational corporations and banks, guilty of gross and systematic violations of civil and political rights, extra-judicial killings, abduction and disappearances, massacre and torture; gross and systematic violations of economic, social and cultural rights; and gross and systematic violations of the right to national self-determination and liberation.

In July 2015, another opinion tribunal was held in Washington D.C., U.S.A, by the Filipino people at the suit of people's organizations



INDICTMENT

International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

ECUVOICE, KARAPATAN, HUSTISYA, DESAPARECIDOS, SELDA, BAYAN, KMU, KMP, GABRIELA, MIGRANTE, and KADAMAY against President Benigno S. Aquino III, the Government of the Republic of the Philippines, and the Government of the USA, represented by President Barack Hussein Obama II, the IMF, WB, World Trade Organization, transnational corporations and foreign banks doing business in the Philippines.

The Washington Tribunal categorically found the said Defendants guilty of gross human rights violations involving civil and political rights for committing extrajudicial killings, disappearances, massacres, torture, arbitrary arrests and detentions as well as other vicious, brutal and systematic abuses and attacks on the basic democratic rights of the people.

It also found the Defendants guilty of gross and systematic violations of human rights, particularly economic, social and cultural rights of the Filipino people through the imposition of neo-liberal “free market” globalization to exploit the people; transgression of their economic sovereignty and plunder of their national patrimony and economy; and attacks on the people's livelihoods and the destruction of the environment.

The Tribunal finally found the Defendants guilty of gross and systematic violations of the rights of the people to national self-determination and liberation through the imposition of the US war of terror and US military intervention; as well as the perpetration of crimes against humanity and war crimes; misrepresentations of the people's right to national liberation and self-determination as “terrorism” and the baseless “terrorist” listing of individuals, organizations and other entities by the US and other governments.”

It also enjoined the Defendants “to undertake, and the People to pursue proper remedial measures to prevent the commission or continuance of the illegal and criminal acts, to repair the damages done to the Filipino people and their environment, compensate the victims and their families for their atrocities, and to rehabilitate the communities, especially indigenous communities that have been destroyed by the criminal acts of the Defendants.”

The Washington Tribunal further opined that, considering the serious violations of international law by the Defendants, that said violations be “brought before international bodies both to battle the Defendants in all possible arena and at the same time push these international bodies to proscribe the illegal acts of the Defendants and strike a blow against impunity.”

The Tribunal also encouraged “the peoples of the world to seek redress, to pursue justice, and to transform this oppressive, exploitative and repressive global state of affairs exemplified by the experience and plight of the Filipino people, to challenge the international “rule of law”, and to construct a global order founded on full respect for the rights of all peoples,



INDICTMENT

International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

everywhere.”

It is with this historical backdrop and context that the current Philippine President Rodrigo Roa Duterte, and the current US government, represented by President Donald John Trump, are hereby being indicted with notably even more grievous crimes against the Filipino people and against humanity.

The horrendous summary killings of now more than 20,000 people mostly from the poor in the vicious anti-drug and criminality campaign are attributable both directly and indirectly to President Duterte through police operations and vigilante killings that are government-backed, instigated or tolerated. This carnage has elicited public outrage and condemnation and has shocked and alarmed the whole world.

These violations have been brought to the attention of the United Nations Human Rights Council by several concerned civil society organizations through the Universal Periodic Review on the Philippines (UPR) process in Geneva in 2017.

Calls from the international community have fallen on deaf ears. In June 2018, 38 States raised concerns over the human rights situation in the Philippines at the 38th session of the said Council. The statement delivered by Iceland reads in part: “We urge the government of the Philippines to take all necessary measures to bring killings associated with the campaign against illegal drugs to an end and cooperate with the international community to investigate all related deaths and hold perpetrators accountable.” Yet President Duterte simply threatened high UN officials with death by being fed to crocodiles even as he has laced his ad hominen attacks with usual vitriolic expletives.

Likewise, a growing number of national and international entities have conducted fact-finding solidarity missions and have issued reports, recommendations and condemnations of the Philippine government’s inaction to stop the killings and other serious human rights violations.

Despite the views and conclusions of international entities confirming the responsibility and culpability of State authorities, President Duterte and his closest allies remain unperturbed and are intent in continuing the atrocities and hardships on the people, emboldened by US political and military backing.

President Duterte has exhibited not the slightest remorse as he vowed to continue his killing rampage during a recent speech: “The war against drugs will not be sidelined. It will continue, and will be as relentless and chilling as on the first day it began.” In fact, earlier on, despite hypocritical statements to the contrary of late, he bragged: “There are 3 million drug addicts (in the Philippines). I’d be happy to slaughter them. If Germany had



INDICTMENT

International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

Hitler, the Philippines would have ...” pausing and pointing to himself.” Previously, he said that he will dump all the criminals into Manila Bay, “and fatten all the fish there.”

The victims and families of human rights violations are seeking justice.

The present Indictment is once again an expression of the frustrations, disappointments as well as in recognition of the limitations of existing traditional and dominant local and international fora and remedies.

For one, President Duterte is immune from any criminal or civil suit in the Philippines while in power. Besides, he effectively controls the investigative bodies and prosecutorial agencies of the government and has undermined the independence of the judiciary, not to mention the perils of reprisals a suit against him would certainly bring.

The pending communications with the International Criminal Court (ICC) provide potential redress but have not passed the basic stage of examination and covers only specific and defined grounds even as technical rules, procedural requirements and non-cooperation pose obstacles that need to be resolved over time. The United Nations and its various agencies, bodies and mechanisms have their limitations as to the full enforceability of their resolutions, views and opinions.

The Complainants are thus appealing to the present Tribunal as a unique parallel arena and as the only immediately adequate platform for the urgent process of establishing the truth and for the assertion and direct exercise of the people’s inherent rights and their search for real justice.

The Filipino people through the Complainants are determined to seek avenues and means for effectively holding the Defendants responsible and accountable for systematic and systemic violations.

Thus, this Indictment.

This Indictment clearly states the grounds or charges against the Defendants, outlines extensively the general context, discusses the specific overview and allegations, enumerates the specific illustrative cases or representative incidents under each ground or charge, and lists the international laws or instruments violated or circumvented.



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

PARTIES

THIS is an Indictment brought by the Filipino people – the peasants, workers, urban and rural poor, fisherfolk, women, youth and students, indigenous peoples and national minorities, migrants, religious, journalists, lawyers, other professionals and all human rights defenders, as well as ordinary people through the following organizations:

BAYAN (Bagong Alyansang Makabayan or New Patriotic Alliance), a multisectoral alliance of progressive and patriotic Filipino mass organizations;

KMU (Kilusang Mayo Uno or May First Movement), an independent and democratic labor center promoting genuine, militant and anti-imperialist trade unionism;

KMP (Kilusang Magbubukid ng Pilipinas or Peasant Movement of the Philippines), a democratic and militant movement of landless peasants, small farmers, farm workers, rural youth and peasant women in the Philippines;

GABRIELA (General Assembly Binding Women for Reforms, Integrity, Equality and Leadership), an alliance at the forefront of the Filipino women's struggle for freedom and democracy;

ANAKBAYAN (Sons and Daughters of the People), a comprehensive, national democratic mass organization of the Filipino youth;

MIGRANTE International, a global alliance of Filipino migrant organizations;

KADAMAY (Kalipunan ng Damayang Mahihirap or Federation of Mutual Aid for the Poor), a national alliance of urban poor associations, workers, neighborhood associations, women's groups, and youth groups based in communities in the Philippines;

KARAPATAN (Alliance for the Advancement of People's Rights), an alliance of individuals, groups and organizations working for the promotion and protection of human rights in the Philippines;

HUSTISYA! (Victims United for Justice), an organization of relatives, supporters and friends in the Philippines of victims of human rights violations;

DESAPARECIDOS (Disappeared), an organization of families and friends of victims in the Philippines of enforced disappearances;

SELDA (Samahan ng mga Ex-Detainees Laban sa Detensyon at Aresto or Association of Ex-Detainees against Detention and Arrest), an association of former political prisoners and former political detainees in the Philippines;



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

SANDUGO, a movement of Moro and indigenous peoples in the Philippines advocating for the right to self-determination; and

RISE UP FOR LIFE AND FOR RIGHTS, a network of church people, human rights advocates, victims and families of the affected communities in the Philippines working in defense of life and protection of human rights particularly against drug-related killings,

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

This Indictment is against:

PRESIDENT RODRIGO ROA DUTERTE, the current President of the Philippines;

GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES;

PRESIDENT DONALD JOHN TRUMP, the current President of the United States;

GOVERNMENT OF THE UNITED STATES OF AMERICA;

INTERNATIONAL MONETARY FUND (IMF), an international organization purportedly “working to foster global monetary cooperation, secure financial stability, facilitate international trade, promote high employment and sustainable economic growth, and reduce poverty around the world”;

WORLD BANK (WB), made up of financial and development organizations whose purpose supposedly is to “bridge the economic divide between poor and rich countries by turning “rich country resources into poor country growth.” It claims to have a long-term vision to “achieve sustainable poverty reduction”;

THE WORLD TRADE ORGANIZATION (WTO), is an intergovernmental organization that “deals with the global rules of trade between nations” and claims as its main function “to ensure that trade flows as smoothly, predictably and freely as possible”; and

TRANSNATIONAL CORPORATIONS AND FOREIGN BANKS doing business in the Philippines,

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

CHARGES/GROUNDS

The Defendants are hereby charged by the Filipino people of the following:



INDICTMENT

International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

- I. **Gross and systematic violations of human rights, particularly civil and political rights, with focus on extrajudicial killings (EJKs), massacres, arbitrary arrests and detentions, torture, political persecution, attacks on media, and multiple rights violations arising from the imposition of martial rule in Mindanao.**

- II. **Gross and systematic violations of human rights, particularly 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.**

- III. **Gross and systematic violations of the rights of the people to national self-determination and development and violations of international humanitarian law, with focus on attacks on civilian communities and schools, massacres of *hors d' 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.**

GENERAL CONTEXT

The first Philippine President to hail from the huge island of Mindanao in the south, President Rodrigo Roa Duterte rode in his electoral campaign and in the first few months of his presidency on the Filipino people's clamor for change and popular demands such as the elimination of drugs, criminality and corruption.

He promised pro-people economic reforms and an end to labor contractualization¹, made unprecedented appointments of progressive personalities from people's organizations to the Cabinet, resumed the long-stalled peace talks with the national liberation movement represented by the National Democratic Front of the Philippines (NDFP), and vowed to pursue an independent foreign policy unlike his predecessors.

