



Counterinsurgency, Red-tagging & the 'War on terror': A War against Deliberation and Dissent, A War with No End

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[Abbreviations and Acronyms

AFP	Armed Forces of the Philippines	GPPAC	Global Partnership for the Prevention of Armed Conflict
AMLC	Anti-Money Laundering Council	GRP	Government of the Republic of the Philippines
AML/CTF	Anti-Money Laundering and Counter-Terrorist Financing	GWoT	Global War on Terror
APG	Asia/Pacific Group on Money Laundering	GZOPI	Gaston Z. Ortigas Peace Institute
ASEAN	Association of Southeast Asian Nations	HRC	UN Human Rights Council
ASG	Abu Sayyaf Group	HSA	Human Security Act of 2007
ATA	Anti-Terrorism Act of 2020	ICC	International Criminal Court
ATC	Anti-Terrorism Council	IHL	International Humanitarian Law
CA	Court of Appeals	IHRL	International Human Rights Law
CAFGU	Citizen Armed Force Geographical Units	IID	Initiatives for International Dialogue
CHED	Commission on Higher Education	INGO	International Non-Governmental Organization
CHR	Commission on Human Rights	IP	Indigenous People
COIN	Counterinsurgency	IS/ISIL	Islamic State/Daesh
COMELEC	Commission on Elections	ISP	Independent Service Providers
CPP	Communist Party of the Philippines	KWF	Komisyon sa Wikang Filipino
CT	Counterterrorism	LGU	Local Government Unit
CVE	Countering Violent Extremism	MILF	Moro Islamic Liberation Front
DepEd	Department of Education	MNLF	Moro National Liberation Front
DFA	Department of Foreign Affairs	NAP P/CVE	National Action Plan on Preventing and Countering Violent Extremism
DILG	Department of Interior and Local Government	NAF COVID-19	National Task Force Against COVID-19
DND	Department of National Defense	NDF/NDFP	National Democratic Front of the Philippines
DOH	Department of Health	NGO	Non-Government Organization
DOJ	Department of Justice		
DSWD	Department of Social Welfare and Development		
FATF	Financial Action Task Force		
FICS	Funders Initiative for Civil Society		

NICA	National Intelligence Coordinating Agency
NPA	New People's Army
NPO	NPO Non-Profit Organizations
NSA	National Security Adviser
NSC	National Security Council
NTC	National Telecommunications Commission
NTF-ELCAC	National Task Force to End Local Communist Armed Conflict
OHCHR	Office of the High Commissioner for Human Rights
OPAPP	Office of the Presidential Adviser on the Peace Process
OSG	Office of the Solicitor General
P/CVE	Preventing and Countering Violent Extremism
PNA	Philippine News Agency
PNP	Philippine National Police
PTV	People's Television Network
SC	Supreme Court
SEC	Securities and Exchange Commission
TFPSA	Terrorism Financing Prevention and Suppression Act of 2012
TSP	Telecommunications Service Providers
UN	United Nations
UNOCT	UN Office of Counter-Terrorism

Source: IndustriALL Global Union, Flickr, CC BY-NC-ND 2.0
Philippines protests, Global Day of Action against red tagging.



I. Introduction

The Philippines has experienced decades of armed conflict involving a number of different movements with distinct grievances and aspirations, including self-determination struggles (notably the Cordillera and Moro Muslim movements) and a long-running communist armed insurgency. While the violence peaked in the late 1960s and into the 70s and 80s, the underlying conflicts have deep-seated causes going back to the Spanish colonial era and continued by post-colonial, oligarchic governments. Civilian approaches to internal conflicts, such as peace agreements with some armed groups, increased social services and some structural and policy reforms, have been welcome developments. However, the continuing unequal access to development and socio-economic and political life, the culture of impunity within government and across society, and the dominance of military and autocratic approaches to quell grievances and dissent, undermine and even reverse any incremental progress achieved through peace talks and policy reforms.

This paper does not seek to delve into all existing internal conflicts and counterinsurgency (COIN) strategies in the Philippines, rather it is focused on the evolution and mixing of the government's counterinsurgency and counterterrorism (CT) approach to the Communist Party of the Philippines-New People's Army (CPP-NPA). It is focused on the conflict with the CPP-NPA as an analytical jump-off point, for two reasons. First, the repressive government policies, narratives and behavior that animate and sustain recent trends of red-tagging, political violence and overall erosion of civic space in the country, are underpinned, shaped and sustained by pernicious security narratives about the supposed threat from the so-called "communist-terrorist groups." And second, the fusion of COIN and CT rhetoric can be better understood and observed alongside the development of the Philippine government's relationship with and reaction to the CPP-NPA.

In this chapter, I argue, first, that the long-standing COIN framework has blurred the distinction between combatants and non-combatants; and that despite attempts at peacebuilding and civilian approaches, the government's COIN approach has relegated politically negotiated settlement as secondary only to the military and war-making approach.

Second, despite the failure of COIN to find a resolution to the armed conflict, it has been revived as a CT strategy due to the confluence of interests among international and domestic actors.

Third, mixed COIN-CT measures are then wielded not only against combatants but also against perceived supporters and sympathizers, activists, legal cause-oriented groups, and the broad civil society. This has led to sustained state-enabled red-tagging, harassment and various forms of violations of human rights and freedoms of citizens and communities, and the overall shrinking of civic, deliberative and peacebuilding spaces in the country.

Fourth, I take special note of the invisible impact of COIN-CT measures on feminist peacemaking and peacebuilding approaches, and humanitarian work in conflict areas. I propose that there is a need to further unpack and expand our understanding of civic space to include peacemaking and peacebuilding strategies. And finally, building on the call of various critical scholars to go beyond "human rights-compliant counterterrorism," I identify and analyze distinct but non-mutually exclusive responses and forms of resistance and alternatives from civil society and communities.

This research paper is not intended to be an exhaustive mapping of pathways, but rather an invitation for people's movements, civil society and allies to further discuss how else we can make militarist, misogynistic COIN-CT approaches superfluous and unneeded, and reflect on what alternative and feminist narratives and practices of safety and security are there or are being born.

This undertaking will require us to take a historical look at the interplay between the military and the civilian leaders in shaping the country's security needs and approach. In doing so, we will analyze how this dynamic affects the ebbs and flows of the peace process and shapes the government's security playbook and military strategy, and, in turn, how this security playbook impacts two important elements of functioning democracies – deliberation and dissent.

II. In Focus: the Philippine Government's Mixed Counterinsurgency and Counterterrorism Approach

At the outset, it is important to identify and define the core policy features enabling the current government's counterinsurgency and counterterrorism approaches, particularly against the CPP-NPA. Annex I maps the breadth of the Philippines' security policy architecture and the various actors involved, including those specific to COIN and CT. For this section, we will focus on two elements.

First, a core feature of the government's existing COIN and CT strategy is the so-called "whole-of-nation approach" to ending the communist armed insurgency, instituted through President Rodrigo Duterte's Executive Order No. 70 (EO 70) s. 2018. EO 70 also created the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC). Operationally, what this does is, first, it formalizes and integrates the AFP's role in the delivery of basic social services¹ and, second, it mobilizes and provides incentives for various government units, especially local governments, to use the metrics of military success rather than of peace and prevention.

Similar to President Duterte's Oplan Tokhang², the NTF-ELCAC's Support to the Barangay Development Program, which grants aid or reward for local government units (LGUs) that have been "communist-cleared", has provided corrupt incentives for local chief executives and local governments to take short-cuts in addressing the local dimensions of the armed conflict, favoring primarily active warfare, lethal force and punitive approaches over peace and development approaches.³ The NTF-ELCAC had an approved budget of P19.1 billion in 2021, P622.3 million in 2020, and P522 million in 2019. For 2022, the NTF-ELCAC has an approved budget of P10.8B, from its proposed P29.2B budget.⁴

According to the human rights watchdog, Karapatan, Regions 7, 10, 11, 12, and 13 – which received the biggest chunk of the fund for the NTF-ELCAC's Barangay Development Program, were the same regions where the most number of politically motivated killings and arrests occurred from the start of President Duterte's term in July 2016 until June 2021. As many as 206 out of the 414 cases of politically-motivated extrajudicial killings transpired in these regions, while 322 out of the 487 political prisoners who were arrested during the Duterte administration were arrested in these same regions.⁵

Case study continued on next page >>>

- 1 DSWD, 'DSWD, AFP formalize partnership to strengthen delivery of programs and services for Filipinos in conflict areas,' (19 July 2019).
- 2 See the next chapter on War on Drugs.
- 3 Rappler, 'NTF-ELCAC releases P16 billion to 812 'NPA-free' barangay' (13 July 2021).
- 4 PNA, 'Senate OKs nat'l budget including NTF-ELCAC's P10.8-B' (1 December 2021).
- 5 Karapatan, "'Military pork barrel:' Karapatan flags DILG's funds for NTF-ELCAC,' (10 November 2021).

The other important key feature is the move from propaganda and labeling of the CPP-NPA as ‘communist terrorist groups’ to formal designation and proscription. This reframing of the CPP-NPA from ‘insurgents’ to ‘terrorists’ is important because it enables the mobilization of the full extent of state resources and power to undermine the legitimacy and restrict the activities not only of the armed movement but also its perceived mass bases of support. In the past decade, the Philippines adopted two laws that are primarily aimed at these: (1) the Anti-Terrorism Act (ATA) of 2020⁶, which superseded the Human Security Act (HSA) of 2007⁷, and (2) the Terrorism Financing Prevention and Suppression Act (TFPSA) of 2012⁸.

In February 2018, the Department of Justice (DoJ) sought to declare the CPP-NPA as “terrorist” organizations under the then operational HSA.⁹ Following delayed progress in the courts or, more accurately, the lack of sufficient proof for the legal designation of the CPP-NPA as terrorists, the government took a new tack: it changed the law. It passed the ATA which transferred from the judiciary to the executive branch the power to designate individuals or communities as “terrorists,” making the latter immediately liable to be arrested without warrant or charges and be detained for up to 24 days.¹⁰ In December 2020, the Anti-Terrorism Council (ATC) designated the CPP-NPA as “terrorist organizations, associations or groups of persons.” In June 2021, it also designated the National Democratic Front (NDF), the official representative of the CPP-NPA to the peace talks, as a terrorist organization. Despite an unprecedented 37 petitions against the ATA, in April 2022, the Supreme Court (SC) upheld most of the new anti-terrorism law as constitutional, including the ATC’s power of designation.¹¹

6 Republic Act No. 11479 (3 July 2020).

7 Republic Act No. 9372 (6 March 2007).

8 Republic Act No. 10168 (18 June 2012).

9 Rappler. ‘DOJ formally seeks court declaration of CPP-NPA as terrorists,’ (21 February 2018).

10 Under the new counter-terrorism law, the Anti-Terrorism Council (ATC), comprised of Cabinet officials of mostly retired generals, is empowered to unilaterally designate as ‘terrorists’ individuals and organisations, and to authorise the arrest and detention of a person suspected of being a ‘terrorist’ – powers that are [ordinarily] reserved for the courts.

11 Rappler, ‘Supreme Court upholds with finality most of anti-terror law’ (26 April 2022).

III. The Evolution of Counterinsurgency and Counterterrorism in the Philippines, and the Confluence of Interests of the Actors

While strategies and operation plans to address internal security threats and insurgencies have changed under each president – from Cory Aquino and Fidel Ramos’ Oplan *Lambat Bitag*, to Gloria Macapagal-Arroyo’s *Bantay Laya*, Benigno ‘Noynoy’ Aquino III’s *Bayanihan*, and Duterte’s *Kapayapaan* and *Kapanatagan* – these strategies have common features. Andreopoulos, et al. enumerates common jargon and terms used across administrations, such as “holistic,” “whole-of-nation” or “people-centered” approach, and identifies a common claim of purportedly “mobilising the entire governmental bureaucracy” alongside various sectors and stakeholders to transform provinces influenced by the communist insurgency as “peaceful and ready for further development” but are, in fact, “designed as an ‘end-game strategy’ to definitively eradicate the insurgency.”¹²

Due to the difficulty in defeating guerilla-style insurgencies, the government and its military have targeted activists, people’s organizations and civil society groups perceived to be providing forms of support to the armed movement, regardless of the existence of actual proof; labeled them as communists and terrorists as part of a wider “war of hearts and mind” to undermine the legitimacy and movements of their “enemies”; and in the process, made no distinction between armed combatants and civilians.¹³ This is how the slippery slope or, more accurately, the logic of COIN starts with targeting armed rebels, then targeting activists and radicals, and eventually leads to the repression of civilian spaces for discourse and dissent.

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12 George Andreopoulos, Nerve Macaspac and Efim Galkin, “‘Whole-of-Nation’ Approach to Counterinsurgency and the Closing of Civic Space in the Philippines”, California: *Global-e Journal*, University of California Santa Barbara, 14 August 2020, Volume 13, Issue 54.

13 Ibid.

A. The Conflict between the Philippine Government and the CPP-NPA: From Marcos to Aquino

Since 1969, the Government of the Republic of the Philippines (GRP), through the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP), has been battling the Communist Party of the Philippines–New People’s Army–National Democratic Front (CPP–NPA–NDF or CNN), a clandestine movement waging a guerrilla war “aiming to win the majority of the population to seize state power and implement a programme of reforms called ‘national democracy with a socialist perspective.’”¹⁴ The AFP, in particular, considers itself a “vanguard of the modern state and a bulwark against communist subversion.”¹⁵

The Martial Law regime under the dictator President Ferdinand Marcos was one of the most vicious periods of counterinsurgency and violence.¹⁶ The declaration of martial rule was, in fact, predicated on responding to the rebellion of the CPP–NPA and the Mindanao Independence Movement.¹⁷

The downfall of the Marcos dictatorship in 1986 and the change in government headed by President Corazon Aquino (1986–1992) saw the return of formal democracy and the opening up of political space. During that period, the CPP–NPA was split between the ‘reaffirmists’ who insisted on pursuing the Maoist principle of protracted war, and the ‘rejectionists’¹⁸ who looked towards the non-violent, political and legal contestation of power. The Aquino administration introduced massive constitutional reforms to democratize the political space and introduce checks to state power, including the founding of an independent National Human Rights Commission. Aquino explored peace negotiations with various armed groups, including the Moro Islamic Liberation Front (MILF), the Moro National Liberation Front (MNLF), the Cordillera People’s Liberation Army, and the CNN.