Although he got a mere 38 percent of the votes cast, he garnered about 16

¹ The prevalent practice and policy of hiring workers on a temporary basis and then automatically terminating them a month or so before they become regular employees and thus depriving them of security of tenure and the mandatory benefits mandated by law.



INDICTMENT

International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

million votes, certainly not an insignificant political capital to stir social change and reforms.

With a little more than two years into his term, however, Defendant Duterte has finally shed his pretenses. His actions and policy pronouncements are at war with people's rights. As a matter of fact, Defendant Duterte's human rights record has surpassed the records of previous administrations, even those of the Marcos dictatorship and the Arroyo administration. He even had the gall to say that he would rather have the country run by a dictator like Marcos rather than by his constitutionally-elected successor.

He has continued the anti-people economic programs, waged a bloody and brutal "war on drugs", sweepingly imposed martial law in Mindanao, whimsically terminated the peace talks with the NDFP and declared all-out-war, and intensified a US-inspired counterinsurgency program, resulting in political killings and arbitrary arrests of mostly peasant and indigenous leaders, massive militarization of communities and a vicious crackdown of leaders and members of progressive organizations.

The harsh verbal attacks and vicious tirades by Defendant Duterte on human rights advocates, women critics, the urban poor, workers, the church, the mass media, foreign critics, suspected street-level petty drug dealers and users, and just about everybody else who differs from or are critical of his views, policies and interests, have created not only a climate of fear and bullying but has induced actual attacks on them with impunity by Philippine State security forces.

The extrajudicial killings spiked with callous summary killings as a result of the Defendant Duterte government's "anti-drug war" running to thousands (at least 4,410 by the last available official records but other sources put the figures beyond 22,000), coming mostly from urban poor communities.

Earlier on, Defendant Duterte has likened himself to Hitler and publicly bragged about his desire to slaughter millions of suspected drug users as well. The Philippine police has boasted that 6 suspected drug users on the average are killed daily. The brutality and frequency of drug-related killings bloodied the streets and killed at least 31 minors.

Not only has the "drug war" violated the right to due process of so many poor Filipinos, it has neither eliminated criminality nor crippled the drug trade. As a testimonial to his open support for the means and methods employed by Defendant Duterte, Defendant Trump himself publicly expressed admiration for the latter's "unbelievable job on the drug problem."

The Defendant Philippine government casually denies the existence of the climate of impunity, justifies the extrajudicial killings, and dismisses recommendations aimed at solving the spate of killings and violations.

Instead, Defendant Duterte continues to promote and reward military and police officials despite credible allegations and proof of their involvement in human



INDICTMENT

International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

rights violations, appoints mostly pro-US military generals in key government positions; and promises protection of overzealous and abusive policemen from prosecution. He exalts plunderers who are within his good graces or have who resurrected themselves politically including former Presidents Joseph Estrada and Arroyo and the wife, son and daughter of the dictator Marcos.

Defendant Duterte initially accommodated progressives in his Cabinet but lifted no finger when his allies in the Commission on Appointments, whose interests were threatened by the nominees' pro-people agenda, did not confirm their appointments.

Defendant Duterte has repeatedly attacked and undermined the country's supposed democratic institutions—publicly maligning the Commission on Human Rights; supporting the impeachment proceedings and the eventual unorthodox removal of a critical Supreme Court Chief Justice (and replacing her with one publicly viewed as someone who will toe his line), castigating the Ombudsman for her independence, and consolidating power and his hold on both houses of Congress.

He had invariably advocated for a “revolutionary government” or a military junta if he should decide to step down from power. He has pushed the shift to a federal system of government that would completely consolidate and concentrate power on him, change the economic sovereignty and social justice provisions of the Philippine Constitution to totally deliver the economy to foreign investors, and undermine certain constitutional rights like the right against unreasonable searches and surveillance, the right to peaceful assembly, the privilege of the writ of *habeas corpus*, and the reimposition of the death penalty.

Defendant Duterte arbitrarily expanded and extended Martial Law in Mindanao even after fighting has ceased between State forces and ISIS-linked terrorists in the small Islamic city of Marawi. Of late, there is persistent talk that it may again be extended in terms of duration and scope, possibly over the whole country.

Defendant Duterte has scuttled the peace negotiations with the armed revolutionary movement, unilaterally and cavalierly cancelling the formal talks several times on flimsy grounds and imposing absurd conditions. He moved to judicially declare the Communist Party of the Philippines (CPP), which is supposed to be legal, and its armed force, the New People's Army (NPA), as “terrorist” organizations, implicating recklessly along the way many legal activists while launching a continuing crackdown on them.

On the economic front, Defendant Duterte has perpetrated the anti-democratic and exclusionary economics and governance in the country. He has continued the rehashed and failed neoliberal market-driven policies of his predecessors as imposed or influenced by Defendants international financing agencies and transnational entities doing business in the Philippines.



INDICTMENT

International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

His administration's Medium-Term Development Plan fails to address the country's weak economic base which is characterized by high unemployment and low incomes. In fact, Defendant Duterte further entrenched the system of backward agriculture and exploitative foreign-dominated economy which exacerbates poverty in the country.

All these are products of decades of foreign and elite dominance over the economy worsened by neoliberal policies that include a cheap-wage economy, liberalization of agricultural and trade, minimal rural development, foreign investor-biased industry, and overdependence on global markets.

Decades of uninterrupted neoliberal globalization has worsened the country's economic backwardness. Trade and investment liberalization has made it one of most open Asia's economies to big foreign capitalist exploitation and plunder which has ruined the national economy. Ironically, despite abundant natural resources and a huge productive labor force, the country has become a service and trading economy rather than a producing economy.

The Defendant Duterte government consistently fails to pursue an inclusive and sustainable economic growth that translates into the fulfilment of the basic rights to work, to living wages and regular employment, to land, to an adequate standard of living, and to health, housing and education.

Defendant Philippine government is poised to cut the budget for health and education. Defendant Duterte's promise to end labor contractualization and provide free land distribution, education and housing are still unmet, with no prospect of being fulfilled.

More than ten million Filipinos are jobless or underemployed while an equal number are forced to find work abroad, with thousands leaving the country every day to work overseas. The latest available labor force survey data reported hundreds of thousands of jobs lost, including a million agricultural jobs that were not replaced by new jobs elsewhere in the economy.

Millions live in extreme poverty and severe inequality while wages are still less than half of the family daily living wage.

Landlessness remains prevalent even among supposed agrarian reform beneficiaries. Farmers and farmworkers are disingenuously evicted from their lands by corporate plantations, ecotourism projects, and giant real estate developers, putting in peril not only farmers' livelihoods but also the country's food security.

Farmers that have dared to collectively occupy and cultivate idle or abandoned lands have been viciously attacked by landlords assisted by the Defendant government's security forces and private agencies under its tolerance or collaboration.

The homeless in the urban areas have boldly claimed idle and unoccupied government housing but are still burdened with inadequate health services, and poor



INDICTMENT

International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

water and power supply. Their leaders meanwhile face arrest for the boldness of their organizations' assertion of the basic right to housing.

In the Visayas island group, tens of thousands of survivors of the devastating Super typhoon Yolanda (Hainan) have been in temporary shelters for 4 years already with their former communities declared no-dwelling zones yet they are exploited into tourism spots. In Mindanao, a few thousand Marawi evacuees have been promised free housing but thousands more are prohibited from returning to their war-ravaged homes by business-led rehabilitation cordons.

In the indigenous Lumad and other remote areas where the government is absent, community-built schools have enabled thousands of indigenous children and their families to avail of free and relevant education. Yet Defendant Duterte himself unbelievably threatened to bomb them purportedly because the students are being taught to fight the government. Many school teachers and students have already been harassed, some school premises have actually been bombed, and many indigenous peoples have been forced to evacuate by Defendant Philippine government forces and paramilitary groups. Teachers and community leaders in these areas have already been murdered as a consequence.

An anti-poor tax law claims to slash personal income tax but hikes taxes on petroleum and many other basic goods as well as those considered by Defendant Duterte government as goods with "socially undesirable effects," triggering a spiral of price increases that further exacerbates poverty.

Defendant Duterte's anti-people budget continues to deprive people of genuine government service as it diverts public funds to corruption and big ticket projects demanded by Defendants World Bank, IMF, WTO and transnational corporations.

A largely agricultural archipelago surrounded by vast and rich marine resources, the country continued to import the staple food rice (even as they are infested with weevil or "bukbok") and has of late even started to import a poor man's traditional variety of fish (or "galunggong" which reportedly are laced with formalin).

The capricious termination of the peace talks with the NDFP betrays Defendant Duterte's lack of interest in addressing the root causes of the armed conflict by carrying out basic social and economic reforms that the country direly needs.

Despite showboating rhetoric, Defendant Duterte reneged on his pledge of pursuing an independent foreign policy and has essentially demonstrated his

allegiance to US imperialist goals in the Asia-Pacific region. This became more evident following his bilateral meeting with Defendant Donald Trump at the sidelines of the ASEAN Leaders' Summit in November 2017 in Manila.

From that time on, Defendant Duterte has volubly started issuing pro-US policy statements such as continuing the Partnership for Growth, the onerous military



INDICTMENT

International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

arrangement Enhanced Defense Cooperation Agreement (EDCA) that has transformed the country into one big aircraft carrier of US troops, and other burdensome agreements with the US signed under the previous administrations.

The Defendant Duterte government also renewed previous administration's reversal of the victory of the Filipino people in kicking out the US military bases in 1991. This includes upholding the lopsided Visiting Forces Agreement (VFA) and the Mutual Logistics Support Agreement (MLSA).

Although the Presidential Proclamation 360 unilaterally declaring the Defendant Duterte government's termination of the negotiations with the NDFP was issued November 23, 2018, there are credible reports that the actual decision was made on the eve of the ASEAN summit, just after his conversation with Defendant Trump.

The continued increase in overall US assistance to the country, despite some aberrational hemming and hawing here and there, must be seen in relation with Defendant US government's strategic "Pivot to Asia". Indeed, increased US presence and the permanent and expanded basing of US troops are further emboldening the Defendant Duterte government in implementing Oplan *Kapayapaan* (Operation Plan Peace), a counterinsurgency program patterned after the 2009 US Counterinsurgency Guide and financed by Defendant US government.