- 14 Jayson Lamchek, ‘Human Rights–Compliant Counterterrorism: Myth–making and Reality in the Philippines and Indonesia’, Cambridge: *Cambridge University Press* (2019), Eng, doi: 10.1017/9781108588836, p. 81. See also Dominique Caouette, ‘Persevering Revolutionaries: Armed Struggle in the 21st Century, Exploring the Revolution of the Communist Party of the Philippines,’ *Cornell University* (2004); Armando Liwanag (Jose Maria Sison), ‘Brief Review of the History of the Communist Party of the Philippines’; Kathleen Weekley, ‘The Communist Party of the Philippines, 1968–1993: A Story of Its Theory and Practice,’ *University of the Philippines Press* (2001).
- 15 Aurel Croissant, David Kuehn, and Philip Lorenz, ‘Breaking With the Past?: Civil–Military Relations in the Emerging Democracies of East Asia’, *East–West Center*, 2012.
- 16 Jubair Salah, ‘Bangsamoro, ‘A Nation Under Endless Tyranny’, *Islamic Research Academy*, 1st edition (1984). p. 134. The Marcos dictatorship’s ill-treatment of the Bangsamoro people is highlighted by his encouragement of the creation of the Ilaga, a Christian paramilitary group. Together with the Philippine Army, they were responsible for multiple massacres of the Bangsamoro people, such as the Manili Massacre in 1971 and the Malisbong Masjid Massacre of 1974. It was also during his term, particularly in 1968, that the infamous Jabidah Massacre occurred where at least 60 Muslim Filipinos undergoing military training were killed.
- 17 Proclamation No. 1081, s. 1972.
- 18 Patricio N. Abinales, ed. ‘The Revolution Falters: The Left in Philippine Politics after 1986’. 1st ed. Cornell University Press (1996).

However, the Aquino administration was viewed by many as “weak and fractious.” It was wracked by several coup attempts staged by disaffected military officers.¹⁹ Peace talks with the CPP–NPA collapsed in January 1987, and thereafter, the Aquino government announced that it had given the AFP “a free hand in waging all-out war” against the NPA.²⁰ The subsequent COIN war was underpinned by the US strategy of ‘low-intensity conflict’, particularly its emphasis on civic action, propaganda and psychological warfare.²¹ Under this framework, the AFP developed its “Broad Front Strategy” that targeted the “mass base support systems” of the CPP–NPA instead of the regular NPA combatants which, in practice, meant and included targeting legal, cause-oriented organizations.²² Despite the opening up of political space, human rights violations soared, especially those committed by the military and its paramilitary forces – primarily the Citizen Armed Force Geographical Units (CAFGU) – and the vigilante groups they employed in the context of COIN against the CPP–NPA.²³

B. Ramos Administration: The Fork in the Road

The Ramos Administration (1992–1998) pursued a major shift to politically negotiated settlements with armed groups, along with a program of “national reconciliation.” Ramos, a retired military general, was Vice Chief-of-Staff of the AFP under Marcos until 1986 when he joined rebel military and police officers in the attempted coup-d’état that resulted in the People Power Revolution that booted out the dictator.

The Ramos administration revived the peace talks with the MILF, the MNLF and the CNN, established a National Unification Commission and the Office of the Presidential Adviser on the Peace Process (OPAPP). It also signed into law a general conditional amnesty covering all rebel groups.²⁴ It was also under Ramos’ term that Congress repealed the Anti-Subversion Act, which had previously made mere membership in the CPP illegal.²⁵ The Party List System Law was also enacted, allocating 20 percent of the seats in the House of Representatives to representatives of marginalized sectors as provided in the 1987 Constitution.²⁶ Moreover, Ramos championed a 15-year AFP modernization program that introduced security sector reforms meant to transform the military into a professionalized armed force.

19 US State Department, ‘Previous Editions of U.S. Bilateral Relations Fact Sheets/Background Notes – Philippines (10/00),’ archived content. Accessed 17 July 2022.

20 Justus M. Van der Kroef, ‘Aquino and the Communists: A Philippine Strategic Stalemate?’, *World Affairs* Vol. 151, no. 3 (1988): 117–29.

21 Lamchek (2019), p. 84.

22 McCoy A (2011), p. 239.

23 Anja Jetschke, ‘Human Rights and State Security: Indonesia and the Philippines’, University of Pennsylvania Press (2011), pp. 171–98; David Kowalewski, ‘Vigilante Counterinsurgency and Human Rights in the Philippines: A Statistical Analysis’ (1990) 12 *Hum Rts*, pp. 246–64; McCoy (2011), pp. 433–51.

24 Miriam-Coronel Ferrer, ‘Philippines National Unification Commission: National consultations and the ‘Six Paths to Peace’, *Accord* Issue 13 (December 2002). Accessed 17 July 2022.

25 Republic Act No 1700 (Anti-Subversion Act); Republic Act No 7636 (repealing the Anti-Subversion Act).

26 Republic Act No 7941 (Party-List System Act).

During this period, there was a “dramatic decline in military encounters between government and rebel forces and a decline in casualties related to COIN operations against the NPA, and although human rights violations were still observed in militarized zones, there was a notable decline in most categories.”²⁷ The Commission on Human Rights (CHR) cited “improved human rights awareness in the military, which it attributes to its human rights training programs for military officers and its practice of providing AFP promotion panels with ‘certificates of clearance’ on officers’ human rights performance.”²⁸

While the Ramos period was far from perfect, it was a fork in the road in reimagining the relationship between the Philippine state and the communist armed movement, and in transforming the Philippine security establishment towards greater civilian oversight over the military. This period allowed for “political space within the state for left-wing activist organizations sharing the ‘national democratic’ ideology and programme of reforms of the NDF”²⁹, and for a real chance for a civilian approach and a peaceful resolution to the armed conflict through a politically negotiated-settlement.

In the next section, I will discuss two episodes in the post-1986 era where COIN took ascendancy over politically negotiated settlements and peace processes. The first was during the Macapagal-Arroyo administration which coincided with the Post-9/11 Global War on Terror (GWOt); the second, the Duterte administration which coincided with the rise to global prominence of the Islamic State or Daesh (IS/ISIL) and consequently, of the P/CVE (Preventing or Countering Violent Extremism) agenda. In both the Macapagal-Arroyo and Duterte administrations, the counterterrorism state was able to reframe “insurgents” as “terrorists.” And in both cases, the ultimate impact was felt most among actors, sectors and communities whom the Philippine government and security actors perceived to be ‘mass bases of support’ of the CPP-NPA. My argument is counterterrorism (CT) as the discourse was an intervening opportunity for the military to tilt the balance in its favor, frustrating healthier civil-military relations from being fully born and undermining a new and better relationship between the Philippine state and the communist armed movement, and, by extension, with other dissenting groups.

27 Lamchek, J (2019), p. 62, citing Amnesty International.

28 U.S. Department of State Country Report on Human Rights Practices 1994 - Philippines, published 30 January 1995. Accessed 17 July 2022.

29 Lamchek, J (2019), p. 61.

C. Macapagal-Arroyo Administration: The Post-9/11 GWoT and the Philippines' 'War on Terror'

By 2001, under the Macapagal-Arroyo administration (2001-2010), counterinsurgency had gained ascendancy. According to Lamchek, the brief peace negotiations under President Gloria Macapagal-Arroyo came to a sudden halt in 2001 "because the 'war on terror' made the COIN campaign that replaced peace talks materially attractive and normatively plausible."³⁰ Under President Arroyo, the Philippines became one of the foremost supporters of the Global War on Terror in the region,³¹ responding to the call for robust counterterrorism measures through intelligence-sharing, military and law enforcement cooperation, and policy and legislation.

Some commentators have noted that the Abu Sayyaf Group (ASG) was the initial and main excuse for introducing the "war on terror" to the Philippines,³² and as a justification for making the country the "second front" of this war.³³ The kidnapping by the ASG of guests at the Dos Palmas resort in Palawan, which killed three Americans, coupled with allegations that the ASG was linked to al-Qaeda, provided "the casus belli for the U.S. military to re-engage in the Philippines following the September 11, 2001 attacks by al Qaeda."³⁴

As the US identified terrorism as a common threat, it renewed its political and security relations with the Philippines, which had been strained since the closure of the US military bases in 1991.³⁵ From 1994 to 1998, the average amount of US military aid was only US\$1.6 million per annum, but in the aftermath of 9/11, Washington gave Manila a ten-fold increase in military assistance.³⁶ Support did not only come in the form of a financial military package, it also included development assistance, especially to Muslim Mindanao, and the deployment of US forces for "joint military exercises" with Philippine troops, including undisclosed numbers of US Special Operations Forces since 2002.³⁷ One commentator noted that "...instead of improving the country's CT capabilities to eradicate terrorism, the GWOT and related US policy have created a cyclical incentive structure [wherein] certain actors within the government, military, and insurgency groups in the Philippines profit politically and financially from US aid and the warlike conditions," and therefore "sustain, at a minimum, a presence of conflict and terrorism in order to continue drawing future benefits."³⁸

30 Lamchek, J (2019), p. 88.

31 Operation Enduring Freedom - Philippines (OEF-P) or Operation Freedom Eagle was in place from 2002 to 2015 as part of Operation Enduring Freedom and the US Global War on Terrorism.

32 Anja Jetschke (2011), 'Human Rights and State Security: Indonesia and the Philippines', University of Pennsylvania Press, p. 233.

33 Walden Bello, 'A "Second Front" in the Philippines' *The Nation* (18 March 2002), p. 18.

34 Abuza, Zachary. 'Balik-Terrorism: The Return of the Abu Sayyaf,' *Strategic Studies Institute, US Army War College* (1 September 2005), vii.

35 Ava Patricia C. Avila & Justin Goldman, 'Philippine-US relations: the relevance of an evolving alliance,' *Bandung: Journal of the Global South* (29 September 2015), 2, Article No. 6.

36 Renato Cruz De Castro (June 2006), '21st Century Philippines-US Security Relations: Managing an Alliance in the War of the Third Kind', *Asian Security*, Vol. 2, No. 2, pp. 102-121.

37 George Radics, 'Terrorism in Southeast Asia: Balikatan Exercises in the Philippines and the US "War against Terrorism"' (2004) 4 *Stanford Journal of East Asian Affairs*, pp. 115-27, 116-17; Herbert Docena, 'Unconventional Warfare: Are US Special Forces Engaged in an "Offensive War" in the Philippines?' in Abinales and Quimpo (eds) pp. 46-83.

38 Robin A. Bowman, 'Is the Philippines Profiting from The War on Terrorism?', Monterey, California: Naval Postgraduate School (June 2004).

President Arroyo was interested in a closer relationship with the security sector, seeking to “strengthen her relationship with the military, the institution from which she sought support to bolster her shaky, increasingly unpopular administration.”³⁹ Arugay et al. pointed out that the increased influence of former military generals “who had positioned themselves as the necessary voices with the experience to handle these security efforts”⁴⁰ and who “did not hesitate to push for a heavily militarized approach to deal with communist rebels and Moro secessionists under the counterterrorism framework” facilitated the civilian government’s “new ‘all-out war policy’ in dealing with all non-state armed groups.”⁴¹ At one point, President Arroyo would say, “The government will not allow the peace process to stand in the way of the overriding fight against terrorism.”⁴²

Commentators argued that the Philippines’ security establishment caught the ‘anti-terrorism syndrome – i.e., the supremacy of counter-terrorism’⁴³ and applied it in their approach to protracted conflicts with other insurgent groups like the MILF⁴⁴, and the CPP-NPA.⁴⁵ Jetschke argued that the Philippine government skillfully used these CT norms “in constructing a domestic discourse on terrorism that framed its adversaries as terrorists or as being linked to terrorism.”⁴⁶

However, as McCoy pointed out, the difference between the MILF and the CPP-NPA is the US was already invested in the Philippine government’s COIN war with the CPP-NPA long before 9/11, with the CT rhetoric merely adding “another thread to this skein of historical continuity.”⁴⁷ This is echoed by various commentators who emphasized the US’ desire to counter what it saw as a communist threat to its interests in the Philippines⁴⁸ and “the importance and persistence of Cold War legacies in explaining the reframing of the communist movement in terms of terrorism.”⁴⁹

39 Lamchek, J (2019), p. 86.

40 Aries Arugay, Marc Batac & Jordan Street, ‘An Explosive Cocktail – Counter-terrorism, militarisation and authoritarianism in the Philippines’, *Initiatives for International Dialogue and Safer World* (June 2021), p. 9; Arugay, Aries A. ‘The Military in Philippine Politics: Still Politicized and Increasingly Autonomous’, *The Political Resurgence of the Military in Southeast Asia: Conflict and Leadership*, edited by Marcus Mietzner, London: Routledge (2011), pp. 85–106.

41 Arugay A, Batac M & Street J (2021), p. 9; Hutchcroft, David (2008), ‘The Arroyo Imbrolio in the Philippines’, *Journal of Democracy*, 19(1), pp 141–155.

42 Quoted in Soliman M. Santos Jr. ‘Counter-terrorism and peace negotiations with Philippine rebel groups’, *Critical Studies on Terrorism* (2010), 3:1, pp. 114, DOI: 10.1080/17539151003594301.