What the picture the foregoing sketch and the following parts of this Indictment is painting is a government headed by a vindictive and unstable leader that is increasingly authoritarian and despotic, and at the same time essentially subservient to local elite and dominant foreign economic interests, resulting in utter disregard of the rights of the Filipino people.



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

ALLEGATIONS

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

X-----X

Overview

The allegations, data, and analyses in the General Context above are hereby reproduced by way of reference insofar as they are pertinent to this specific charge or ground.

Defendant Duterte has persisted with viciousness in continuing previous governments' gross human rights and people's rights violations against the Filipino people.

Employing the resources of the State to attack, criminalize and target individuals and entire communities, Defendant Duterte trains his army, police, the prisons and the courts at anyone who dares to question and find alternative solutions to the policy environment that keep the Philippines in its miserable and dismal state. Defendant Duterte has chosen to make State terrorism his irreversible and grim response to the public clamor for systemic and substantial change.

Defendant Duterte's true nature, a volatile and unpredictable expletive-spewing strongman who uses his power to perpetrate a killing rampage against his own people, especially the poor, has been brought to the fore through his "war on drugs", his own brand of war-on-terror through the imposition of martial law and his military's all-out war embodied in the counterinsurgency program Oplan *Kapayapaan*. To him, his police and soldiers, the poor are not afforded with rights.

Defendant Duterte has instigated and incited the mass murder of mostly poor Filipinos through his brutal war on drugs, resulting in the death of at least 4,410 persons in police operations (as of July 31, 2018) up to 22,000 since he assumed office on June 30, 2016.

Through his pronouncements, more clearly systematized by the Philippine National Police (PNP)'s operation plans such as Oplan *Tokhang* and Oplan Double Barrel, and daily reports of killings of suspected drug personalities or contrived "nanlaban" (fought back) narratives, it is clear that the drug war campaign has led to the deaths of thousands executed by state security forces either in police operations or through death squads.



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

The brazenness and impunity are simply horrible. One² was killed while pleading for his life after the police barged in on his house while he was watching tv. Another³ was in a wake when the police arrived, told the others to leave, turned off the lights and shot him to death. Still another⁴ was shot and killed by the police while he was on his back in a railroad track. Yet another⁵ was shot after the police barged into his shanty, ordered his wife and family to leave. He was defenseless when he was shot to death. The most odious so far was that of a young man⁶ who was dragged by the police from his community and was mercilessly shot even after he pleaded them to stop as he still had school the following day.

The more progressive section of Philippine civil society, which raises the fundamental problems of the economy and consistently criticizes the current undemocratic and anti-people system, is once again subjected to vilification, red-baiting and crackdown. Reminiscent of the martial law period under dictator Marcos, the attacks are more brazen, from arbitrary arrests to filing of trumped-up charges against leaders of the progressive movement.

Even fact-finding, quick reaction and humanitarian missions are targeted, further constricting the remaining spaces for independent investigations by human rights groups on violations by state forces. As of June 30, 2018, there are 509 political prisoners across the country. They are illegally detained, subjected to trumped-up criminal charges and planted evidence. Many of them are sick, elderly, women and incarcerated for several years even without any conviction.

Complainant KARAPATAN's latest monitoring from the period of July 2016 to June 2018 reported 169 victims of extrajudicial killings (EJKs) and scores of victims of various violations of human rights and international humanitarian law committed by forces of Defendant Philippine government.⁷

² Arnold Sabangan.

³ Salvador Lopez.

⁴ Djastin Lopez.

⁵ Danilo Dacumos.

⁶ Kian delos Santos.

⁷ Other violations include: 362 frustrated extrajudicial killings (not counting drug-related EJKs), 5 enforced disappearances; 1,695 illegal arrests without detention; 359 illegal arrests with detention; 94 torture victims; 249 illegal searches and seizures; 213 physical assault and injuries; 6,114 demolitions; 503 violations of domiciles; 5,134 destructions of property; 793 divestment of property; 67,372 threats, harassments and intimidation; 1,607 forced or fake surrenders; 25 forced or involuntary servitude; and 1,973 restriction or violent dispersal of mass actions, public assemblies and gatherings; 436,517 forced evacuation; 42,127 use of public places for military purposes; 360,501 bombing and 6,792



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

Among the EJK victims are peasants asserting their right against land-grabbers, big business and large plantations including those coming from communities of indigenous people defending their ancestral land against foreign big mining corporations and other "development" projects, defenders of the environment and human rights workers, many of whom are from Defendant Duterte's home region, Southern Mindanao.

Quite horribly, apart from the relentless rants against rights defenders, the urban poor, women critics, the church and their members have also been objects of vicious verbal attacks by Defendant Duterte.

This climate of impunity, the normalisation of non-accountability in the numerous state-perpetrated killings and violations, has also resulted in the killings and persecution of Church members. This certainly provided the environment for the cold-blooded murders of priests, lawyers⁸ and members of the media⁹.

The murder of three priests and one pastor,¹⁰ two of whom killed immediately

indiscriminate firing.

⁸ Under Defendant Duterte's watch, at least 10 public prosecutors, 3 judges, 19 lawyers and 1 paralegal have been killed. Other lawyers and lawyers organizations, especially those involved in human rights advocacy and have been critical of the bloody drug war, are labeled and demonized by Defendant Duterte, his army and some members of media sympathetic to him. For one, the National Union of Peoples' Lawyers (NUPL), an advocacy group of *pro bono* human rights lawyers, and its leaders have invariably been labeled as "affiliate of the CPP or NDFP," "communists," "leftist," "protector of the NPA," and even an "enemy of the State" by the military and some newspaper columnists.

⁹ The Philippines ranks as the 5th worst country in unsolved media killings, with 42 journalists killed since 2007, including 32 in the infamous 2009 Maguindanao massacre.

¹⁰ Pastor Lablito Quiñonez of the Guardians of the Truth Church Mission International, Inc. was killed in Mindoro south of Manila by the Philippine military who accused him as a member of NPA.

Fr. Marcelito "Tito" Paez was shot by motorcycle-riding gunmen after he accompanied a released political prisoner while driving through a town in Nueva Ecija north of Manila.

Fr. Mark Ventura of the Diocese of Tuguegarao was killed by men in masks after presiding over a mass in Cagayan in Northern Luzon.

Fr. Richmond Nilo of the Diocese of Cabanatuan was killed in the chapel in a village in Nueva Ecija north of Manila as he was preparing to officiate a mass.



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

before or after officiating a mass, exemplified this state of impunity under Defendant Duterte.

Since 2017, another priest¹¹ from Cebu in the Visayas has been tailed and has been evading death squads for preaching and writing against extrajudicial killings including those by the so-called Davao Death Squad linked by various testimonies to Defendant Duterte when he was mayor.

Sister Patricia Fox, a 71- year-old Australian missionary and lawyer who has been helping and supporting for the longest time the struggles of the poor especially the peasants, has been arrested, detained and faces impending deportation, with Defendant Duterte boasting that he had personally ordered her to be silenced because she had a “foul mouth”. Fellow 84-year-old Australian-American law professor Gill Boehringer, was denied entry into the country and had to stay at the Manila airport for days before he was forcibly flown out despite his health condition.

Both Fox and Boehringer, together with a group of anti-imperialist activists from around the globe, are on the Defendant Philippine government’s immigration “blacklist” purportedly for “engaging in political activities” in the country like attending rallies critical of the human rights situation.¹²

The astounding figures surpassed the grim records of previous administrations and even the worst human rights record during the Marcos dictatorship. In the first two weeks of 2018, Complainant KARAPATAN noted no let-up in Defendant Duterte government’s violation of civil and political rights of farmers, indigenous peoples and human rights workers. Reports of illegal arrests, frustrated killing, threats and harassment continue to pour in.

Criticisms from domestic and international actors and institutions, including UN independent experts, were met with Defendant Duterte’s relentless barrage of curses and *ad hominem* attacks, ultimately justifying the killings, and in blatant disregard of international human rights instruments and international humanitarian law.¹³

¹¹ Fr. Amado Picardal (“Fr. Picx”).

¹² Other foreigners who were in the crosshairs of Defendant Duterte’s repressive policy against foreigners who get involved in fact-finding missions on human rights violations against farmers and indigenous peoples include missionary Tawanda Chandiwana of Zimbabwe who was arrested as a “subversive” in an immigration “watchlist” and detained on May 9, 2018 in Davao City; and Miracle Osman of Malawi, and American Adam Shaw, a citizen of the United States. Government officials confiscated Osman’s passport while she was applying to renew her missionary visa. Shaw, on the other hand, was informed that an order for him to leave was imminent. The three were assigned to ministries in Davao City.

¹³ The Defendant Philippine government is a signatory or party to almost all human rights covenants and remains to be a party to the



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

He has made good his promise of immunity to his police anti-drug leaders as no one has been convicted for these crimes, much less charged, including the 5 top police generals¹⁴ named by Defendant Duterte himself. He has in fact rewarded them “for a job well done.” A top police official¹⁵ tagged in the killing in jail of a former town mayor¹⁶ linked to the drug trade has been reverted back to duty. PNP Director General Ronald “Bato” dela Rosa, the then topmost police official in charge with the “war on drugs,” has been designated as head of the prisons bureau. Four police officials responsible for the killing spree in the streets of Metro Manila were likewise promoted to higher posts.

Even the police general¹⁷ who was in charge of the ground operations in the brutal dispersal of the hundreds of hungry protesting Kidapawan farmers in Mindanao which resulted in deaths and injuries, had been assigned as police chief of Defendant Duterte’s home city, Davao.

Homeless people, organised by urban poor groups such as Complainant KADAMAY, claiming their right to decent and accessible housing get death threats from the Defendant Duterte himself. Workers asserting their right to strike and demanding security of tenure and just wages are met with police violence. Even the so-called “*tambays*” or loiterers, who are merely reflections of the burgeoning unemployment crisis and inadequate housing space, are arrested and harassed in the hundreds¹⁸.

Meanwhile, state-perpetrated killings and attacks against civilians and human rights defenders, majority of them poor peasants and indigenous people, continue through the counterinsurgency Oplan *Kapayapaan* and the subsequent declaration of martial law in Mindanao. Of the 169 victims of political killings, at least 91 human rights defenders have been killed under Defendant Duterte, bringing the number of rights defenders killed since former President now Speaker Macapagal Arroyo to 706. No perpetrator among the police, military or paramilitary groups has been punished to date.

The pattern of violations before the killings remains distinctly similar to

Rome Statute of the International Criminal Court (ICC).

¹⁴ Deputy Director General Marcelo Garbo et. al.

¹⁵ Police Superintendent Marvin Marcos.

¹⁶ Albuera, Leyte mayor Rolando Espinosa.

¹⁷ Senior Superintendent Alexander Tagum.

¹⁸ During a 2-month period (June 13 to August 7, 2018) , the Philippine police has arrested in Metro Manila 101,223 individuals for “loitering” and violations of various petty and obscure ordinances against drinking in public, walkng shirtless or simply being idle in the streets.



INDICTMENT

International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

previous administrations' military operational plans and campaigns. Individual activists, progressive groups and/or whole communities are tagged or labelled as NPA supporters or members, "enemies of the state," or "terrorists"; surveillance, threats and harassment follow; and then worse forms of attacks such as killings, illegal/arbitrary arrests and detentions, or torture are employed. Once confronted with allegations and charges of rights violations, Defendant Philippine government forces justify the violations by falsely branding the victims as combatants of the NPA.

Nearly a thousand activists and political dissenters are facing false criminal non-bailable charges, with the Defendant Philippine government using legal instrumentalities and machinations to justify and prolong their incarceration. Widely used are the tactics of routine planting of evidence such as guns and explosives (to make the false charges non-bailable, thus incarcerating them indefinitely while the trial protracts), employment of fake or coerced witnesses, and the issuance of easily concocted alias and generic John and Jane Doe warrants. These political prisoners endure psychological and physical torture.

Instead of fulfilling his promise and obligation to release all political prisoners, Defendant Duterte has continued the practice of incarcerating dissenters, with 179 (or 35%) of the total of 509 political prisoners arrested and detained under his watch. Worse, he resurrected the defunct task force called the Inter-Agency Legal Action Group (IALAG), of former President Arroyo which was recommended for abolition by UN Special Rapporteur on Extrajudicial Killings Philip Alston, into the Inter-Agency Committee on Legal Action (IACLA). The IACLA, with the military and the police as its primary movers, now conducts the systematic and orchestrated fabrication of charges and arrests and detention of activists.

Defendant Duterte has upped the attacks against activists and defenders, as well as the revolutionary movement, using the hitherto unused Human Security Act or the Anti-Terrorism Law of 2007. In February this year, at least 61 human rights defenders, 38 individuals involved in the government's peace process with the NDFP, and 45 people's movement activists were alleged as members or leaders of the CPP and NPA in the petition maliciously proscribing the two organizations as terrorist organizations.

The odd mixture of 656 names include two missing, 8 dead and at least 187 silly aliases or purported *noms de guerre*. The list even includes UN Special Rapporteur on the Rights of Indigenous Peoples Victoria Tauli-Corpuz, who earlier released a statement condemning the military abuses in Mindanao under martial law.

A number of legal activists have started to question their inclusion in the virtual hitlist and their names were successfully dropped by the court for being "non-parties." However, the stigma of the terrorist label, demonization, threats of examination of bank accounts, sequestration, *ex-parte* surveillance and interception of communications, and warrantless arrests remain. The absurdity of the list was confirmed by no less the Defendant Philippine government's Justice Secretary who officially admitted that they did not vet the list and simply adopted everything that the military intelligence agencies provided them.



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

Such attacks and acts of reprisal by the Defendant Duterte government also involve public officials who voice out their opposition on the drug war killings. Sen. Leila de Lima, who also previously initiated investigations on Defendant Duterte's culpability in the killings of the Davao Death Squad, is currently detained purportedly for links to the drug trade. Supreme Court Chief Justice Maria Lourdes Sereno was removed from her post through unconstitutional and questionable means. The office of the former Ombudsman was also constantly undermined, while the Commission on Human Rights is repeatedly maligned and was threatened of being defunded. Such acts initiated or sanctioned by Defendant Duterte or his allies in all branches of government have all but eliminated any genuine checks and balances in governmental institutions.

Of late, Defendants Duterte and his legal team headed by a Solicitor General facing investigation of corruption involving his family business have again exploited the vast State powers and machinery by suddenly revoking the long-granted amnesty of Sen. Antonio Trillanes, a former military mutineer against ex-President Arroyo and one of the most voluble critics of Duterte's policies and programs, including those on drugs, criminality, corruption and the economy. Defendant Duterte invoked flimsy and absurd technical grounds and personally ordered his impending arrest even if he had no legal authority to do so.

Journalists are also in a precarious situation under Defendant Duterte, with the continuing killings (about 9 under his term) and harassment of media practitioners and the onslaught of legal cases against Rappler, an online media outfit that has persistently released critical stories on the impacts of the drug war. Like Defendant Trump, Defendant Duterte has openly lambasted broadcast and print media outlets that are critical of his policies, threatening to discontinue their legislative franchises or dig into their tax records.

To suppress the revolutionary and progressive movements in Mindanao, Defendant Duterte and his military forces magnified the spectre of terrorism by ISIS and imposed martial law in Southern Philippines, with the full backing and support of the Defendant US government.

During the first year of the implementation of martial law, Complainant KARAPATAN documented at least 49 victims of extrajudicial killings in Mindanao, with an average of 1 victim killed every week. Many of the victims were indigenous peoples and members of local peasant organizations targeted for their local campaigns for genuine agrarian reform and against militarization.

Complainant KARAPATAN also documented many cases of torture, frustrated extrajudicial killings, illegal arrests and detention, and 336,124 victims of indiscriminate gunfire and aerial bombings. At least 404,654 individuals have been displaced, largely because of these bombings.

Many more reported cases reveal a much graver magnitude of the effects of martial law. The dangers of ensuring security in traveling across the area prevent news gatherers, documenters and members of fact-finding missions from looking



INDICTMENT

International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

into field conditions so as to fully report on the human rights situation. The Defendant Philippine government has been so paranoid in keeping the lid on the situation that the participation of Sr. Fox and other religious in fact-finding missions in Mindanao have earned the personal ire of Defendant Duterte.

To ensure the full spectrum of attacks on civil liberties and people's rights, the Defendant Duterte government also unleashed a line-up of legislation that severely undermines basic rights and fundamental freedoms. There are still ongoing attempts to reimpose the death penalty and to lower the minimum age of criminal responsibility. On the table are the proposed amendments to the anti-terror law that will engender more gross violations on the exercise of freedom of speech and association, on the right to due process, against torture and other cruel and degrading treatment. Surreptitiously, under the guise of promoting peace and order, issuances imposing the national ID system and the provision of vast subpoena powers to the police have also been passed.

At the helm of government agencies implementing such draconian laws and brutal policies are military generals known for their records of human rights violations such as Defense Secretary Delfin Lorenzana, then military Chief and currently Interior and Local Government Secretary Eduardo Ano, and National Security Adviser Hermogenes Esperon, a top military official during the time of President Arroyo. Last year, there were at least 59 former generals appointed by the Defendant Duterte in almost every layer of the bureaucracy.

The rehabilitation and glorification of discredited traditional politicians have been a hallmark of the Defendant Duterte administration, also as a means to pay back political debts. This explains why Arroyo and other plunderers of government coffers, who also used repressive and fascist means to suppress opposition and dissent, are back and is in Defendant Duterte's inner circle of power.

The most blatant display however of this administration's direct endorsement and coddling of fellow militarists and tyrants cannot be more unscrupulous than Defendant Duterte's moves to rehabilitate the Marcoses back to power, starting with the hero's burial of the dictator Ferdinand Marcos Sr. and now the endorsement of the latter's son and namesake as his personal successor of choice.

While the ruling elite props up his strongman rule, Defendant Duterte and his authoritarian designs are applauded by the Defendant US government led by Defendant Trump. He and his representatives have openly supported Defendant Duterte's war on drugs, providing millions of anti-narcotics campaign aid to the police. Unmistakable too are the Defendant US government's imprints in the martial law imposition in Mindanao and the attacks against civilians and activists through counterinsurgency program Oplan *Kapayapaan* as an expression of its national security framework, war on terror and pivot to Asia.

Indeed, the assault on the people's democratic rights has worsened under Defendant Duterte. His authoritarianism, arrogant display of power, and fascism committed with impunity, have indubitably resulted in gross violations of the people's civil and political rights, for which Complainants charge him in this Indictment.



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

Specific Cases

The Complainants will present evidence on selected cases, issues or incidents, which are or involve willful acts or omissions constitutive and illustrative of various gross and systematic violations of civil and political rights that are patently contrary to the pertinent international laws, instruments, standards and principles hereunder mentioned.

Specifically, in support and corroboration of the above general allegations in the General Context and Overview, at least twelve (12) witnesses, experts and resource persons will testify and corresponding documentary evidence shall be submitted during the Tribunal proceedings on:

- (1) extrajudicial killings of human rights defenders
- (2) extrajudicial killings of suspected drug users;
- (3) massacre of indigenous peoples opposed to mining and landgrabbing by big transnational companies;
- (4) filing of trumped-up charges and arbitrary arrests and detentions of political activists,
- (5) torture of peasants;
- (6) political persecution of religious persons as well as members of the opposition critical of government policies and advocating reforms in society;
- (7) attacks on lawyers including those representing drug suspects;
- (8) attacks on press freedom and critical media; and
- (9) displacement, forced evacuation, arbitrary arrests and detention and other rights violations arising from the imposition of martial rule in Mindanao.

The nexus between the culpability of Defendants Duterte and the Philippine government and the role and participation of Defendants Trump and the United States government, as the case may be, for gross and serious violations of civil and political rights is borne by the facts and the evidence and will be fully established and proven during the Tribunal proceedings.



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

II. Gross and systematic violations of economic, social and cultural rights, particularly labor, peasant, women, and migrants rights, and the rights to education, livelihood and housing, transgression of their economic sovereignty and national patrimony; and various forms of economic plunder, through the imposition of neoliberal policies and other imperialist impositions to exploit the people

X-----X

Overview

The data, allegations and analyses in the General Context above are hereby reproduced by way of reference insofar as they are pertinent to this specific charge or ground.

Successive Philippine governments have steadily changed the country's social and economic policies to become neoliberal and free market-oriented for nearly 4 decades. Their individual and cumulative effect has been the rapid decline of agriculture and domestic industry resulting in the unprecedented crisis of joblessness and chronic poverty even as an elite few prosper.

In the face of visible economic decline and deterioration of the people's conditions, every government is challenged to replace these policies with socially and economically progressive policies of responsible State intervention in the national economy. Such State guidance must also be coupled with universal public provision of essential social services and social protection.