43 Santos, S (2010), pp. 137–154.

44 Nathan Gilbert Quimpo. ‘Mindanao: Nationalism, Jihadism and Frustrated Peace’, *Journal of Asian Security and International Affairs* (2016), 3(1) p. 7.

45 Anja Jetschke (2011), *Human Rights and State Security: Indonesia and the Philippines*, University of Pennsylvania Press, p. 233.

46 Lamchek, J (2018), pp 66–67, citing Anja Jetschke (2011), *Human Rights and State Security: Indonesia and the Philippines*, University of Pennsylvania Press.

47 Alfred W McCoy, ‘Policing America’s Empire: The United States, the Philippines, and the Rise of the Surveillance State,’ (Ateneo de Manila University Press 2011), p. 499.

48 Walden Bello, *Creating the Third Force: U.S. Sponsored Low Intensity Conflict in the Philippines* (The Institute for Food and Development Policy 1987) 55; Carolina Hernandez, *Institutional Response to Armed Conflict: The Armed Forces of the Philippines* (2005) 5–10.

49 Lamchek, J (2019), p. 57.

Lamchek succinctly explained:

*“[T]errorism was not a stand-alone phenomenon to which the state responded with counterterrorism policy; terrorism was a discursive construction necessitated by counterterrorism policy and was constituted as counterterrorism policy as counterterrorism policy was developed... the Philippine government tried to conjure an insecure environment abounding in threats, plots and conspiracies, from the Abu Sayyaf to the MILF, and on to the NPA and legal leftist organisations. It was only by taking this specific view of the security situation as reality, that the specific counterterrorism measures promoted made sense. Philippine counterterrorism was not a necessity. It arose from the contingent decision of the Arroyo government to align the country with the ‘war on terror.’ This afforded the government material and political advantages against anti-government groups. By overlaying counterterrorism rhetoric on pre-existing counterinsurgency, old foes of the state became terrorists. While espousing the new terrorism discourse, the government continued to pursue old counterinsurgency goals with the increased resources afforded by partnership with the United States.”*⁵⁰

The Philippine government “successfully convinced the United States and other Western governments to extend its material and diplomatic support against its adversaries,” which, “in turn, [made] it possible for human rights violations to continue.”⁵¹ Unsurprisingly, with the adoption of the hard security and CT approach, there was a massive increase in human rights violations in the form of extrajudicial killings targeting activists, organizers, journalists and other civil society actors. Then UN Special Rapporteur on extrajudicial, summary or arbitrary executions Philip Alston estimated that as many as 800 people were executed between 2002 and 2008.⁵² By 2005, this, together with other authoritarian tendencies prevalent in the Arroyo administration, led non-government watchdog Freedom House to downgrade the Philippines freedom status to “partially free”.⁵³



[T]errorism was not a stand-alone phenomenon to which the state responded with counterterrorism policy; terrorism was a discursive construction necessitated by counterterrorism policy and was constituted as counterterrorism policy was developed...”

50 Lamchek, J (2018), p.89.

51 Ibid, p. 67.

52 UN Human Rights Council, ‘Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston : addendum: mission to Philippines,’ (16 April 2008), A/HRC/8/3/Add.2.

53 Peter M Sales, ‘State terror in the Philippines: the Alston Report, human rights and counter-insurgency under the Arroyo administration. *Contemporary Politics*, (2009) 15(3), pp 321–336.

D. Duterte Administration: The IS/ISIL Threat, P/CVE Agenda, and Anti-Terrorism Act of 2020

At the start of the Duterte administration (2016–2022), the relationship between the civilian government and the CPP–NPA began on a positive and promising note, with an expeditious peace process between the parties. There was renewed hope among many that a politically negotiated settlement that would put an end to the longest-running armed conflict in Asia, was within reach.

Sections of the military and intelligence establishment were, of course, displeased when President Duterte was more than welcoming of the CPP–NPA and the Left. During the first two years of the Duterte administration, they perceived as unwarranted concessions, the appointment of Left figures in the Cabinet and the release of high-value political prisoners and key time CPP–NPA leaders Benito Tiamzon and Wilma Tiamzon. The military only had to wait for the right opportunity to retake the upper hand.

The wedge between the Duterte government and the CPP–NPA started widening as early as the first quarter of 2017. By 23 November 2017, after continued armed encounters between the AFP and the NPA despite mutual declarations of unilateral ceasefires, President Duterte formally terminated the peace talks with the NDF.⁵⁴ The Philippine government has since escalated its labeling of the CPP–NPA as a ‘communist terrorist group (CTG)’, a branding used previously by the military but not by the Duterte-led civilian government, until the negotiations were terminated.⁵⁵ Duterte no longer held back in his escalatory remarks inciting increased violence, such as encouraging soldiers to shoot women rebels in their vaginas,⁵⁶ and offering a bounty for each communist rebel killed.⁵⁷ Within a few months, the government policy quickly shifted from a strategy of politically-negotiated settlement and reforms to a strategy of COIN and CT, primarily through active warfare, lethal force, and a punitive approach.

It must be noted that alongside the roller coaster of the peace process, there were three trends happening in the global and the national arena that could explain the shifts in perspective, dynamics and motivations within the Philippine government: the threat of the Islamic State or Daesh (IS/ISIL) and the rise of the Preventing or Countering Violent Extremism (P/CVE) agenda, the Marawi Siege of 2017, and the militarization of the civilian government.

54 Presidential Proclamation 360, s. November 23, 2017.

55 Rappler, ‘The Duterte administration filed a petition seeking to declare the CPP–NPA ‘terrorist’ organisations under the Human Security Act,’ (21 February 2018).

56 Aljazeera, ‘Duterte: Shoot female rebels in their genitals’ (12 February 2018).

57 Aljazeera, ‘Rodrigo Duterte offers ‘per head’ bounty for rebels’ (15 February 2018).

Source: Photo by Raffy Lerma
View of ground zero of Marawi taken on August 21, 2019.



1. The threat of ISIL/IS and the rise of the P/CVE agenda

On the global level, IS/ISIL rose to prominence as it seized large swathes of territory across Iraq and Syria in 2014, and as a spate of terror attacks from Paris to Istanbul alarmed policymakers across the world, counterterrorism was again catapulted as a top concern for global policy. Thus emerged a new response to terror attacks: the P/CVE agenda. P/CVE was partly a response to the limited success of hard security “war on terror” tactics.⁵⁸ It was designed to take “proactive actions to counter efforts by violent ‘extremists’ to radicalize, recruit, and mobilize followers to violence and to address specific factors that facilitate violent ‘extremist’ recruitment and radicalization to violence.”⁵⁹

In 2015, the Obama administration held a “Countering Violent Extremism (CVE) Summit” to mobilize global support for this approach⁶⁰, while the UN Secretary-General Ban Ki Moon issued a UN Plan of Action to Prevent Violent Extremism.⁶¹ These became the basis for the roll-out of national action plans around the world, including in the Philippines, “with UN agencies playing a central role supporting [and funding] national governments to produce these strategies.”⁶² For those who rallied behind the P/CVE agenda, it was promised to be a positive move away from a security-focused to a more preventative approach. Critical security scholars and peacebuilders were not convinced and warned that similar to the Global War on Terror post-9/11, the P/CVE agenda could further enable authoritarian regimes to “subsume other legitimate interests under the banner of suppressing ‘violent extremism’.”⁶³

58 Abu-Nimer Mohammed, ‘Alternative Approaches to Transforming Violent Extremism. The Case of Islamic Peace, and Interreligious Peacebuilding’, in B Austin and H J Giessmann (eds.), *Transformative Approaches to Violent Extremism. Berghof Handbook Dialogue Series No. 13* (Berlin: Berghof Foundation, 2018), pp 1–20; Larry Attree, ‘Shouldn’t YOU be Countering Violent Extremism?’, *Saferworld* (March 2017).

59 United States Department for Homeland Security, ‘What is CVE?’ Accessed 12 July 2022.

60 US White House Office of the Press Secretary (2015), ‘Remarks by the President at the Summit on Countering Violent Extremism February 19, 2015’. Accessed 12 July 2022.

61 United Nations General Assembly, ‘Plan of Action to Prevent Violent Extremism. Report of the Secretary-General’, A/70/674, (24 December 2015).

62 Arugay, A, Batac, M & Street, J (2021), p. 16.

63 Naz Modirzadeh, ‘If It’s Broke, Don’t Make it Worse: A Critique of the UN Secretary-General’s Plan of Action to Prevent Violent Extremism’, *Lawfare* (23 January 2016).

However, there was growing concern and posturing that the collapse of the territorial caliphate of IS/ISIL in Iraq and Syria would push the group's activities elsewhere to seek new territory in Southeast Asia, particularly Indonesia, Malaysia and the Philippines.⁶⁴ This became the jump-off point for massive capacity-building assistance, technical support and equipment to Southeast Asia, and soon P/CVE was the catchphrase and programming lens across the region. On the regional level, as early as 2015, the Association of Southeast Asian Nations (ASEAN) either adopted or supported various joint statements signifying a renewed attention to terrorism and violent extremism, and support for CVE.⁶⁵ In the Philippines, the government, especially the AFP and the PNP, received support on CVE and CT from a variety of governments⁶⁶ such as the US⁶⁷, Australia⁶⁸ and Japan⁶⁹, and even international organizations such as the UN⁷⁰ and the International Centre for Counter-Terrorism.⁷¹

As announced in January 2017, the AFP's top priority was the eradication of any terrorist group operating within the Philippines.⁷² Simultaneously, the Philippine government endeavored to increase the role and improve the capabilities of the PNP in CT and CVE efforts.⁷³ The Philippines began developing its National Action Plan on P/CVE (NAP P/CVE) in July 2017 and adopted it in mid-2019⁷⁴, making it the first country in Asia to do so.

2. The Marawi Siege

The second parallel event was the rise of terror-related violence in Mindanao. On 23 May 2017, the city of Marawi, the country's only Muslim-majority city, was the scene of the most prominent CT campaign in the country's history when the AFP raided a suspected hideout of the Abu Sayyaf Group leader Isnilon Hapilon in Marawi City. In response, Hapilon sought reinforcements from members of the armed Maute Group that had pledged allegiance to the ISIL, leading to sporadic firefights with the military in various parts of the city.⁷⁵ Later that day, President Duterte declared Martial Law throughout Mindanao, and did not lift it until 31 December 2019.⁷⁶ The military proceeded to air bomb the city to flush out the rebels. The battle for Marawi lasted five months until the city was declared liberated in October 2017.⁷⁷ Six years after its destruction, many Marawi residents remain displaced.⁷⁸

64 Connor H. Berrier, 'Southeast Asia: ISIS's next front' Monterey, California: Naval Postgraduate School (2017); Nathaniel L. Moir, 'ISIL Radicalization, Recruitment, and Social Media Operations in Indonesia, Malaysia and the Philippines,' PRISM Volume 7, No 1 (2017), pp. 91-107.

65 ASEAN member-states adopted or supported the Langkawi Declaration on the Global Movement of the Moderates in April 2015, Kuala Lumpur Declaration in Combating Transnational Crime in September 2015, East Asia Summit Statement on Countering Violent Extremism in October 2015, Chairman's Statement of the Special ASEAN Ministerial Meeting on the Rise of Radicalisation and Violent Extremism in October 2015 and Chairman's Statement of the 2nd Special AMM on the Rise of Radicalisation and Violent Extremism. In September 2017, ASEAN Comprehensive Plan of Action on Counter Terrorism and Manila Declaration to Counter the Rise of Radicalization and Violent Extremism was adopted. In October 2017, Defense Ministers across the region released a Joint Statement of Special ASEAN Defence Ministers' Meeting on Countering Violent Extremism (CVE), Radicalization and Terrorism.

66 Linda Robinson, Patrick B. Johnston & Gillian S. Oak, 'U.S. Special Operations Forces in the Philippines, 2001-2014,' Santa Monica, Calif.: RAND Corporation (2016), p. xiv.

67 U.S. Department of State, "Building a Global Movement to Address Violent Extremism," fact sheet, September 2015. Accessed 12 July 2022.

68 Strait Times, "Australia Backs Philippine Campaign Against Terrorism," (19 March 2018).

69 U.S. Department of State (2015).

70 Arugay A, Batac M & Street J (2021), p. 16.

71 U.S. Department of State (2018).

72 GMA News Online, 'AFP Adopts New Security Plan Under Duterte' (6 January 2017).

73 Ashley L. Rhoades & Todd C. Helmus, 'Countering Violent Extremism in the Philippines: A Snapshot of Current Challenges and Responses.' Santa Monica, CA: RAND Corporation, 2020.

74 Japan Times. 'Philippines adopts strategy against violent extremism' (21 July 2019).

75 Aljazeera, 'Mindanao: Churchgoers 'taken hostage' amid Marawi siege,' (24 May 2017).

76 New York Times, 'Duterte Says Martial Law in Southern Philippines Will End This Month,' (December 10, 2019); Al Jazeera, 'Philippines' Duterte to Lift Martial Law by Year's End,' (10 December 2020).

77 Georgi Engelbrecht, 'Resilient Militancy in the Southern Philippines,' *International Crisis Group* (17 September 2020).

78 The UN High Commissioner for Refugees estimated that 98% of residents were displaced at the height of the siege. 'International Agency Update,' *UNHCR* (October 2017).