But the Defendant Duterte administration upholds the neoliberal policies as its own. It adds to and intensifies the neoliberal policy framework in the remaining aspects of the economy that are yet to be rendered completely neoliberal. Its continued adoption of destructive neoliberal policies is confirmed by its economic plan¹⁹ that is centered on improving the economy to make it more attractive to foreign and private investment. This orientation exacerbates systemic and wide-scale violation of the people's social, economic and cultural rights.

The almost 4 decades of implementing neoliberal policies has propelled the economy to an upward growth trajectory that has benefitted a narrow elite and failed to create jobs and livelihood opportunities.

Adherence to neoliberalism has also maintained the lack of genuine agrarian reform that could improve the situation of the rural population, the policy of wage depression, and the gross neglect of social services and government control and

¹⁹ Philippine Development Plan (PDP) 2017-2022.



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

regulation of public utilities.

The unremitting poverty of the Filipino people in spite of rapid economic growth in recent years is not a curious case but the mounting consequence of making the economy serve only the profiteering of foreign monopoly capital and domestic economic oligarchs.

Around 22 million Filipinos live in extreme poverty at Php60 (about €1) per person or much less per day, and almost 2/3 of the population live on just Php125 (approximately €2) or less per day. Severe inequality persists — the combined wealth of the 15 wealthiest individuals amounting to Php2.6 trillion is equivalent to the combined income of the 77 million poorest Filipinos. Statistics reveal that wages remain less than half of the family daily living wage. Minimum daily wage²⁰ will continue to be eroded as the first of two tax reform packages of the Tax Reform for Acceleration and Inclusion (TRAIN) law took effect.

The economy grew at a hyped 6.7% in 2017 but actually shed 663,000 jobs. It was the largest contraction in employment in 20 years. On the other hand, the official labor force participation rate²¹ was the lowest in 3 ½ decades. This could be an indicator of the growing number of discouraged workers that the government statistically removed from the labor force by changes in survey methodology.

The number of employed Filipinos increased by 625,000²², which is only to recover the unprecedented contraction in the same period last year and which is less than the average annual job generation of more than 800,000 since 2000s.

The trend in agricultural jobs is most ominous in the worsening jobs crisis. Agriculture lost 803,000 jobs in 2017 and another 723,000 jobs in April 2018, which continues a 6-year trend of the sector continuously losing irrecoverable jobs. Long-time government neglect of the sector and the continuation of neoliberal policies that have undermined domestic agricultural production and market as well as land availability have taken their toll on the country's poorest of the poor – the farmers and farm workers.

The number of unemployed²³ reaches 4.13 million. This brings the unemployment rate to an unchanged 9.1% from the previous year despite supposed faster economic growth. The number of underemployed increases to 6.93 million, which if added to the number of jobless totals about 11.1 million Filipinos seeking work and additional work. This unparalleled level of job scarcity in the country has

²⁰ Php466 (approximately €7.50).

²¹ 61.2% in 201.

²² As of April 2018.

²³ As of April 2018, which according to research institution IBON re-computes after government's statistical changes.



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

been going on since the 2000s and does not yet include millions of Filipinos who are doing informal and poor-quality work to eke out a living.

The latest average daily basic pay of wage and salary workers of Php413, if adjusted for inflation, shows that it is a negligible 1% increase since 2001. Nominal minimum wages in the country are barely enough to meet the basic needs of families. The minimum wage of Php512 in the National Capital Region (NCR) where the figure is highest is 48% short of the family living wage of Php979 estimate that a family of five should have.

The dearth of decent work and secure incomes has forced millions of Filipino workers to seek employment overseas. Deployment is constantly rising – to record numbers of 2.1 million deployed in 2016 (equivalent to 5,771 daily departures) and 2.0 million in 2017 (5,460 daily). Yearly in the last 6 years, more Filipinos are deployed for work abroad than new jobs are created in the local economy. Such exodus of Filipino workers is one of the clearest indicators of domestic economic failure.

Tens of millions of Filipinos remain poor, which all the more confirms that the rapid economic growth has not translated into inclusive development. The Defendant Philippine government officially reports 16.5% of the 22.7 million Filipino families or 21.6% of the population as poor. This, however, is based on a very low threshold of Php9,063.75 a month for a family of 5, equivalent to only Php60.43 a day per person both for food and non-food needs. The Defendant Philippine government has been using unrealistically low estimates of the subsistence food basket and an outdated price multiplier for non-food items, resulting in gross underestimation of poverty.

If independent estimates of family living wage would be applied on Defendant Philippine government's family income and expenditure survey where Filipino families are classed according to income, it would show that about 66% of Filipinos are living below decent standards. It is reasonable thus to consider official poverty figures as referring only to those in extreme poverty. Still, 9 out of 10 of these extremely poor are chronically poor.

Defendant Philippine government further reports that 5.7% of the extremely poor families corresponding to 1.3 million families and 8.2 million Filipinos are food-poor or do not meet the food threshold.

Wide income disparity has worsened in recent years, as the wealth of the wealthiest families as well as profits of corporations have increased manifold while real wages and incomes of the poorest households have been virtually stagnant.

Meanwhile, Defendant Philippine government has increasingly reneged on its responsibilities and turned social services into private provisioning, to the detriment of the poorest households. Privatization has made the income inequality starker as low-income families that comprise the majority have disproportionate access to social services.



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

In 2017, amid improvements of net enrolment and cohort survival rates, the country recorded 3.8 million out-of-school children and youth. These probably include many of the 1.5 million children and youth aged 5-17 years working to augment insufficient family incomes. There is a decreasing trend of higher education enrolment. Tuition per year in private colleges and universities is exorbitant for the poorest 60% of families. Despite recent moves to allocate budget for free tertiary education, the Defendant Philippine government still spends an equivalent of only 4.3% of the gross domestic product (GDP) on education, which is short of the 6% recommendation of the United Nations.

The country records dismal health outcomes mainly as result of lack of access to health services. The country's leading causes of mortality are highly preventable and curable if only people had access to health services. Nine out of 10 deaths by the leading causes were not attended by medical doctors or other healthcare professionals.

In this age of modern technology, the Philippines has an untempered maternal mortality ratio of 66 maternal deaths per 100,000 live births. The continuing prevalence of child malnutrition as well as high child mortality rates is also worrisome. These dismal health outcomes clearly illustrate income inequality – incidences are higher in rural areas and among the poorest income deciles.

Health expenditures are dominantly out-of-pocket over government spending. This can drive households into deeper poverty when spending for catastrophic diseases or can discourage them from seeking healthcare completely. Defendant Philippine government's universal health care program is increasingly insurance-based instead of direct service provisioning, which effectively marginalizes the unemployed. Although the coverage of the national health insurance program has been reportedly increased to include indigent patients and senior citizens, it still accounts for only 14% of total health expenditures. Health comprises only 7.8% of the national budget and further shrinks in the budget proposal for next year.

Defendant Philippine government's neoliberal policy of commercializing government hospitals further restricts the poor's access to health services and reduces government's responsibility to provide health facilities and health workers to serve the populace.²⁴

The country's worsening housing crisis is evident in increasing housing

²⁴ There are currently one barangay (village) health station to serve two barangays or 5,126 people and 24 barangay health workers per 10,000 population. There is 1 government doctor per 32,644 people, 1 government nurse per 17,259, and 1 government midwife per 6,030 people. These statistics are way below World Health Organization (WHO) standards.



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

backlog and numbers of informal settlers and urban slum dwellers. Defendant Philippine government estimates current housing backlog at 5.6 million units. There are about 1.5 million informal settler families in the entire country, one-third of these are found in the National Capital Region (NCR). There are an estimated 5 million Filipinos living in slums in major metropolitan cities.

The lack of rural development, worsening employment situation, as well as low incomes are the push factors for families to live in dire housing conditions. But apart from not having long-term solutions to these push factors, the Defendant Duterte government is also not focusing on providing housing services.²⁵

Economic backwardness exacerbated by neoliberal policies is the underlying cause of the jobs crisis, low wages, weak government regulation, and dwindling social services. The economy is reduced to a service-oriented economy rather than a producing one that could have strengthened aggregate demand and generated surplus. The cycle of underdevelopment that the Philippine economy is mired in has rendered it incapable of significantly reducing poverty.

But the Defendant Duterte government has taken on the crucial role of completing neoliberalism through a package of continued and enhanced neoliberal economic policies. Branded “Dutertenomics” by the Defendant Philippine government’s economic managers, it aims to keep the growth momentum and to facilitate the completion of neoliberal policies that previous administrations had difficulty passing and implementing due to the harshness of the policies. Dutertenomics spells greater hardship for the Filipino people and can only be carried out by an unsympathetic and elitist government.

The Defendant Philippine government’s economic plan is centered on an ambitious infrastructure program dubbed *Build, Build, Build* (BBB), which is not designed to build the necessary infrastructure for agrarian and rural development and national industrialization but only to stimulate further the service-oriented economy. The main point of the BBB is to open up infrastructure development as a lucrative business for infrastructure transnational corporations (TNCs) and the country’s economic oligarchs.

Secondly, the BBB is aimed at presenting the country favorable for foreign

²⁵ Housing and community development comprises a miniscule 0.02% of the national budget, with budgets of shelter agencies even suffering a 70.2% cut from Php14.8 billion in 2017 to Php4.4 billion in 2018. The budget of the National Housing Authority (NHA) was reduced from Php12.7 billion to only Php2.2 billion; 28% is allocated for the relocation of informal settler families, while 72% is for the construction of housing units for military personnel.



INDICTMENT

International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

investment, because projects are mainly transportation-related to make the cost of moving people, goods and services competitive. Lastly, an infrastructure program under any administration in the Philippines, more so under the Defendant Philippine government because of the enormity of the BBB, has always been a vast source of bureaucrat capital for corruption.

The Defendant Philippine government adopts a hybrid public-private partnership (PPP) scheme to fund the BBB, where the government will construct the facility while the private corporation will undertake operations and maintenance. The Defendant Philippine government is going on a borrowing binge through the availment of both official development assistance (ODA) and commercial loans, increasing gross borrowings rapidly and the total outstanding national government debt double the pace of the previous administration.

On the other hand, the private corporation earns enormous profits by collecting user fees from the public from an otherwise public utility. BBB is designed for government to subsidize private profits of oligarchs and foreign corporations with public funds. This is not to mention that projects shall displace and dislocate communities.

The bulk of the BBB projects will be bankrolled by people's taxes, since half of the number of projects will be ODA-funded and 1/3 will be from the national budget. The Defendant Duterte government increases the infrastructure budget to about 30% of total, and as percent of GDP, targets 7.3% to surpass even the ratio of 3.5% under the Marcos dictatorship. The Defendant Duterte government passed the Tax Reform for Acceleration and Inclusion (TRAIN) Law to fund the infrastructure offensive and make it look attractive to investors. Seventy-seven percent (77%) of the TRAIN collections shall be allocated for BBB.

TRAIN is the most comprehensive tax reform scheme in the country's history and the most controversial. It lowers taxes paid by oligarchs, foreign capital and the richest families and makes up for this by increasing the taxes paid by the majority poor including the poorest sections of society. It introduces new and higher excises on petroleum products, new excises on sugar-sweetened beverages, generally higher taxes on automobile, lifting of value-added tax (VAT) exemptions on wide range of commodities, and higher taxes on tobacco products, coal, mining, cosmetic procedures and passive income.

But the TRAIN has triggered simultaneous and continuous increases in the prices of basic commodities since the start of 2018 when it was implemented, causing the inflation rate to reach a 10-year high. This has further eroded the already meager incomes of the country's poorest families.²⁶ Still, the Defendant Duterte government has vehemently shot down the people's calls for substantial wage hikes and repeal of the TRAIN which is yet to run until 2020 and whose inflationary impact shall be permanent.

²⁶ About 60 million Filipinos have already suffered income losses of anywhere between Php993 and Php2,751 since the start of 2018.



INDICTMENT

International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

Instead, the Defendant Philippine government offered to distribute unconditional cash transfers (UCT) to the poorest 10 million families – Php200 per month in 2018 and Php300 per month in 2019 and 2020. The amount is insufficient, and besides higher prices will remain beyond 2020. It is also quite delayed – only 4.4 million families who are already receiving conditional cash transfers (CCT) from the current poverty program and 3 million senior citizens have received so far, while the rest will have to wait. The UCT fund is also coming from people's taxes.

The Defendant Philippine government's economic managers have even taken advantage of the high inflation to push for more neoliberal reforms. In the recent unabated increases of the prices of rice, meat, fish and other foodstuff, the government even proposes to subject rice to tariffication and unlimited importation and to reduce tariffs on meat and fish. The move is undermining the livelihood of millions of farmers, the country's food self-sufficiency and food security, and the welfare of consumers.

Dutertenomics is clearly to entice and assure foreign corporations and domestic economic oligarchs that they would benefit from a liberalized economy and that their profits would be covered by people's taxes, cheap labor, cheap natural resources, and a captive market.

The Defendant Duterte government is easing restrictions on foreign investment, drastically shortening the country's foreign investment negative list, and amending the Public Service Act to redefine what counts as public utilities as a way to bypass Constitutional restrictions on foreign investment in utilities.

It is further deregulating labor and land markets and actively pursuing free trade agreements (FTAs) that put the country and its working people at a disadvantage. These include new FTAs with the Defendant US government, EU, and China. The Defendant Duterte government has also actively surrendered natural resources and territory for exploitation by China.

More than mere continuation and addition, however, the Defendant Duterte government seeks to complete the neoliberal overhaul of the economy that previous administrations have started by changing the 1987 Philippine Constitution to institutionalize profit-seeking and the market as the main organizing feature of the country's social and economic life.

This includes amendments proposing to dilute or remove provisions on agrarian reform and industrialization; state intervention in the economy; and social justice and equity. Proposed changes are meant to give foreign capital greater rights to exploit natural resources and Filipino labor. The sectors that will be affected are natural resources, public utilities, educational institutions, mass media, advertising, and "certain areas of investments" that the state shall no longer have the freedom to identify as essential for national economic development.

Labor rights are completely abrogated in the proposed Charter amendments, including security of tenure, humane work conditions, a living wage for all workers, to



INDICTMENT

International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

collective bargaining and negotiation, to strike, to participate in policy and decision, and to a just share in the fruits of production. These are replaced by rhetoric that dilutes labor rights and state obligations. In the name of the market, Charter change paves the way for greater exploitation of Filipino labor.

Dutertenomics escalates people's hardships, not only as they pay regressive taxes to fund the pro-foreign and pro-oligarchs BBB but also as they suffer the impact of neoliberal policies through contractualized and irregular jobs, cheap wages, diminished social services, and physical displacement.

The Defendant Duterte government has not only rejected calls to legislate a national minimum wage that is substantial for the requirements for decent living but has also upheld the prevalent practice of labor contractualization by the country's employers. Tens of thousands of Filipino workers are contractualized and do not have security of tenure, apparently including those in government agencies and ironically even the labor department. Defendant Duterte campaigned on the promise of ending contractualization but he has only circumvented labor laws to continue the practice.

The Defendant Philippine government, under Defendant Duterte, has worsened the violation of basic rights of 2.3 million government workers to a living wage, security of tenure and union rights. The current minimum wage of civilian government workers is way below the cost of living for a family. The current salary rates of workers in local government units especially in poor municipalities is even much worse.

Furthermore, the Defendant Philippine government is the biggest employer of contractual employees running to hundreds of thousands. Defendant Duterte officially sanctioned the proliferation of contractualization through institutional contract of service (i.e. manpower agency hiring) even by those in the performance of regular government functions, with lack of social protection and obscure accountability of these workers due to lack of employer-employee relationship with the hiring government agency. This opened more opportunities for private sector profit, government corruption, and greater exploitation of workers.

BBB and the resultant encroachment of farms and fishery grounds and financial speculation on land are hurting farmers and fisherfolk more. The TRAIN that has increased production cost as well proposals for rice tariffication and liberalization of food and agricultural imports will worsen farmers and fisherfolk's woes, landlessness, their lack of production and market control, and the overall agricultural jobs crisis. Communities will be demolished, displaced and barred from infrastructure project sites.

Consumers will be paying more for infrastructure facilities, while the general population will pay more taxes because of the accumulated debt. Meanwhile, the Defendant Philippine government will surrender more for neoliberalism, for foreign capital and the local economic elite.



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

The Defendant Duterte government is bound to implement harsher neoliberal policies. It will ease restrictions on foreign investment, forge FTAs, and offer the country's natural and human resources for exploitation. It aims to achieve what past administrations had started to do – to fully liberalize the economy to foreign control by overhauling the Philippine Constitution. The proposals are atrocious and if passed will abrogate social and economic rights, social justice, and sovereignty.

The country and its people are experiencing the worst. In August 2018, the national inflation rate was 6.4% while other parts of the country had even higher rates. The 2nd quarter Gross Domestic Product (GDP) growth was slowest in 12 quarters, the peso at its lowest in 13 years, 1st semester remittances by overseas workers was slowest in 17 years, the trade and balance of payments deficit was the worst in the country's history, and the gross international reserves (GOR) was lowest in 9 years.

These policies and programs are a direct result of the continuing impositions of Defendants IMF, WB and WTO and perpetrated by Defendants transnationals and foreign banks doing business in the country.

Thus, from the foregoing thus far, there are cogent reasons to assert that Defendant International Monetary Fund (IMF), does not "work to foster global monetary cooperation, secure financial stability, facilitate international trade, promote high employment and sustainable economic growth, and reduce poverty around the world" but in fact exacerbates the global and Philippine problems of poverty and inequity between countries and peoples.

In the same vein, the World Bank (WB), functions not to "bridge the economic divide between poor and rich countries by turning rich country resources into poor country growth" but aggravates such economic injustice. Its long-term vision to "achieve sustainable poverty reduction" are mere empty catch phrases to perpetuate an unjust global economic order.

All these organizations, including the World Trade Organization and the transnational corporations doing business in the Philippines do not objectively serve their stated purpose but they effect the reverse of the purposes they avow—widen instead of bridge the economic divide between poor and rich countries and perpetuate economic backwardness and dependency especially under the neoliberal policy regime of Defendant Duterte.

All these policies and programs, singly and collectively, are the responsibility of the Defendants and have resulted in gross violations of the people's social, economic and cultural rights, for which Complainants charge them in this Indictment.

Specific Cases

The Complainants will present evidence on selected cases, issues or incidents, which are or involve willful acts or omissions constitutive and illustrative of various violations and patently contrary to the pertinent



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

international laws, covenants and instruments hereunder mentioned for gross and systematic violations of economic, social and cultural rights 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.

Specifically, in support and corroboration of the above general allegations in the General Context and Overview, at least 9 witnesses, experts and resource persons will testify and the corresponding documentary evidence shall be submitted during the Tribunal proceedings on:

- (1) contractualization, union busting and other violations of labor rights;
- (2) landlessness and harassment of poor peasants;
- (3) misogyny and gender-based abuses and violations of rights of women²⁷;
- (4) negligence in the protection of overseas workers in distress and violations of rights of migrants workers;
- (5) violations of the rights to education of the youth;
- (6) violations of the right to livelihood and imposition of anti-poor economic policies and related rights; and
- (7) violations to right to decent housing and repression of the homeless urban poor.

The nexus between the culpability of Defendant Duterte and the Philippine government and the role and participation of Defendants Trump, the United States government, the IMF, WB, WTO and transnational corporations doing business for gross and serious violations of social, economic and cultural rights is borne by the facts and the evidence and will be fully established and proven during the Tribunal proceedings.

²⁷ On top of all these is Defendant Duterte's brazen misogyny and utter disrespect of women, bragging of his conquests, making rape jokes, asking soldiers to shoot women members of the New People's Army in the vagina, and in other occasions, belittling women, ogling at his new woman cabinet member, and obscenely kissing in public a Filipina migrant worker in Korea. Of late, he has attributed the high incidence of rape in his home city because "there are many beautiful women there."



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

III. Gross and systematic violations of the rights of the people to national self-determination and development and violations of international humanitarian law, particularly attacks on civilian communities and schools, massacres of hors d' 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.

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Overview

The data, allegations and analyses in the General Context as well as those discussed in Ground One above are hereby reproduced by way of reference insofar as they are pertinent to this specific charge or ground.

As aforesaid Defendant Duterte's Oplan *Kapayapaan* – or the Defendant Philippine government's counterinsurgency program has yielded a number of violations of human rights and international humanitarian law.

These counterinsurgency programs, developed under the influence of the Defendant United States government, represent violations of the right to self-determination as enshrined in various international instruments. Defendant United States government, in 2017 and 2018, provided a total of US\$ 175,450,000 in military support that has enabled the Armed Forces of the Philippines in activities of Oplan *Kapayapaan*. According to the 2018 US Congressional budget documents, the US will allocate US\$111 million as military assistance to the Philippines primarily in support of Oplan *Kapayapaan* next year.