The Marawi Siege was used as justification for taking a tougher stance against violent groups, or for bringing terrorism back as a primary security agenda. It also contributed to the belief that the Philippines is the second frontier of IS/ISIL's global jihad and provided an opportunity for the government to step on the gas of CT in the country. Coincidentally, the process of developing the NAP P/CVE began at around the time of the Marawi siege.⁷⁹

3. Militarization of the Civilian Government

At the start of his administration, President Duterte was dead set on wooing the military, immediately doing the rounds of 14 military camps in less than a month, promising to strengthen the armed forces and increase the soldiers' salaries and benefits.⁸⁰

Although there were issues where the President and sections of the security sector did not see eye-to-eye, like the initial peace talks with the CPP-NPA and his non-confrontational stance on the maritime conflict with China, Duterte knew he had to secure the support of the armed forces to ensure the stability and survival of his government.⁸¹ At one point, he expressed his fear of a military coup⁸², which could explain the change in his stance on the CPP-NPA. As fractures appeared in the initial relationship between Duterte and the Left, ex-generals were appointed to top cabinet posts replacing Left-leaning officials.⁸³

Arugay argues that “no president in the country's post-martial law history has favored the military [more] than Duterte.”⁸⁴ In 2018, realizing his earlier promise, President Duterte doubled the salaries of military and police officers.⁸⁵ By the end of the Duterte administration, new equipment and facilities under the AFP Modernization Program (that was started by previous administrations but delivered under Duterte) amounted to around PhP125 billion in appropriated funds.⁸⁶ By 2017, Duterte had the most number of retired generals in any presidential Cabinet in the post-dictatorship period, with 59 former military and police generals leading various civilian agencies.⁸⁷ He appointed generals to head department portfolios that deal not only with national defense but also civilian concerns⁸⁸ such as interior and local government, information and communications, the environment, social welfare and development,⁸⁹ housing, and indigenous people's (IP) concerns. He even appointed an outgoing AFP Chief of Staff to lead the agency in charge of the peace processes,⁹⁰ signaling his dependence on the military to accomplish the country's peace and security goals. By 2017, the military and intelligence actors had gained the upper hand in the Cabinet and had the ears of President Duterte. In October 2018, he defended the appointment of former military officers in civilian positions saying that they are more efficient and always follow his orders, even admitting to the “militarization” of the government.⁹¹

79 Arugay A, Batac M & Street J, (2021), p. 16.

80 Rappler, 'Why has Duterte visited 14 military camps in less than a month?' (20 August 2016).

81 GMA News, 'Duterte and the Left: A BROKEN RELATIONSHIP,' (27 December 2020).

82 Aljazeera, “Kill them”: Duterte wants to ‘finish off’ communist rebels,’ (6 March 2021).

83 GMA News, 'Duterte and the Left: A BROKEN RELATIONSHIP,' (27 December 2020).

84 Aries Arugay, 'The Generals' Gambit: The Military and Democratic Erosion in Duterte's Philippines,' *Heinrich Böll Stiftung Southeast Asia* (18 February 2021).

85 DBM, 'President Duterte fulfills campaign promise, doubles salaries of cops, soldiers,' created 10 January 2018, last updated 11 January 2018.

86 PNA, 'Strong support for AFP, one of Duterte's legacies,' (19 July 2021).

87 Inquirer, 'Duterte hires 59 former AFP, PNP men to Cabinet, agencies' (27 June 2021).

88 ABS-CBN News, 'Duterte's Generals: Revolving doors and how they lead military men back to government,' (5 February 2021).

89 The General in-charge of the Marawi Siege was appointed its Secretary when he retired.

90 Rappler, 'Duterte to appoint AFP chief Galvez as OPAPP chief,' (5 December 2018).

91 Sunstar, 'Militarization? Correct, says Duterte' (1 November 2018).



Source: Photo by Raffy Lerma
Members of the Philippine National Police force their way inside an abandoned house in search of loose firearms and ammunition in Marawi on June 7, 2017.

This dependence on former-military generals and the armed forces created an imbalance in civil-military relations, enabling the shift to securitized military-first policies and violence on a number of fronts. The COIN-CT approach to the ongoing internal conflicts is but another phase of the militarist and macho rhetoric already apparent since the beginning of the Duterte administration, which the country first witnessed in his bloody “War on Drugs” that led to thousands of extrajudicial executions across the country.⁹²

This dependence on former-military generals and the armed forces created an imbalance in civil-military relations, enabling the shift to securitized military first policies and violence on a number of fronts.

92 Mark R. Thompson, ‘Bloodied democracy: Duterte and the death of liberal reformism in the Philippines’, *Journal of Current Southeast Asian Affairs* (2016) 35(3), pp. 39–68.

IV. Resetting Counterinsurgency as Counterterrorism, and the Confluence of Interests

As we trace the development of the peace process, COIN and CT across different administrations, especially the Arroyo and Duterte administrations, it becomes apparent that CT is not merely a reaction to terrorism, but that its motivations (or convergence of motivations among different actors) preceded the latter.⁹³ In the Philippines, the longstanding COIN strategy was reset as a CT approach.

Additionally, CT did not only revive, it bolstered COIN. Jetschke argued that a key opportunity it presented for national actors was to reframe old "enemies" such as the Moro and communist "insurgents" as "terrorists", thereby acquiring both political capital and material resources to achieve decisive military victory over them.⁹⁴ While Lamchek added that this reframing of insurgents as terrorists prevented further scrutiny of the causes and dynamics of the conflicts, it also resulted in violations of human rights and the denial of freedoms that were perceived as mere unfortunate excesses or mistakes in policy implementation by a few bad apples in government, rather than a systematic and logical effect of the government's own policies (on internal conflicts and political contestation).⁹⁵

In sum, the country's CT agenda/framework evolved as a response to the political realities, material benefits and opportunities offered by the post-9/11 Global War on Terror and its subsequent permutations, including the P/CVE agenda.⁹⁶

There were, of course, particular focal motivations among different actors. The Philippines' strategic partners and Western governments believed Southeast Asia and the Philippines would become the second front of global *jihad*. While the heads of the civilian government, Macapagal-Arroyo and Duterte, saw an opportunity to form closer relations with the armed forces, in order to ensure the efficiency and stability of their administrations. On the other hand, military and intelligence actors saw the realities, benefits and opportunities to boost moral justification, political capital, and material and technical resources to gain the strategic upper hand against its old foes, particularly the CNN.

In the end, in both Macapagal-Arroyo and Duterte administrations, the confluence of interests and opportunities brought by global and national events and actors enabled the resurgence and application of CT to COIN, and in turn facilitated the direct and systematic attack on dissenting groups, civil society, and civic space, in general.

93 Lamchek (2018), p. 55.

94 Jetschke (2011), pp. 232-233.

95 Lamchek (2018), p. 56.

96 Ibid, p.55.

An important note, however, is that while in this section we attempted to look into the assumed rational logic and material interests of policy actors, there is another area of inquiry that may be needed beyond this research to complete the mapping of the web of motivations and factors. On an abstract level, we need to find the right balance or link between, on the one hand, assuming rationality that the behavior of policy actors is directly the product of a set of interests or logical reasoning, and on the other, psychologism, that individuals are not usually fully aware of their interests and intentions but are subject to groupthink and institutional bias.

Further inquiry is needed into how leadership sets the tone of, influences, and shapes organizational thinking and behavior, and how groupthink within the security sector shapes an encompassing paranoia that feeds the irrational belief that all forms of dissent and resistance are part of the communist conspiracy, leading to harmful effects to rights and civic space.

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V. Impact of Counterinsurgency and Counterterrorism on Human Rights and Civic Space

Across different administrations, the counterinsurgency reset as counterterrorism has been used to delegitimize, harass, and repress a wide range of sectors suspected to be supporters and sympathizers of the CPP-NPA, or perceived as the civilian base or “front organizations” of the communist rebels. Reminiscent of McCarthyism in the United States in the 1950s, the Philippines is again undergoing a Red Scare that has resulted in a slew of extrajudicial killings of activists, militarized rural and indigenous communities, a censored press, and restricted space for dissent and political participation. Repression begins with so-called “red-tagging” or “red-baiting,” the seemingly innocuous and often unfounded accusations of one’s alleged links to the CPP-NPA. This rhetoric has come side-by-side with increased violence in the country. In the last two decades, local and international human rights organizations have documented thousands of cases of extrajudicial executions, including state-sanctioned and death squad-style killings of activists, forced disappearances, illegal detention, gender-based violence, and torture.⁹⁷

97 Amnesty International, ‘Philippines: Political Killings, Human Rights and the Peace Process,’ (15 August 2006); Karapatan, ‘Submission to the Universal Periodic Review,’ (May 2012); Karapatan, ‘Alternative Report on the Philippines for the 27th Session of the Universal Periodic Review in the United Nations Human Rights Council,’ (May 2017); UN Human Rights Council, ‘Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston,’ 18 June 2010; 29 April 2009; 15 March 2007; 12 March 2007; 27 March 2006; 17 March 2005. Accessed 17 July 2022.

The Duterte administration, in particular, saw the rise of repression and violence. Rights group Karapatan documented 2,758 activists and grassroots organizers arrested, with 1,126 of these detained, while 414 were killed between July 2016 and June 2021.⁹⁸ The UN Human Rights Office has documented at least 248 human rights defenders, legal professionals, journalists and trade unionists killed between 2015 and 2019 in relation to their work.⁹⁹ According to the National Union of Journalists of the Philippines, at least 22 journalists were killed during the Duterte administration.¹⁰⁰ Moreover, peace consultants of the NDF, the official representatives of the CPP-NPA to the talks, were targeted and killed. In August 2020, Randall Echanis became the fourth NDF political consultant killed,¹⁰¹ following the killings of Sotero Llamas,¹⁰² Randy Malayao and Julius Giron. This trend of politically-motivated killings is on top of the thousands of civilians killed under the War on Drugs.¹⁰³

A. Red-tagging, Enforced Disappearances and Extrajudicial Killings Across Administrations

1. What is red-tagging and why is it dangerous?

In his dissenting opinion in *Zarate vs. Aquino III*, Supreme Court Associate Justice Marvic Leonen cited Dr. Nymia Simbulan¹⁰⁴ who defined red-baiting as the “*act of labelling, branding, naming and accusing individuals and/or organizations of being left-leaning, subversives, communists or terrorists (used as) a strategy ... by State agents, particularly law enforcement agencies and the military, against those perceived to be ‘threats’ or ‘enemies of the State’*,” whereby “[t]hese groups are stereotyped or caricatured by the military as communist groups, making them easy targets of government military or paramilitary units.”¹⁰⁵

Former UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions Philip Alston described red-tagging as: “*‘vilification’, ‘labelling’, or guilt by association. It involves the characterization of most groups on the left of the political spectrum as ‘front organizations’ for armed groups whose aim is to destroy democracy. The result is that a wide range of groups – including human rights advocates, labor union organizers, journalists, teachers’ unions, women’s groups, indigenous organizations, religious groups, student groups, agrarian reform advocates, and others – are classified as ‘fronts’ and then as ‘enemies of the State’ that are accordingly considered to be legitimate targets.*”¹⁰⁶

98 Karapatan, ‘Karapatan Monitor May-Aug 2021’ (13 November 2021).

99 OHCHR, ‘Philippines: UN report details widespread human rights violations and persistent impunity’ (4 June 2020).

100 Newsweek, ‘22 Journalists Killed in Philippines Since Rodrigo Duterte Became President,’ (9 December 2021).

101 Inquirer, ‘NDFP’s Echanis tortured to death, says CHR,’ (21 August 2020).

102 While Sotero Llamas was not killed during the current administration, his death is still part of a wider trend of killings of former peace consultants of the NDF, which officially represents the CPP and NPA in the formal talks with the Philippine government.

103 Rappler, ‘Six years of blood and violence: People we lost under Duterte,’ (24 June 2022).

104 Dr. Nymia P. Simbulan, ‘Red Baiting: A Tool of Repression, Then and Now,’ *Observer: A Journal on Threatened Human Rights Defenders in the Philippines* (December 2011), Vol. 3, No. 2, pp. 12-15.

105 Justice Marvic Leonen, Dissenting Opinion, *Zarate v. Aquino III*, GR No. 220028 (10 November 2015).

106 UN Human Rights Council, ‘Preliminary Note on the Visit of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions to the Philippines, Philip Alston’ (12-21 February 2007), par. 8, U.N. Doc. No. A/HRC/4/20/Add.3 (22 March 2007). Accessed 12 July 2022.

In June 2020, United Nations High Commissioner for Human Rights Michelle Bachelet, posited that red-tagging “*may have incited violence and may have had the effect of encouraging, backing or even ordering human rights violations with impunity*” and “*has been a persistent and powerful threat to civil society and freedom of expression*” in the Philippines.¹⁰⁷

On numerous occasions, the Duterte administration and high-ranking government officials have made unsubstantiated allegations about the links between the CPP-NPA and various human rights and humanitarian organizations,¹⁰⁸ the political opposition.¹⁰⁹ Current and former government officials and security forces have also red-tagged journalists¹¹⁰ and independent media outlets,¹¹¹ community pantry organizers,¹¹² and LGBTQI activists.¹¹³ There are also incidents where unknown assailants vandalized and red-tagged bookstores and publishers.¹¹⁴ In March 2018, the Department of Justice (DOJ) filed a petition before the courts seeking to declare 648 people with the CPP-NPA, including the UN Special Rapporteur on the Rights of Indigenous Peoples Victoria Tauli-Corpuz,¹¹⁵ before admitting that the “[DoJ] itself did not have any personal verification of any connection by these individuals with the CPP-NPA” and that the names and aliases came from raw data provided by the intelligence units of the AFP and the PNP.¹¹⁶

Under Duterte and up to the present Marcos Jr. regime, the NTF-ELCAC has been the vanguard of red-tagging, public vilification and counter-propaganda against the CPP-NPA, as well as activists, journalists and government critics. On several occasions, the NTF-ELCAC has tagged schools and colleges as hotspots for communist recruitment,¹¹⁷ raising fears of a crackdown on universities and student activists. Its top officials currently face administrative complaints,¹¹⁸ but they argue that they are merely “truth-tagging.”¹¹⁹ Yet, even the DoJ Secretary has challenged the NTF-ELCAC to file legal action if they have evidence.¹²⁰

2. Online Disinformation and Propaganda Network

In its October 2018 investigative report, independent media *Rappler* found that the government’s counter-insurgency campaign was complemented by intensified information operations, and that the focus of the propaganda network shifted from targeting ‘drug pushers and addicts’ to “branding activists as “terrorists” and exaggerating the communist threat.”¹²¹ They reported notable increase in online red-tagging posts starting the end of 2017 around the termination of the peace talks and in 2018 around the release of the DoJ’s list of 648 individuals allegedly linked to the CPP-NPA and the formation of the NTF-ELCAC under EO 70, and identified the “biggest surge” in 2020 during the deliberation and eventual passage of the ATA.