Like previous counterinsurgency programs implemented in the country under the direction of the US military, *Oplan Kapayapaan* serves as the framework for quelling not just armed resistance but also for suppressing the legal democratic protest movement and opposition.

The attacks in March this year using white phosphorus to bomb communities in Malibcong, Abra in Northern Luzon as part of Oplan *Kapayapaan*, constitute crimes against humanity. The use of incendiary weapons is, furthermore, strictly forbidden against civilians by international humanitarian law. In addition to the use of phosphorus bombs in indiscriminate air strikes, residents reported experiencing still other violations of international humanitarian law: food blockades; illegal arrests and detention; and the curtailment of their right to movement.

The attacks against indigenous schools, particularly those of the Lumad, became prominent in the media in 2015 under the Aquino administration with the



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

deaths and torturing of Lumad leaders, which precipitated the displacement at that time of more than 2,000 residents.

These incidents, the killings, the instance of the rape of a girl by 3 soldiers, the occupations and burnings of homes and school, among other violations, constitute crimes against humanity. But in sum, the systematic nature of these violations against a minority population points to crimes against humanity, and may even qualify as ethnocide.

The Lumad and other indigenous peoples are targeted due to their resistance to allowing the entry of corporations onto their ancestral lands for the purposes of mining and logging. The hopes for an improvement in the situation of the indigenous under Defendant Duterte dissipated with his threat to bomb Lumad schools last year, claiming them to be fomenting rebellion.²⁸

Hinting that the rationale was connected to the Oplan *Kapayapaan* strategy, Defendant Duterte announced plans concerning the forcible relocation of Lumad communities to temporary shelters. He also plans to bring investors into the land for “development” of the ancestral lands. The Philippine Commission on Human Rights has since released a statement in response warning that such plans are notorious for disrespecting rights protecting the ownership and culture of indigenous peoples.

The Enhanced Defense and Cooperation Agreement (EDCA), the Visiting Forces Agreement (VFA), the Balikatan military exercises between the Defendant governments and the overall US military intervention, along with counterinsurgency programs Oplan *Bayanihan* and Oplan *Kapayapaan*, represent a violation of the right to self-determination.

While the Philippines is a formally independent nation-state, this independence is limited as the massive basing presence enabled by EDCA and the VFA not only entails obligations on the part of the Defendant Philippine government to provide forms of support for this presence, but deprives the nation of full self-determination over its foreign policy as it is effectively incorporated into the US antagonism against China and Russia.

The Balikatan exercises, which involved 8,000 Filipino and US military personnel in 2018, extend the basing structure, supplementing it with a constant

²⁸ Defendant Duterte threatened to bomb Lumad schools like the Center for Lumad Advocacy, Networking and Services, Inc. (CLANS) operating in various areas in Socksargens, Alternative Learning Center for Agricultural and Livelihood Development, Inc. (ALCADEV) and the Tribal Filipino Program of Surigao del Sur (TRIFPSS), which have the distinction to school Lumad children according to their tradition and needs. These schools include the community's context of struggle for self-determination and defending their ancestral lands. To date, school administrators, teachers and students have been victims and targets of assassinations and trumped-up charges, militarization of their communities and forcible displacement



INDICTMENT

International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

rotation of US troops who, although supposedly tasked with training exercises, actually support counterinsurgency operations.

According to international instruments, citizens should have equal access to public services such as “national defense” but under these circumstances corporate interests and the agenda of Defendant US government for regional dominance are protected over the wellbeing of average citizens.

The destruction of Marawi and the establishment of Martial Law in Mindanao further involve violations of the right to self-determination and development. During this time, the Defendant United States government provided military assistance to the Philippine army including security training in the areas of intelligence, surveillance and reconnaissance.

While this has been confirmed by Philippine military officials, Defendant Duterte claims to have no knowledge of US assistance. Foreign combat troops are prohibited by the 1987 Philippine Constitution. This violation of the right to self-determination is accompanied by crimes against humanity. There are reasons to expect these violations to continue in the absence of processes to hold the government accountable.

As aforesaid, Martial Law was declared in May 2017 and extended to December 2017, with the justification being the threat posed by the Maute group. However, even after declaring Marawi to be free of terrorist groups, Defendant Duterte sought extension of Martial Law, this time claiming without providing valid basis that the NPA is a terrorist group.

The West Philippine Sea (WPS) dispute has become an important stage for the strategy of Defendant US government of seeking to contain the influence of China. The aggressive buildup of the US military presence in the WPS is juxtaposed to China’s militarization of the artificial islands it claims to own.

In the event that the rivalry between the US and China becomes more confrontational, not only the US basing facilities but also Philippine facilities could be exposed to retaliatory attacks from China. In May 2018, two US vessels came within 12 nautical miles (around 22 km) of the disputed Paracel Islands, an act viewed by China as contravening Chinese and relevant international law, with the Chinese defense ministry stating that it “harmed strategic mutual trust between the two militaries.”

What is at issue here are the implications for rising US-China antagonisms on people’s rights to self-determination: the UN Declaration on the Right to Development relates the right to development to the full realization of the people’s right to self-determination including the inalienable right to full sovereignty over natural wealth and resources.

Whether it is the Defendant US or China who controls the WPS is not to the interest of the Filipino people and is a violation of their right to the resources that is



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

for them to access and benefit from under international law.

As far as the WPS (a subsection of the South China Sea) is concerned, from a legal standpoint, there is no dispute. The Hague tribunal has ruled with finality, in a decision that upholds the 1982 United Nations Convention on the Law of the Sea, that the WPS rightfully belongs to the Philippines. The presence of both the US and China are hence in violation.

As aforementioned, the labeling as “terrorist” and proscription of CPP-NPA and their alleged members including several legal activists was formally initiated by Defendant Duterte with the signing of Proclamation No. 374. This occurred in the context of Defendant Philippine government’s unilateral termination of the GRP-NDFP peace negotiations.

The labeling of the CPP and NPA as “terrorist” organizations has been pursued without sufficient basis and is hence in violation of the right to liberation as enshrined in the Algiers Declaration. Meanwhile, the Defendant US government continue to include the CPP and NPA as well as the NDFP’s Chief Political Consultant Prof. Josa Maria Sison in its list of so-called foreign terrorists, notwithstanding these organizations’ adherence to international humanitarian law and despite the removal of Prof. Sison from a similar list of the European Union.

The sabotage of the GRP-NDFP Peace Negotiations as a platform to resolve the roots of the armed conflict stands in violation of the Algiers Declaration and the pertinent bilateral peace agreements between the parties. Defendant Duterte was largely responsible for the derailment, most visibly through the signing last year of Proclamation 360 terminating peace negotiations. He sought to build the appearance of legitimacy through public rants about recent incidents in the armed conflict.

The profiling, discrimination, torture and deportation of Moslems like Jerome Aba by Defendant US government’s Customs and Border Patrol (CBP) and Homeland Security represents a violation of international human rights law, which require a State party not only to refrain from committing discrimination but to undertake affirmative steps to prevent and put an end to existing discrimination.

Invited by several church institutions, including the US Conference of Catholic Bishops (USCCB), the Filipino rights defender was detained at San Francisco International Airport, psychologically tortured, and deported 28 hours later. In the US, individuals from predominantly Muslim countries are being denied entry, but Aba’s case lends support to the assertion that Muslims are being targeted regardless of country.

All these and more, constitute gross and systematic violations of the rights of the people to national self-determination and development and violations of international humanitarian law by Defendants for which Complainants charge them in this Indictment.



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

Indeed the evidence that will be adduced is that the declaration of the right to development is precisely against imperialist aggression and is besides economic exploitation and even climate change. It will be shown that the right to self-determination of the Filipinos is not just against the Defendant US but also against Defendant Duterte government which does not act according to the wishes and needs of the people.

Specific Cases

The Complainants will present evidence on selected cases, issues or incidents, which are or involve willful acts or omissions constitutive and illustrative of various violations and patently contrary to the pertinent international laws, covenants and instruments hereunder mentioned for gross and systematic violations of the rights of the people to national self-determination and development and violations of international humanitarian law.

Specifically, in support and corroboration of the above general allegations in the General Context and Overview, at least 10 witnesses, experts and resource persons will testify and documentary evidence shall be submitted during the Tribunal proceedings on:

- (1) attacks on civilian communities including the use of prohibited use of warfare;
- (2) attacks on schools of indigenous peoples and harassment;
- (3) destructive mining and environmental degradation;
- (4) massacre of *hors d' combat*;
- (5) attacks on indigenous peoples and national minorities amounting to crimes against humanity;
- (6) profiling and discrimination of Moslems;
- (7) terrorist labeling, blacklisting, and proscription of social activists and revolutionary organizations;
- (8) US military intervention and aggression; and
- (9) violations of the right of the people to self-determination, development and peace.

The causal interrelationship between the violations committed by Defendants Duterte and the Philippine government and the key role or participation of Defendants Trump and the United States government for violations of international law and principles is intertwined and will be supported and elaborated during the Tribunal proceedings.

EVIDENCE

The particulars and specifics of the above allegations for all the charges or grounds abovementioned shall be further elaborated, substantiated and proven – orally or in writing - in the course of the Tribunal proper by the testimonies of victims,



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

witnesses and opinions of experts or resource persons.

A total of at least 31 witnesses, experts and resource persons shall be presented before the tribunal, 12 for Ground 1, 9 for Ground 2, and 10 for Ground 3.

Documentary evidence, photos, audio/videos, special reports, expert analyses and summaries as well as general accounts and reports on the above charges or grounds shall be submitted in person or into the record.

Therefore, the Complainants, through the Prosecution, shall adduce evidence showing that the Defendants have been complicit by either overtly or covertly pursuing or promoting measures violating the rights of the Filipino people; or remaining practically or absolutely silent or passive to stop or to stem such violations and thereby perpetuating them; or systematically and habitually failing to act to alleviate such violations or the conditions of the people.