107 Michelle Bachelet, ‘Report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Philippines,’ A/HRC/44/22 (4 June 2020). Accessed 12 July 2022.

108 Philstar, ‘“We are a humanitarian organization,” Oxfam stresses after AFP labels them terrorist front,’ (6 November 2019); *Rappler*, ‘In House briefing, AFP, DND accuse Gabriela of being ‘communist front’,’ (6 November 2019).

109 Interaksyon, ‘For the nth time: Duterte claims opposition, Liberal party, communists planning to oust him,’ (12 September 2018).

110 *Rappler*, ‘Tacloban journalist Frenchie Mae Cumpio still hopeful a year after arrest’ (9 February 2021); Inquirer, ‘Cops behind red-tagging of Baguio journalist – CHR,’ (13 April 2022).

111 Philstar, ‘Journalists demand Parlade apology for threat to reporter over story he disputes,’ (4 February 2022).

112 Philstar, ‘PNP apologizes for community pantry red-tagging,’ (20 May 2021); *Rappler*, ‘Red-tagging of community pantry sparks uproar online,’ (20 April 2021).

113 Manila Bulletin, ‘CHR takes up cudgels for LGBTQI leader ‘red-tagged as CPP member’ in Iloilo City,’ (28 October 2022).

114 Manila Times, ‘Red-tagging publishers and bookstores,’ Editorial (17 May 2022).

115 Reuters, ‘Worried for safety, says U.N. special rapporteur on Philippine “hit list”,’ (10 March 2018).

116 *Rappler*, ‘DOJ didn’t verify before seeking terrorist tag for 649 people,’ (6 August 2018).

117 GMA News Online, ‘Parade says top universities among 18 schools NPA recruitment is taking place,’ (23 January 2021).

118 Inquirer, ‘Elago files raps vs NTF-ELCAC top brass at Ombudsman,’ (7 December 2020).

119 CNN Philippines, ‘Government not engaged in red-tagging but ‘truth-tagging,’ says OSG,’ 4 May 2021.

120 ABS-CBN News, ‘Guevarra on NTF-ELCAC red-tagging: ‘Don’t just label, file legal action if you have evidence,’ (15 June 2022).

121 *Rappler*, ‘New war: How the propaganda network shifted from targeting ‘addicts’ to activists,’ (3 October 2022).

Moreover, their analysis of clusters of online posts revealed that “at center of the campaign” are content from the official Facebook pages of NTF-ELCAC, other state media like the Philippine News Agency (PNA) and Peoples Television Network (PTV), conservative and pro-administration SMNI News, and official military channels like the AFP’s Civil Relations Service, and that these narratives are “seeded through a mix of old and new bloggers and “alternative” news sources, with different clusters focused on either funneling to the general public (through hyperlocal and political pages), or niche but engaged communities (e.g., military, police, and their supporters), which become vectors for distribution.”¹²²

While in a study released January 2023, Internews researchers documented cases of online red-tagging under Duterte, tracing how these resulted in offline harms to the life and liberty of activists, journalists and other civil society actors. The researchers pointed out that by allowing red-tagging to “fall between the cracks of platform content policies, without being classified as harassment or hate speech” and argued that “[b]y allowing the practice to continue largely unchecked, online platform companies, including Meta, have significantly contributed to an enabling environment for violence, reinforced the lack of public accountability of government institutions, and ultimately led to the killing of red-tagged people.”¹²³

3. How is red-tagging linked to EJKs and summary killings?

Ultimately, red-tagging is a tool widely and consistently used to smear, discredit, and incite violence and hate, particularly against those from the ranks of progressive groups and critics of the sitting government. Extrajudicial, summary and arbitrary executions arise from the government’s COIN-CT campaign targeting above-ground legal organizations and activists. The labeling could mean one’s death sentence.

The UN Special Rapporteur on the Situation of Human Rights Defenders Mary Lawlor stated in her December 2020 report that “being ‘tagged’ as ‘red’, or communist”, is “one example of context-specific death threats,” and that “some defenders who have been so tagged have been murdered.”¹²⁴

Public vilification and disinformation usually precede and lay the groundwork for actual attacks against the intended targets. Generally, these attacks take the form of harassment (surveillance, threats, arbitrary arrest and detention, confiscation of properties, and other human rights violations), criminal prosecution based on fabricated evidence, enforced disappearances, summary executions, and other forms of state-sanctioned violence. With the Anti-Terrorism Act (ATA) of 2020 and the subsequent designation of the CPP-NPA-NDF as terrorist organizations, the government and its security forces have a legal cover to frame activists and the Left as sympathizers and supporters of “terrorists”. This manufactured narrative has made the prevention of human rights violations and access to legal and other remedies all the more difficult.

The clear link between red-tagging, on one hand, and harm to life and limb, on the other, cannot be denied.

Ultimately, red-tagging is a tool widely and consistently used to smear, discredit, and incite violence and hate, particularly against those from the ranks of progressive groups and critics of the sitting government. ...The labelling could mean one’s death sentence.

122 Ibid.

123 Internews, ‘Meta’s Amplification of Persecution: Red-Tagging in the Philippines,’ (January 2023).

124 UN Human Rights Council, ‘Final warning: death threats and killings of human rights defenders – Report of the Special Rapporteur on the situation of human rights defenders, Mary Lawlor,’ (24 December 2020), A/HRC/46/25, p.11.

First, the correlation across different administrations demonstrates that individuals, sectors and communities that are red-tagged soon become subjects of extra-judicial killings and enforced disappearances. After 2001 and following the adoption by the Arroyo government of CT rhetoric in its COIN campaign, a wave of extrajudicial killings targeting left-wing activists swept the country. The Duterte government's own War on Drugs and COIN-CT campaign bears a huge resemblance to this era.

In April 2008, then UN Special Rapporteur Philip Alston issued a report on extrajudicial killings in the Philippines over a period of five years, recording over 800 cases of killings of members of mass-based organizations, workers' unions, peasant organizations, and Left-oriented groups.¹²⁵ Alston found that unarmed civilians engaged in parliamentary struggle or open democratic politics were evidently "carefully selected and intentionally targeted" and that "[t]he aim has been to intimidate a much larger number of civil society actors, many of whom have, as a result, been placed on notice that the same fate awaits them if they continue their activism."¹²⁶

During the Arroyo administration, human rights organization Karapatan documented 1,188 killings of human rights defenders and 205 enforced disappearances from 21 January 2001 to 31 December 2009.¹²⁷ Under the Aquino III presidency, it documented 307 extrajudicial killings of human rights defenders and 30 enforced disappearances from July 2010 to December 2015.¹²⁸ Under Duterte, Karapatan documented 427 extrajudicial killings of human rights defenders, at least 537 cases of frustrated killings, and 19 enforced disappearances from July 2016 to December 2021.¹²⁹

Under Duterte, human rights defenders, journalists, labor and peasant group members, indigenous peoples, environmental and IP rights activists, lawyers, doctors and priests received death threats, were summarily killed, or died in police operations, after being red-tagged by the government for their alleged communist sympathies.¹³⁰ Some of the persons who were red-tagged and became victims of extrajudicial killing or attempted killing were Glenn Ramos, Alberto Tecson, Obello Bay-ao Atty. Benjamin Ramos, Bernardino Patigas, Atty. Angelo Karlo Guillen, Zara Alvarez, and Dr. Mary Rose Sancelan.¹³¹ Zara Alvarez was included in a list of over 600 individuals the DoJ had earlier wanted the courts to declare as terrorists, and was included in a tarpaulin the police put up bearing the faces of around 60 individuals who are alleged "communist personalities".¹³² Dr. Sancelan was the 6th person to be killed in a hit list of 15 people who were alleged CPP members in Negros Occidental.¹³³

125 UN Human Rights Council (16 April 2008), A/HRC/8/3/Add.2.

126 Ibid, p. 6.

127 Karapatan, '2009 Year-end Report on the Human Rights Situation in the Philippines,' (2009).

128 Karapatan, '2015 Year-end Report on the Human Rights Situation in the Philippines,' (2015).

129 Karapatan, '2021 Year-end Report on the Human Rights Situation in the Philippines,' (2021).

130 Arugay A, Batac M & Street J, (2021), p. 24.

131 Inquirer, "'Undas' 2021: Red-tagging as death warrant,' (2 November 2021).

132 Nicole-Anne C. Lagrimas, 'Tagged, You're Dead,' GMA News Online (13 October 2020).

133 Senate Bill No. 212 -, Proposed Bill Defining the Crime of Red-Tagging, filed 24 March 2021. Accessed 5 October 2022.

Second, there are noticeable similarities in the tactics employed in the use of red-tagging and extrajudicial killings under COIN-CT campaigns across administrations. These include the policing and harassment of communities through so-called “NPA/terrorist lists”, direct and indirect threats to activists and organizers preceding their deaths, the use of anonymous assailants or death squads that result in official deniability, and the usual excuse of the police or military officers when deaths occur in their operations that the victims fought back (“*nanlaban*”) or were NPA combatants killed in the crossfire.

One key tool is an “order of battle,” a military intelligence document that lists individuals believed to be NPA fighters, and the local organizations and individual members believed to be actively supporting rebels as ‘fronts’ of the CPP–NPA, to be targeted for “neutralisation.”¹³⁴ In their research, the Initiatives for International Dialogue (IID) and Saferworld found that these continue to happen across administrations. An IP organizer shared that several times, from the Arroyo and Aquino III administrations to the Duterte administration, he was included in a so-called “NPA/terrorist list” posted in their community and was summoned by the military¹³⁵ along with other young community organizers.

Another similarity is that those who were killed had earlier received threats, whether direct messages or symbolic actions or gestures, as a warning to stop working for their legal organizations or pursuing their activities or risk losing their lives.¹³⁶ During the Arroyo administration, they received threats “through cellphone messages and calls, letters and parcels (for example, flowers for a funeral), or by being stalked by anonymous motorcycle-riding men.”¹³⁷ Under the Duterte administration, those killed received symbolic threats such as a bullet left on the dining room table in their home; a coffin delivered to the office of an NGO; edited pictures posted on Twitter, showing them being attacked with axes or knives; and an animal head tied to the door of their organization’s office.¹³⁸

Sometimes the threats are direct, such as a July 2019 anonymous text message containing a death threat against Zara Alvarez, a staff member of Karapatan. In August 2020, she was gunned down on the street in Bacolod City.¹³⁹ She was also one of the more than 600 people the DoJ petitioned the courts to declare as terrorists in February 2018, and the 13th member of Karapatan killed since Duterte assumed the presidency.¹⁴⁰

134 UN Human Rights Council (2008), A/HRC/8/3/Add.2.

135 See Arugay, A, Batac, M & Street, J, (2021), p. 33.

136 Dutch Lawyers for Lawyers Foundation, ‘Facts to Action: Report on the Attacks against Filipino Lawyers and Judges’ (2006), p. 23; Human Rights Now, ‘Report on Extrajudicial Killings and Enforced Disappearances in the Philippines’ (2008), pp. 22–23.

137 Lamchek (2018), p. 64.

138 UN Human Rights Council (2020), A/HRC/46/25, p. 12.

139 Rappler, ‘Human rights activist shot dead in Bacolod City’ (17 August 2020).

140 Aljazeera, ‘Human rights leader killed in Philippine ‘war against dissent’ (19 August 2020).

Another common element is the predominance of shootings and vigilante killings by anonymous perpetrators usually “riding in tandem”, even in broad daylight and in public spaces.¹⁴¹ Amnesty International reported that under the Arroyo administration, the “predominant method of attack [were]... shootings by unidentified assailants, mostly riding tandem on a motorcycle, who often obscure their identity with ‘bonnet’ face masks or helmets... supported by other men on motorcycles nearby, or using an unmarked van.”¹⁴² Lamchek points out that “while the identities of the assailants are hidden, the act of killing itself often will be put on display, consistent with the goal of communicating the message that grim consequences will attend not ‘surrendering’”.¹⁴³ Under Duterte, at times, the body of the disappeared would turn out days after with a cardboard sign saying that the deceased should not be emulated (“*Wag tularan!*”) indicating that they are either implicated in the drug trade¹⁴⁴ or are communists/NPA rebels.

Lamcheck argues that these killings are part of a concerted effort to instill fear, to harass, and to weed out legal organizations and activists from localities that are targets of COIN-CT operations, by pushing targeted individuals “to ‘surrender’ or go into hiding”, and targeted legal organizations “to close shop.”¹⁴⁵ In his 2008 report, Alston found that the “counterinsurgency focus on civil society leads to extrajudicial killings and tempts commanders to make such abuses routine and systematic.”¹⁴⁶

Placed in such context, the red-tagging, harassment and killings of activists, and other human rights violations discussed in the latter section, are a component of the government’s COIN-CT program operations, shaped and implemented by the armed forces and the NTF-ELCAC and designed to counter what is perceived to be the influence and network of the communist armed movement. Since government actors, especially the military, see the conflict with Leftist groups as an extension of the war with the CPP-NPA, this leads to the blurring of the distinction between combatants and civilians.

4. Atmosphere of Impunity

Justice remains elusive for the victims and the families left behind. In most of these instances of harassment and killings, the police and the military continue to deny allegations of soldiers’ involvement, despite evidence to the contrary. Due to the anonymity of the perpetrators of extrajudicial killings, government and security actors are able to deny responsibility and even point to an internal purge in the communist party as an alternative theory. This happens even in cases of supposed legitimate police or military operations, whether for anti-drug¹⁴⁷ or for COIN,¹⁴⁸ where, when suspects end up dead, the officers use “*nanlaban*” (they fought back) as the usual narrative.

141 Inquirer, ‘Almost 37K crimes involving ‘riding-in-tandem’ hitmen recorded since 2010, says Gordon,’ (5 February 2021).

142 Amnesty International, ‘Philippines: Political Killings, Human Rights and the Peace Process’ (2006), p. 23.

143 Lamchek (2018), p. 64.

144 Nixcharl C. Noriega and Larah Vinda Del Mundo, ‘Duterte’s drug war killings rise in Year 2 of the pandemic’ Vera Files (20 January 2022).

145 Lamchek (2019), p. 65.

146 UN Human Rights Council (2008), A/HRC/8/3/Add.2, p. 10.

147 Rappler, “‘Nanlaban sila’: Duterte’s war on drugs’ (23 August 2016).

148 Inquirer, “‘Nanlaban’ in Cotabato: 3 suspected Reds killed after resisting arrest, say cops,’ (8 February 2021).

Most of those responsible for the politically-motivated killings against activists and Left figures, particularly under Duterte, have not been brought to justice. Witnesses to cases under investigation, including their families, are particularly vulnerable to intimidation, reprisals and, at times, even death. It is almost impossible to imagine a fair and swift administration of justice when lawyers and judges are also targets of red-tagging and killings, which the Supreme Court itself has condemned as “no less than an assault on the judiciary.”¹⁴⁹ In March 2021, it was reported that local courts in Samar, Northern Luzon, and Central Luzon separately received letters essentially requesting “alias warrants”;¹⁵⁰ or for names of lawyers representing “Communist Terrorist Group (CTG) personalities” along with the names of their clients, and “mode of neutralization”.¹⁵¹ Also in March, a judge was red-tagged through a tarpaulin with a photo of her face posted along Metro Manila’s major road after she ruled on the release of two activists.¹⁵² The Integrated Bar of the Philippines recorded the killings of 63 lawyers, judges and prosecutors under Duterte.¹⁵³

These incidents must be situated in the overall environment of impunity in the country, where the President was a primary source of disinformation and messages inciting violence and abuses, ordering law enforcers to “forget about human rights”¹⁵⁴ and to “kill” and “shoot them dead”;¹⁵⁵ repeatedly encouraged and promised to defend police and military officers amid allegations and evidence of abuse;¹⁵⁶ and refused to cooperate with and even blocked independent investigations including by UN Special Rapporteurs¹⁵⁷ and the International Criminal Court (ICC).¹⁵⁸

B. Indigenous Peoples and Rural and Conflict Areas

Indigenous communities are often perceived by the government and the military as main targets of NPA recruitment and are targeted by the military under its low-intensity conflict strategy.¹⁵⁹ They are often subject to discrimination and threats, legal harassment and trumped-up charges, or violence and summary killings. The rise of COIN and CT approaches also means increased violence and displacement in communities located in, believed to be, or identified NPA areas, that mostly overlap with the IPs’ ancestral domains.

In February 2017, President Duterte threatened to bomb indigenous schools in IP territories, claiming they were operating illegally, without government permits, and were training grounds for communist rebels.¹⁶⁰ And in July 2019, the Department of Education (DepEd) ordered the closure of 55 IP schools, following the recommendation and allegations in an NTF-ELCAC report that such schools are communist propaganda sites and rebel fronts.¹⁶¹ Arugay, et al. argued that this “disenfranchised young indigenous students whose only access to education is often through these schools... [and] threatened the communities’ abilities to preserve their cultural traditions, something upon which such schools were founded.”¹⁶² One commentator remarked, “McCarthyism witch hunt has again reared its ugly head. [And] the victims are...the indigenous peoples.”¹⁶³

149 APNews, ‘Philippine Supreme Court slams killings of lawyers, judges,’ (24 March 2021).

150 Inquirer, ‘PNP digging up archived cases, unserved warrants vs suspected communist rebels,’ (14 March 2021).

151 Amnesty International, ‘Surge in killings of lawyers and judges shows justice system “in deadly danger”’ (26 March 2021).

152 PhilStar, ‘Mandaluyong judge red-tagged after freeing two activists,’ (17 March 2021).

153 Inquirer, ‘Number of lawyers killed since 2016 soared 500% – IBP,’ (27 July 2021).

154 Aljazeera, ‘“Kill them”: Duterte wants to ‘finish off’ communist rebels,’ (6 March 2021).

155 Inquirer, ‘“Kill, kill, kill”: Duterte’s words offer evidence in ICC,’ (17 September 2021).

156 PhilStar, ‘Duterte to PNP: Kill 1,000, I’ll protect you,’ (2 July 2016).

157 Reuters, ‘Philippines cancels visit by U.N. rapporteur on extrajudicial killings,’ (14 December 2016).

158 South China Morning Post, ‘Philippines will not cooperate with ICC ‘war on drugs’ probe, Duterte lawyer says,’ (16 September 2021).

159 Philippine News Agency, ‘IPs most vulnerable to CTGs recruitment: ex-NPA cadre,’ (27 May 2021).

160 CNN Philippines, ‘Duterte threatens to bomb Lumad schools,’ (25 July 2017).

161 CNN Philippines, ‘DepEd shuts down 55 lumad schools in Davao’ (13 July 2019).

162 Arugay A, Batac M & Street J (2021), p. 26.

163 Inquirer, ‘Why we must defend ‘lumad’ schools,’ (14 October 2019).

It, therefore, did not come as a surprise that the first case under the new Anti-Terrorism Act of 2020 was filed against two members of the indigenous Aeta community in Central Luzon, who alleged that they were tortured by soldiers for several days to force them to confess to being members of the NPA.¹⁶⁴ The court dismissed the charges against the two IPs as a case of mistaken identity.

This dominant narrative of the need for IPs to be “saved,” while subjecting them to policing and to harassment, demonstrates deep-seated discrimination against IPs. They are not recognized as autonomous citizens who can, on their own, perceive and oppose injustice done to them; instead, NPA ‘front’ organizations are merely coercing or manipulating them. This is apparent in the conduct of a February 2021 operation where security forces raided a temporary school for displaced indigenous children and detained 26 people, including 19 children, alleging that they were “rescuing” them from being trained to become “armed combatants” of the NPA.¹⁶⁵ A social welfare officer present during the raid, however, belied the claim of the police.¹⁶⁶

Moreover, extrajudicial, summary and arbitrary executions of indigenous peoples and IP rights activists are also often either preceded by red-tagging,¹⁶⁷ or are justified by the police as another case of “*nanlaban*” (they fought back) or as NPA rebels who engaged them in a firefight.¹⁶⁸ In December 2020, nine indigenous leaders of the Tumandok community were killed and 17 others were arrested in simultaneous police operations in Panay province. The local police said they were communists and that they fought back.¹⁶⁹ Two months after, in February 2021, unknown assailants assassinated a witness in the case¹⁷⁰, and the following month, masked assailants stabbed and seriously injured the lawyer of the Tumandok community leaders.¹⁷¹

Even the very body formed to advocate for the respect and promotion of the ways and culture of IPs is, at times, also a source of intimidation, discrimination and conflict. In March 2021, the National Commission on Indigenous Peoples (NCIP) was called out for contributing to the red-tagging of indigenous peoples.¹⁷² Notably, the NCIP’s current Chair is former military Col. Allen Capuyan, who was previously chief for operations of the Intelligence Service of the AFP and former Executive Director of the NTF-ELCAC.

164 Inquirer, ‘Anti-Terror Law’s first hit: Two Aetas from Zambales – group,’ (18 November 2020).

165 Inquirer, ‘Police ‘rescue’ lumad kids from priests, educators in top Cebu university,’ (15 February 2021).

166 Philstar, ‘‘Rescued’ Lumad children said they were taught reading and writing, not ‘warfare training’ – Cebu DSWS,’ (16 February 2021).

167 Rappler, ‘Groups seek justice for red-tagged Tumandok IPs killed in police operation,’ (31 December 2020).

168 Philstar, ‘CHR to look into killing of 3 Lumads, including minor, in Surigao del Sur,’ (18 June 2021).

169 Rappler, ‘9 red-tagged IPs killed, 17 others nabbed in police ops on Panay Island,’ (31 December 2020).

170 Inquirer, ‘Key witness in Tumandok killings in Capiz shot dead,’ (2 March 2021).

171 Philstar, ‘Tumandok land defenders’ lawyer stabbed in Ilolilo,’ (4 March 2021).

172 Carolyn O. Arguillas, ‘The IP struggle continues as NCIP red-tags and bans use of “Lumad,” the collective word for Mindanao IPs since the late 1970s,’ *MindaNews* (20 March 2021); Dr. Augusto Gatamaytan, ‘ANALYSIS: Notes on the NCIP resolution on ‘Lumad’,’ *MindaNews* (25 March 2021).

C. Other Forms of Repression

The application of CT to COIN also takes the form of harassment and public vilification of Left-oriented party list and opposition officials, the censorship of books and of independent and alternative media, and the freezing of bank accounts and financial assets of targeted civil society organizations and individuals.

1. Harassment of Left-leaning party lists and opposition politicians

In particular, NTF-ELCAC officials have been relentless in their propaganda against opposition party-list politicians, especially from the national democratic Left. In their social media posts and media pronouncements, they allege that the party-list coalition of five Makabayan bloc party list, namely Kabataan, Anakpawis, Bayan Muna, Alliance of Concerned Teachers and Gabriela, whom they dub as “KABAG” (*stomach pain*), is an important element in the propaganda and recruitment of “communist terrorists”.¹⁷³ Both the NTF-ELCAC and even President Duterte claimed that the Makabayan bloc is “made up of high-ranking members of the CPP-NPA-NDF that are out to destroy the government”¹⁷⁴ and are “legal fronts” of the CPP-NPA to “infiltrate Congress.”¹⁷⁵

Leading up to and during the 2022 May elections, the NTF-ELCAC campaigned against the five Left party-lists,¹⁷⁶ filing several cases before the Commission of Elections (COMELEC) seeking cancellation of their registration or their disqualification due to their alleged links to the communist rebels.¹⁷⁷ They also alleged connivance of the then sitting Vice President Leni Robredo with the CPP-NPA in light of the endorsement of her candidacy for president by the Makabayan bloc.¹⁷⁸ Posters, newsletters and SMS blasts from anonymous parties and security forces discouraging voters from supporting the Makabayan bloc due to its alleged links to the CPP-NPA circulated days before the election.¹⁷⁹ More worrisome is that even after the elections, the police continued conducting community profiling in barangays “with a high number of votes for the Makabayan bloc.”¹⁸⁰

In the hearings of petitions against the ATA, the SC Justices chastised government officials on the risks of red-tagging and terrorist labeling without basis and evidence, and quizzed them for not disowning statements of certain NTF-ELCAC officials.¹⁸¹ While at one point, the National Security Adviser (NSA) and National Security Council (NSC) Director-General issued gag orders on two NTF-ELCAC officials,¹⁸² there has been no official disavowal of their statements arguing that these are made in their private capacity in their personal social media accounts.¹⁸³ Ruling on legal standing, the SC found basis in the petitioners’ fears of the injury that red-tagging could cause and that red-tagging could come about from the implementation of the ATA.¹⁸⁴

173 PNA, ‘Ex-rebels confirm Makabayan bloc CPP-NPA-NDF operatives,’ (7 February 2022).

174 Philstar, ‘NTF-ELCAC wants Makabayan bloc out of Congress,’ (6 June 2021).

175 Inquirer, ‘Duterte backs Badoy, links Makabayan bloc to communists,’ (30 March 2022).

176 ManilaNews.net, ‘NTF-ELCAC renews call for zero vote vs. left-leaning party-lists,’ (24 March 2022).

177 Rappler, ‘Which party-list groups is NTF-ELCAC trying to get disqualified?,’ (11 September 2021).

178 Inquirer, ‘NTF-Elcac insists Robredo-CPP collusion despite VP’s stand vs violence,’ (13 April 2022).

179 Inquirer, ‘Makabayan party list groups targeted by dirty tricks, again,’ (9 May 2022).

180 Inquirer, ‘Cops profiling Makabayan voters – Gabriela,’ (20 June 2022).

181 Rappler, ‘SC justices warn vs red-tagging, hit shallow understanding of ideologies,’ (11 May 2021).

182 Rappler, ‘Esperon orders Parlade, Badoy to stop commenting on community pantries,’ (25 April 2021).

183 Inquirer, ‘Parlade’s social media posts an exercise of freedom of expression – gov’t lawyer,’ (12 May 2021).

184 PhilStar, ‘SC: Petitioners constantly red-tagged alleged ‘credible threat of injury’ vs anti-terror law,’ 16 February 2022).

Numerous administrative complaints have been lodged against former and current NTF-ELCAC officials for their accusations that are “unsupported by credible, competent and admissible evidence.”¹⁸⁵ These were filed not only by Left-oriented and opposition officials, but by doctors, health workers, journalists, community pantry organizers, human rights organizations, and ordinary citizens.¹⁸⁶

The brazen red-tagging by government officials and their uneven targeting of Left-leaning and opposition groups demonstrate the malleable and political nature of terrorist labeling. It also shows the power that terrorist labeling offers to legitimize extraordinary acts of harassment and repression.