VIOLATIONS OF INTERNATIONAL LAW AND INSTRUMENTS

The Defendants' willful acts and omissions, presented through the General Context as well as the general overview and allegations for each Ground, supported, corroborated, or exemplified in the specific selected cases or representative incidents mentioned above, -- singly, in combination or collectively -- clearly violate or are inconsistent with international instruments, principles and standards, embodied in, but not limited to the:

- 1948 Universal Declaration of Human Rights (UDHR)²⁹
- 1948 Convention concerning Freedom of Association and Protection of the Right to Organise, No. 87 (CO 87)³⁰
- 1949 Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, No. 98 (CO 98)³¹
- 1949 Geneva Conventions³²

²⁹ *Inter alia*: Articles 3 (right to life, liberty and security); 5 (torture or to cruel, inhuman or degrading treatment or punishment); 7 (equality and against discrimination); 8 (effective remedy for violation of rights); 9 (arbitrary arrest, detention or exile); 10 (due process); 11 (presumption of innocence and against ex-post facto laws); 12 (privacy); 13 (movement and residence); 19 (opinion and expression); 20 (peaceful assembly and association); 22 (economic, social and cultural rights); 23 (employment, conditions of work, trade union); 25 (basic social services); and 26 (education).

³⁰ Specifically, Articles 2 and 11.

³¹ Specifically, Article 1 (1).

³² *Inter alia*: The Fourth Geneva Convention ("Relative to the



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

- 1950 Principles of the Nuremberg Tribunal³³
- 1966 International Convention on the Elimination of All forms of Racial Discrimination (ICERD)³⁴
- 1966 International Covenant on Civil and Political Rights (ICCPR)³⁵
- 1966 International Convention on Economic, Social and Cultural Rights (ICESCR)³⁶

Protection of Civilian Persons in Time of War") or GCIV where protected civilians must be treated humanely at all times and protected against acts or threats of violence; and that they should not be forced to give information; punished for an offence he or she has not personally committed etc. In particular, Articles 32 (prohibition of corporal punishment, torture) and 33 (individual responsibility).

³³ Principle VI: crimes under international law:

(a) Crimes against peace:

(i) Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances;

(ii) Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i).

(b) War crimes:

Violations of the laws or customs of war which include, but are not limited to, murder, ill-treatment or for any other purpose of civilian population; murder, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity.

(c) Crimes against humanity:

Murder, and other inhumane acts done against any civilian population, or persecutions on political, racial, or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connection with any crime against peace or any war crime.

³⁴ *Inter alia*: Articles 2, 5, 6 and 7.

³⁵ *Inter alia*: Articles 1 (self-determination); 2-5 (effective legal remedy; non-discrimination); 6-8 (right to life and against torture); 9-11 (liberty and security of the person); 14-16 (procedural fairness); 12, 13, 17-24 (individual liberty); 20 (incitement to discrimination, hostility or violence by law); 25 (political participation, including the right to the right to vote); 26-27 (non-discrimination, minority rights and equality before the law).

³⁶ *Inter alia*: Articles 2 (progressive realisation); 6 (labour rights); 11 (adequate standard of living); 12 (health); and 13 (free education).



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

- 1976 Universal Declaration of the Rights of Peoples (Algiers Declaration)³⁷
- 1977 Additional Protocols I and II to the Geneva Conventions³⁸
- 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)³⁹
- 1983 Protocol III to the 1980 Convention on Certain Conventional Weapons (CCWC)⁴⁰
- 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and related instruments⁴¹
- 1989 Second Optional Protocol to the 1966 ICCPR⁴²
- 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families⁴³

³⁷ *Inter alia*: Sections I (right to existence); II (right to political self-determination); III (economic rights of peoples); and V (right to environment and common resources)

³⁸ *Inter alia*: Protocol I: Articles 35 (bans on weapons that cause superfluous injury or unnecessary suffering and means of warfare that cause widespread, long-term, and severe damage to the natural environment); 51-54 (indiscriminate attacks on civilian populations, and destruction of food, water, and other materials needed for survival.); 53 (attacks on places of worship); 76 and 77, 15 and 79 (special protections for women and children).

³⁹ *Inter alia*: Parts I (non-discrimination, sex stereotypes) and III (economic and social rights of women, particularly focusing on education, employment, and health. In particular, Article 5 which requires States parties to take measures to seek to eliminate prejudices and customs based on the idea of the inferiority or the superiority of one sex or on stereotyped role for men and women.

⁴⁰ Article 1 of Protocol III: Protocol on Prohibitions or Restrictions on the use of Incendiary Weapons, prohibiting or restricting the use of certain conventional weapons (including incendiary ones like white phosphorus) in all circumstances, making the civilian population as such, individual civilians or civilian objects, the object of attack by any weapon or munition which is primarily designed to set fire to objects or to cause burn injury to persons.

⁴¹ Specifically, Articles 2 and 16.

⁴² Abolition of the death penalty.

⁴³ In general, Article 7 protects the rights of migrant workers and their families regardless of "sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth, or other status".¹



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

- 1990 Convention on the Rights of the Child⁴⁴
- 1990 UN Basic Principles on the Role of Lawyers⁴⁵
- 1992 GRP-NDFP Hague Joint Declaration⁴⁶
- 1995 GRP-NDFP Joint Agreement on Safety and Immunity Guarantees (JASIG)⁴⁷
- 1998 Rome Statute of the International Criminal Court⁴⁸
- 1998 UN Declaration on the Rights of Human Rights Defenders⁴⁹

⁴⁴ In general, on child-specific needs and rights.

⁴⁵ In particular, Principles on guarantees for the functioning of lawyers:

16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

18. Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

⁴⁶ Par. 4 (Principles and Character of the Peace Negotiations)

⁴⁷ Pars. 1, 2 (last paragraph), 4, of Part I (Safety Guarantees); Pars. 1, and 2 of Part II (Immunity Guarantees); Pars. 5 and 6 of Part III (General Provisions).

⁴⁸ Acts of Murder under Article 7, paragraph 1 (a) for the extra-judicial killings of thousands of Filipinos; and other Inhumane Acts under Article 7, paragraph 1 (k) for causing great suffering to the victims and their families. Defendant Duterte is criminally responsible and liable for the murders, and other inhumane acts, under Article 25, paragraphs 2 and 3 being the most senior leader and most responsible for these crimes and under the principle of command responsibility under Article 28, paragraphs (a) and (b), being the commander and superior authority over the police and other state security forces who committed the acts of murder, inhumane acts, and other forms of persecution in the implementation of his policy against suspected drug and crime suspects.



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

- 1998 GRP-NDFP Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL)⁵⁰
- 2006 International Convention for the Protection of All Persons from Enforced Disappearance⁵¹
- 2015 Standard Minimum Rules for the Treatment of Prisoners (“Mandela Rules”)⁵²
- Pertinent UN General Assembly and UN Economic and Social Council (ECOSOC) Resolutions on the rights of peoples to self-determination and on national liberation movements⁵³

⁴⁹ *Inter alia*: Articles 1, 5, 6, 7, 8, 9, 11, 12 and 13 on the rights and protections accorded to human rights defenders, particularly “to effective protection under national law in reacting against or opposing, through peaceful means, acts or omissions attributable to the State that result in violations of human rights.” Also, Articles 2, 9, 12, 14 and 15 which make particular reference to the role of States and indicate that each State has a responsibility and duty to protect, promote and implement all human rights.

⁵⁰ Article 3 of Part II (Bases, Scope and Applicability); Articles 1, 2 (1) (2) (3) (4) (5) (6) (7) (9) (10) (11) (12) (13) (14) (15) (19) (20) (23) (24) (25); 4, 6, 7, 8, 9, 10, 11, 12, and 13 of Part III (Respect for Human Rights); Articles 1, 2, 3 (1) (2) (7) and (8); 4 (4) (5) and (8); 5, 6, 7, 8, 9, 10, 12, and 13 of Part IV (Respect for International Humanitarian Law); and Article 2 of Part VI (Final Provisions).

⁵¹ In general, Parties to the convention undertake to investigate acts of enforced disappearance and bring those responsible to justice. In particular, Article 1 states that “no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance.” Article 6 considers widespread or systematic use of enforced disappearance as a crime against humanity.

⁵² Setting the guidelines for international and domestic law for citizens held in prisons and other forms of custody. It prohibits discrimination in treatment on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

⁵³ *Inter alia*:

- (1) General Assembly Resolution 1514 (XV) of 1960: Declaration on the Granting of Independence to Colonial Countries and Peoples;
- (2) General Assembly Resolution 2105 (XX) of 20 December 1965 on the legitimacy of the struggle of colonial peoples against colonial domination in the exercise of their right to self-



INDICTMENT
International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

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determination and independence, and invited all States to provide material and moral support to national liberation movements in colonial territories.

- (3) General Assembly Resolution 2625 (XXV) of 1970: Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations;
- (4) General Assembly Resolution 2787 (XXVI) of December 6, 1971, which "confirmed the legality of the people's struggle for self-determination";
- (5) General Assembly Resolution 3070 (XXVIII) of November 30, 1973 which categorically affirmed the right to pursue self-determination "by all means, including armed struggle";
- (6) General Assembly Resolution 3103 (XXVIII) of December 12, 1973 on the Basic Principles of the Legal Status of the Combatants struggling against Colonial and Alien domination and Racist regimes;
- (7) General Assembly Resolution 32/147 of December 6, 1977 on measures to prevent international terrorism again reaffirms the inalienable right to self-determination and independence of all peoples under colonial and racist regimes and other forms of alien domination, and upholds the legitimacy of their struggle, in particular the struggle of national liberation movements,;
- (8) General Assembly Resolution 40/61 of December 9, 1985 by the 108th Plenary Meeting, which adopted a Resolution on Measures to Prevent International Terrorism;
- (9) Economic and Social Council Resolution 1986/43, on the Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination;
- (10) General Assembly Resolution 48/94, [48 U.N. GAOR Supp. (No. 49) at 199, U.N. Doc. A/48/49 (1993)], of December 20, 1993 on the Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights.



INDICTMENT

International Peoples' Tribunal
The Filipino People vs. Duterte et. al
September 2018

- Generally accepted principles of international law, including *jus cogens*,⁵⁴ which forms part of the laws of the Philippines under Section 2, Article II of the 1987 Philippine Constitution

The specific provisions of the foregoing interlocking instruments and principles vis-a-vis the corresponding violations shall be cited during the course of the Tribunal proceedings.

All contrary to law, equity and justice.

10 September 2018.

PANEL OF PEOPLE'S PROSECUTORS **Counsel for the Complainants**

thru:

International Association of Democratic Lawyers (IADL)
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⁵⁴ *That body of peremptory principles or norms from which no derogation is permitted; those norms recognized by the international community as a whole as being fundamental to the maintenance of an international legal order.*