2. Censorship and Restrictions to Academic Freedom and Journalistic Expression

Even history and children’s books about the Martial Law period were tagged as part of a communist plot to radicalize the youth.¹⁸⁷ As part of the “whole-of nation approach,” government agencies, such as the Commission on Higher Education (CHED), the Komisyon sa Wikang Filipino (KWF), and the National Telecommunications Commission (NTC) with National Intelligence Coordinating Agency (NICA), ATC and NTF-ELCAC, took steps to censor supposed “subversive” books and other educational materials, for which they were criticized as attacks on academic freedom and scholarship.

In October 2021, a CHED regional office issued a memorandum urging public and private higher education institutions to remove “subversive” materials from their libraries and online information services, and to surrender these to the NICA. The memorandum described these materials as “literatures, references, publications, resources and items that contain pervasive ideologies of the communist-terrorist groups.”¹⁸⁸ Among the books removed from libraries were those related to the peace negotiations between the government and communist rebels, demonstrating how even the civilian approach to peace has become a victim of the shift to a military approach.

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185 Manila Bulletin, ‘Solcom chief slapped with graft charges,’ (1 July 2020); GMA News Online, ‘Ombudsman orders Esperon, Badoy, Parlade to answer admin complaint filed in 2020,’ (2 July 2022).

186 Rappler, ‘LIST: Complaints filed against red-tagger Lorraine Badoy,’ (21 April 2022).

187 PhilStar, ‘Kids’ books about dictatorship, Martial Law spook Philippine intel chief,’ (12 May 2022).

188 Inquirer, ‘CHED memo on purging of ‘subversive’ books an ‘attack on academic freedom’ – groups,’ (28 October 2021).

Months after, in August 2022, the KWF ordered the pull-out and stopped the printing of five books it deemed to contain “political, subversive and creative literary works with subliminal ideologies that encourage to fight the government (sic),” citing a possible violation of the provision on incitement to commit to terrorism in the ATA.¹⁸⁹ The books covered by the ban include collections of literary works by renowned writers during the martial law period. In follow-up statements and interviews, the KWF commissioners admitted that they “consulted” with the NICA and NTF-ELCAC, and alleged that the materials contain “explicit Anti-Marcos and Anti-Duterte contents” and “subversive themes” due to citations of the CPP-NPA. The KWF commissioners also criticized their own Chairman “for inciting rebellion” in allowing their publication.¹⁹⁰

The government also tried to censor the websites of independent media organizations. Acting on the request of the NSC, the NTC ordered private independent service providers (ISPs) to block 26 websites allegedly found to be “affiliated to and are supporting” the CPP-NPA.¹⁹¹ In particular, the alternative media organization *PinoyWeekly* was tagged by the outgoing NSA and NSC Director-General, who alleged that editorials on social ills, reporting on historical events, and quoting official pronouncements of the CPP-NPA amount to recruitment and incitement to terrorism.¹⁹²

In these cases, state actors have interpreted and used “incitement to terrorism” beyond situations where the evidence shows that the speaker clearly intends to provoke the audience to commit acts of terror-related violence. This has resulted in a chilling effect on academic freedom and journalistic expression and opened the floodgates to its unrestrained application to any dissenting or unwanted speech. Months after, in August 2022, the KWF ordered the pull-out and stopped the printing of five books it deemed to contain “political, subversive and creative literary works with subliminal ideologies that encourage to fight the government (sic),” citing a possible violation of the provision on incitement to commit to terrorism in the ATA.¹⁹³ The books covered by the ban include collections of literary works by renowned writers during the martial law period. In follow-up statements and interviews, the KWF commissioners admitted that they “consulted” with the NICA and NTF-ELCAC, and alleged that the materials contain “explicit Anti-Marcos and Anti-Duterte contents” and “subversive themes” due to citations of the CPP-NPA. The KWF commissioners also criticized their own Chairman “for inciting rebellion” in allowing their publication.¹⁹⁴

189 CNN Philippines, ‘KWF stops distribution of ‘subversive’ books,’ (12 August 2022).

190 OneNews, ‘Purge of KWF Books Slammed,’ (12 August 2022).

191 OneNews, ‘NTC Blocks 25 ‘Red’ Websites Upon The Request Of Esperon,’ (23 June 2022).

192 Rappler, ‘What does it signal when Esperon goes after news sites before vacating his post?,’ (22 June 2022).

193 CNN Philippines, ‘KWF stops distribution of ‘subversive’ books,’ (12 August 2022).

194 OneNews, ‘Purge of KWF Books Slammed,’ (12 August 2022).

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3. Financial and NGO Registration Regulations

Another method by which the stifling of dissent occurs is through abuse of the anti-money laundering and registration regulations by the Anti-Money Laundering Council (AMLC), the Securities and Exchange Commission (SEC), and various other government agencies, in coordination with NICA, the ATC, and the DoJ. In November 2018, President Duterte’s Executive Order 68 laid out a new anti-money laundering and counter-terrorist financing (AML/CTF) strategy for the Philippines, requiring the AMLC to investigate, freeze, and institute civil forfeiture procedures against “properties or funds that are in any way related to terrorism or [terrorist financing].”¹⁹⁷

In 2019, even before the passage of the new ATA, bank accounts of the Catholic Church-based Rural Missionaries of the Philippines (RMP) were frozen by the AMLC, ex parte, and without a direct designation or proscription of the RMP as a terrorist group.¹⁹⁸ Under the Terrorism Financing Prevention and Suppression Act (Republic Act 10168), the AMLC can freeze assets ex parte for 20 days and can petition for an extension with the Court of Appeals (CA). After the designation of the CPP-NPA and NDF as terrorist organizations under ATA 2020, more bank accounts and assets of organizations and individuals, including a faith-based humanitarian organization, the NDF peace consultants, and a peasant group, were tagged as “related accounts of the CPP-NPA” and slapped with preemptive freeze orders based on alleged witness accounts.¹⁹⁹ These did not go through an independent examination by the courts or, as in the case of RMP, without notice or opportunity for the accused to challenge such testimony.²⁰⁰

195 OneNews, ‘NTC Blocks 25 ‘Red’ Websites Upon The Request Of Esperon,’ (23 June 2022).

196 Rappler, ‘What does it signal when Esperon goes after news sites before vacating his post?,’ (22 June 2022).

197 Anti-Money Laundering Council, “2018 Implementing Rules and Regulations of Republic Act No. 9160, Otherwise Known as the Anti-Money Laundering Act of 2001, as Amended” (November 22, 2018).

198 Rappler, ‘How Duterte gov’t froze assets of religious group as it worked on anti-terror law,’ (19 November 2020).

199 Anti-Money Laundering Council, ‘Notice of AMLC Resolution Nos. TF-40 and 42, series of 2021’ and ‘Notice of AMLC Resolution Nos. TF-50 and 55, series of 2022,’ accessed 17 July 2022; *Rappler*, ‘Church group condemns freeze order on UCCP Haran bank accounts,’ (2 April 2021); Inquirer, ‘Freezing of NDFP consultant’s deposits shows impact of terror law – Karapatan,’ (9 June 2021); Inquirer, ‘AMLC freezes bank accounts of red-tagged farmers’ group,’ (12 June 2021).

200 Rappler, ‘AMLC begins freezing accounts ‘related’ to National Democratic Front,’ (20 July 2021).

The transfer of the power to designate terrorist groups and individuals from the courts to the ATC, has made it easier to freeze assets. The designation is done on the ATC's own determination with no notifications of hearings. The principal effect of designation is to signal the AMLC to issue the preemptive freezing of bank accounts and assets related to designated groups and individuals. While the Office of the Solicitor General (OSG) argues that designation by the ATC does not automatically result in the AMLC's freezing of assets as determination is still within AMLC's authority, in practice, the freezing of assets has immediately followed the designation.²⁰¹ The problem, therefore, lies in the broad and unchecked powers of the Executive, which acts as both the judge, through the ATC, and the executioner, through the AMLC.²⁰² Parties aggrieved by the designation and the freeze may file a petition with the CA to question both. The burden is therefore shifted to the accused to move for delisting and for the lifting of freeze orders. Activists and human rights defenders and their organizations are then saddled in these legal and administrative knots, even without judicial determination and proscription of their alleged terrorist links.

The mobilization of various departments for non-government organization (NGO) regulation expanded under President Duterte. First, in November 2018, the SEC expanded the regulation of Non-Profit Organizations (NPOs), through Memorandum Circular No. 25 (SEC 2018 NPO Guidelines),²⁰³ requiring NPOs to file detailed disclosures about their membership, the sources of their funds and their intended usage. Various groups raised the alarm on the possible "chilling effect on civil society organizations, due to the SEC's essentially unlimited discretion in determining what constitutes criteria for blacklisting, and its unlimited power to compel disclosure of information from civil society groups without a court order."²⁰⁴ Yet even the Asia/Pacific Group on Money Laundering (APG), in its Financial Action Task Force (FATF)-mandated evaluation of the Philippines' AML/CTF regime, has questioned the need for an excessive and untargeted measure, noting that such requirements "may discourage or disrupt legitimate NPO activities" and recommended a review of the said guidelines.²⁰⁵

201 Ibid.

202 The process and power of designation of the ATC is distinct from the power of proscription of the courts, which it does through a full trial and examination of evidence.

203 Securities and Exchange Commission, 'Guidelines for the Protection of SEC Registered Non-Profit Organizations from Money Laundering and Terrorist Financing Abuse. Memorandum Circular No. 15 s. 2018.' (7 November 2018).

204 Andreopoulos G, Macaspac N & Galkin E (2020). See also Manila Bulletin, 'Makabayan Bloc moves to scrutinize SEC memorandum on NPOs/NGOs,' (17 January 2019); *Rappler*, 'Chilling effect': Groups slam new SEC guidelines for nonprofits,' (9 February 2019); FORUM-ASIA, 'The Philippines: Immediately rescind SEC Memorandum Circular No. 15 (s. 2018),' (26 February 2019).

205 Asia/Pacific Group on Money Laundering (APG), 'Anti-money laundering and counter-terrorist financing measures – Philippines. Third Round Mutual Evaluation Report,' (October 2019), p. 99.

Then in August 2018, the Department of Social Welfare and Development (DWSO) required non-state social welfare and development agencies to “submit detailed information on their operations...and to undergo certification and licensing before they are allowed to operate.”²⁰⁶ In 2019, the SEC reported to the NTF-ELCAC that six NGOs “reportedly supportive and sympathetic” to the CPP-NPA had pending revoked or suspended registrations, and that five entities that are “alleged legal front organizations of the CPP-NPA” were not registered. Among those red-tagged by the SEC are some well-established human rights organizations and known mass-based organizations.²⁰⁷ The SEC maintained that these organizations cannot raise funds or enter into contracts. In early 2021, the Department of Foreign Affairs (DFA) informed all diplomatic missions in the Philippines to declare foreign government funding for NGOs “regardless of mode of disbursement, transfer or download of funds” for appropriate clearance, purportedly to regulate NGO funding to prevent financing of terrorism.²⁰⁸ Then Foreign Affairs Secretary Teodoro Locsin Jr later clarified that “this doesn’t affect legit [sic] NGOs” since “it is how a responsible government monitors where money comes from and goes to in the face of insurgent and terrorist-secessionist threats.”²⁰⁹

This narrative of “good/legitimate” versus “bad/illegitimate” NGOs is one method through which the government not only erodes solidarity across civil society but also restricts and controls civil society spaces.

4. Harm on Peacebuilding and Humanitarian Work, and Redefining ‘Civic Space’

Often missed and therefore requiring special mention is the impact of COIN-CT measures on spaces for feminist and civilian approaches to security, through peacemaking, peacebuilding and humanitarian work. The passage of the ATA 2020 paved the way to the formal designation of the CPP-NPA and the NDFP as terrorist groups. As Lamchek explains: “*Terrorist listing operates like a taboo. While apparently designed only to combat the financing of terrorism, terrorist listing seriously restricts the possibilities of peacefully resolving conflicts through negotiations and, more generally, of simply listening to ‘terrorists.’*”²¹⁰

Terrorist listing, and the CT approach in general, effectively takes out the option of negotiation and any form of dialogue between government officials and armed groups. This labeling does not only affect the armed rebel movement but also impedes the ability of peacebuilders and humanitarian workers to bridge divides or to provide direly needed aid for conflict-affected communities. More directly, on civic space, it causes a chilling effect on civilians and organizations doing mediation, de-escalation and reconciliation work and other peacebuilding approaches, as well as emergency aid response.

206 Andreopoulos G, Macaspac N & Galkin E (2020). See also Department of Social Welfare and Development, ‘Revised Guidelines Governing the Registration, Licensing of Social Welfare and Development (SWD) Agencies and Accreditation of SWD Programs and Services, Memorandum Circular No. 17 s. 2018,’ (29 August 2018).

207 Some of the organizations were such as Philippine Alliance of Human Rights Advocates (PAHRA), Karapatan, Concerned Artists of the Philippines, *Kalipunan ng mga Katutubong Mamamayan ng Pilipinas*, Kadamay, the League of Filipino Students (LFS), Suara Bangsamoro, ANAKPAWIS, Kilusang Mayo Uno (KMU), New Patriotic Alliance, and May First Movement Labor Center.

208 Department of Foreign Affairs, DFA Note Verbale No. 2021-0592 (5 February 2021).

209 PNA, ‘Directive on foreign funding won’t affect ‘legit NGOs’: Locsin,’ (24 February 2021).

210 Lamchek (2018), p. 280.

Designation casts doubts among mediators, community organizers, and even humanitarian aid workers whether or not, in a highly polarized context, their actions can be interpreted or framed as “incitement to terrorism” or as “providing aid to terrorists.” Ultimately, it restricts the environment and conditions for civilian actors in conflict and fragile contexts, especially affected local communities and IPs, to effect desired social justice and political change.

In her report to the 75th General Assembly in September 2020, the UN Special Rapporteur Fionnuala Ní Aoláin posed her concerns about the application and conflation of CT measures in the context of non-international armed conflicts involving non-state armed groups, arguing that often this leads to the “weakening” of rights, duties and protections under international humanitarian (IHL) and human rights law (IHRL).²¹¹ She further denounced the “attacks on the integrity, independence and operational capacity of organizations [working in fragile, conflict and post-conflict settings], whether directly or indirectly, by States through the prism of counter-terrorism rhetoric or regulation” and underscored their critical role in “the protection of humanity and the dignity of the most vulnerable and, thus, to conflict resolution.”²¹²

Taken in this context, the impact of CT is even deeper, disguised, and therefore more pernicious than restricting civic space. As defined by Civicus, civic spaces are those that affect the exercise of “rights to freedom of association, expression, and peaceful assembly.”²¹³ On the other hand, the Office of the United Nations High Commissioner for Human Rights (OHCHR) defines civic space broadly as “the environment that enables civil society to play a role in political, economic and social life.” The Funders Initiative for Civil Society (FICS) defines it as “the physical, digital, and legal conditions through which progressive movements and their allies organize, participate, and create change.” While these are comprehensive definitions, I would emphasize that there are fundamental contentions on what civil society’s role is or should be.

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211 UN General Assembly, ‘Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin,’ (3 September 2020), A/75/337, p. 5.

212 Ibid, p. 2.

213 CIVICUS defines civic space as “place, physical, virtual, and legal, where people exercise their rights to freedom of association, expression, and peaceful assembly.” CIVICUS, ‘Guide to Reporting Civic Space: Media Toolkit,’ p. 4. Accessed 5 October 2022.

Given attempts by governing elites to define and restrict the political participation of “legitimate” citizens,²¹⁴ there is value in appreciating and unpacking these different strategies through which the governed use this civic space to participate in political life and affect their desired change. We need to move away from simply listing rights and freedoms, towards appreciating the vast universe of strategies employed by citizens, movements and organizations in affecting political change.

I would, therefore, propose an alternative definition of civic space as the place, environment or conditions, physical, virtual, and legal, where citizens, people and communities can realize their desired political, economic and social change, through different but often not mutually exclusive strategies of reform, confrontation, mediation and transformation. Different strategies include constructive engagement and citizenship; protest and dissent; peacekeeping, peacemaking and peacebuilding; and feminist and queer activism, organizing and care.

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214 See literature on civic engagement and political participation, such as Almond and Verba on ‘civic culture’ (1963); Sherry Arnstein’s ‘ladder of participation’ (1969); and categories of political participation by Opp et al. (1981), Verba and Nie (1987), Parry et al (1992), Teorell, Torcal, and Montero (2007), Ekman and Amnå (2012), and Lamprianou (2013), among others.

D. The Global Trend of Security Playbook

The use and creep of CT narratives and tools into other forms of conflict and political violence is not unique to the Philippines. UN Special Rapporteur Ní Aoláin identified a “profoundly” worrying pattern whereby governments increasingly billed emergency security measures as CT, and under such guise, applied these to address domestic strife, to restrict civic space and to crack down on those engaged in perceived or actual dissent.²¹⁵ She also pointed to how CT and CVE acceleration gives “the State considerable and unprecedented access to the home” and enables “the legal regulation of family life in the name of national security,” with distinct negative impact on women and girls.²¹⁶

This trend is happening both in authoritarian regimes or restricted democratic spaces, like the Philippines, Egypt, Turkey, Venezuela and Russia, and in supposedly more open societies, like Austria, France, Spain, Belgium, the European Union, and the United Kingdom.²¹⁷ The strategies include the introduction of overly-broad terminology into CT legislation, leading to a chilling effect on freedom of information especially for journalists, and to the criminalization of legitimate human rights work. Other effects include enforced disappearances and arbitrary arrests and detentions, the adoption of far-reaching surveillance laws and measures to extensively gather personal data and other forms of violations of the people’s right to privacy, and the use of counter-terrorist financing laws and policies to crack down on freedom of association.²¹⁸ A global network of human rights defenders concluded that: “[m] any of the restrictions to civic space... have been enabled, and sometimes encouraged, by the international community’s [including the UN’s,] stance on counter-terrorism”, and called on the international community “to take responsibility for the detrimental effect counter-terrorist policies have on civil society.”²¹⁹

While there is a growing realization in the international community and security policy spaces that external interventions carried out in the name of security often end up worsening the conflicts they are supposed to stop or prevent, many have not changed course to refocus on addressing root causes, and instead continue their investments in military and hard approaches that perpetuate cycles of violence.²²⁰

215 UN News, ‘Misuse of terrorism laws during conflict creates ‘unmitigated calamity’ (16 October 2020).

216 UN Human Rights Council, ‘Human rights impact of counter-terrorism and countering (violent) extremism policies and practices on the rights of women, girls and the family, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism Fionnuala Ní Aoláin,’ (22 January 2021), A/HRC/46/36.

217 Observatory for the Protection of Human Rights Defenders, ‘UN Member States urged to ensure counter-terrorism policies do not negatively impact civil society and human rights defenders,’ Open Letter To Permanent Missions of UN Member States (25 May 2021).

218 Ibid.

219 Ibid.

220 Larry Attree, Celia McKeon and Konstantin Bärwaldt, ‘The International Security Echo-Chamber: Getting Civil Society Into the Room,’ (31 July 2019).

VI. Community Responses, Forms of Resistance, and Alternative Narratives of Security: Beyond ‘Human Rights-Compliant Counterterrorism’

Within the international human rights movement, critical scholars have observed that the dominant response to global trends and policies on CT tends to focus on a strategy to “synthesize human rights [law] and counterterrorism”²²¹ through the messaging and framing of “countering counterterrorism while respecting human rights” or “human rights-compliant counterterrorism.” Meanwhile, the strategies of national and local advocates, including in the Philippines, tend to “directly confront the local terrorism discourse” and not only seek to reform CT approaches.²²² While recognizing the value of tactical engagements on IHRL compliance, Lamchek ultimately calls for the disentanglement of the human rights advocacy from the counterterrorism agenda which he deems is “problematic” in and of itself:

“[T]he discourse of terrorism... promotes dichotomous thinking in which terrorism always emanates from the irrationality of non-state actors who pose the original threat, while state counterterrorism is always rational, and a mere reaction to terrorism. The rhetoric of counterterrorism is state-affirming; it creates a bias in favour of state action, including the use of lethal force, against those deemed to be terrorists, who are always non-state actors. Attaching a legal and human rights language to counterterrorism, while aspiring to restrain the state in its response to terrorists, echoes and reinforces these dichotomies, identifying the original threat to human rights with terrorists and the defence of human rights with state counterterrorism... [W]e have seen how this binary is a false one, and how terrorism is often not a threat but a boon to the state or traditionally powerful groups. Moreover, the discourse of terrorism itself can facilitate or form part of conditions that generate human rights abuses.

“Counterterrorism rhetoric has exacerbated conflict situations, and there is much to be gained in terms of improving respect for human rights by understanding and addressing conflict situations using lenses other than terrorism. The vision of human rights-compliant counterterrorism serves to obfuscate and disserve human rights by side-stepping the need radically to question the discourse of terrorism.”²²³

This critique of a human-rights compliant CT agenda should be understood and situated within a bigger critique that human rights law has been perceived to have dominated, displaced or “crowded out” other languages within the human rights movement,²²⁴ and the call for developing meanings of human rights as “resistance from below.”²²⁵

221 Lamchek (2018), p. 275.

222 Ibid, p. 91.

223 Ibid, pp. 275-276.

224 David Kennedy, ‘International Human Rights Movement: Part of the Problem?’, (2002) 15 Harvard Human Rights J, pp. 101, 108.

225 Sally Engle Merry, ‘Transnational Human Rights and Local Activism: Mapping the Middle’ (2006); Mark Goodale and Sally Engle Merry (eds), *The Practice of Human Rights: Tracking Law Between the Global and the Local* (CUP 2007); Balakrishnan Rajagopal, *International Law from Below: Development, Social Movements and Third World Resistance* (CUP 2003).

A. International Level

In the past years, there has been an increased shift among various international civil society organizations to go beyond a human rights-compliant CT response and to reverse the CT agenda itself. A number of platforms have emerged seeking to change dominant global narratives and policies on CT and rewind the web of processes and bodies that support and perpetuate CT and hard security approaches within international bodies such as the UN. Some of these organizations are the CSO Coalition on Human Rights and Counterterrorism,²²⁶ the Security Policy Alternatives Network,²²⁷ and the Global NPO Coalition in FATF.²²⁸

The emerging analysis is that the exponential and parasitic growth of policy-making, programming and financing for CT and CVE within the UN system, from New York and Geneva to the national level, has been at the expense of the efforts in human rights and peacebuilding.²²⁹ Therefore, there is a need to confront, expose and transform power structures and incentives that allow security cooptation even among civil society actors and supposed allied government and UN actors. Finally, there must be a commitment to reclaim how security policy and narratives are shaped and made, starting with reimagining, articulating and showcasing alternatives to hard and militarized security approaches and drawing from initiatives and learnings on conflict transformation and peacebuilding already on the ground.

The challenge remains, however, in surfacing, documenting and substantiating alternatives that are beyond piece-meal legal and policy reforms, and that reflect radical rethinking of security grounded on evidence and practice. For this, even the international platforms look towards national and local movements and peacebuilding and (human) security practitioners for guidance and leadership.

B. National Level

On the national level, responses to the government's CT approach can be grouped into three distinct but non-mutually exclusive strands: legal support, advocacy and reform; anti-militarization campaigns; and the push for politically-negotiated settlements with armed groups and an inclusive peace process. Often, groups involved in one strategy also share platforms and participate in campaigns of the other groups.

226 <https://charityandsecurity.org/wp-content/uploads/2021/06/Statement-on-7th-GCTS-CSO-coalition-on-CT-and-human-rights-30-June-2021.pdf>

227 <https://www.justsecurity.org/65243/the-international-security-echo-chamber-getting-civil-society-into-the-room/>

228 <https://fatfplatform.org/about-us/>

229 Saferworld, 'A fourth pillar for the United Nations? The rise of counter-terrorism,' (June 2020); Saferworld and Friedrich-Ebert-Stiftung, 'The rise of counter-terrorism at the United Nations: two decades later,' (September 2021); Jordan Street, 'UN Budget vs. Rhetoric: Touting "Agenda for Peace" But Investing in Counterterrorism Instead?,' *Just Security* (1 December 2022).

1. Legal Support, Advocacy and Reform

Alternative law groups, local human rights advocacy groups, and international human rights organizations²³⁰ have long been involved either in monitoring violations of rights and other forms of harassment and abuses related to COIN and CT, in assisting victims through direct legal aid, or in broader legal advocacy such as challenging the legality or constitutionality of certain charges in or of the anti-terrorism laws themselves, or raising these issues to the United Nations, including the Human Rights Council (HRC)'s Universal Periodic Review and the Global Counterterrorism Strategy Review. Following an HRC Resolution, a three-year Philippines-UN Joint Programme on Human Rights was established in July 2021 to improve the capacity of Philippine institutions to protect human rights.²³¹ Various human rights organizations have criticized the HRC for settling on mere technical cooperation and capacity building instead of “creating a commission of inquiry to investigate the thousands of extrajudicial killings,”²³² and for “allowing the Philippines to... window-dress its appalling human rights record without any tangible progress or scrutiny.”²³³

In the 17th and 18th Congress under President Duterte, a Human Rights Defenders Protection Bill was first filed to address harassment, summary killings and enforced disappearances of rights workers, by establishing a Committee nominated by right groups and mandated to investigate and pursue proper action on violations by military and civilian officials.²³⁴ The proposed measure was approved in the third and final reading in the Lower House but was not acted upon by the Senate. It was re-filed in the 19th Congress under President Marcos Jr, but has faced opposition from the NTF-ELCAC, AFP and PNP.²³⁵

Generally, the local human rights movement has been tactical in using human rights law to engage the abuses and harms from CT measures and has generally gone beyond the “human rights while countering terrorism” discourse by adopting broader anti-militarism messages or by being part of broader networks working on anti-war, anti-militarism and anti-imperialism advocacies.

230 Some of the groups involved in these are the Free Legal Assistance Group (FLAG), Sentro ng Alternatibong Lingap Panlegal (SALIGAN), the National Union of Peoples' Lawyers (NUPL), KARAPATAN, Philippine Alliance for Human Rights Advocates (PAHRA), Philippine Human Rights Information Center (PhilRights), Task Force Detainees of the Philippines (TFDP), Medical Action Group (MAG), Balay Rehabilitation Center, Inc., In Defense of Human Rights and Dignity Movement (iDefend), ALISTO! Citizen's Monitoring, the Initiatives for International Dialogue (IID), Ateneo Public Interest and Legal Advocacy (APILA), Balay Alternative Legal Advocates for Development in Mindanaw (BALAOD Mindanaw), Lanao Alliance of Human Rights Advocates (LAHRA), Ateneo Human Rights Center (AHRC), and Amnesty International (AI) - Philippines, among many.

231 See UN Human Rights Council, 'Technical cooperation and capacity-building for the promotion and protection of human rights in the Philippines,' A/HRC/RES/45/33 (7 October 2020); United Nations Philippines, 'PHL, UN and partners endorse roadmap to accelerate implementation of human rights joint programme' (20 December 2021).

232 Human Rights Watch, 'Philippines: UN Rights Body Fails to Act,' (5 October 2022).

233 International Service for Human Rights, 'HRC51: Civil society presents key takeaways from Human Rights Council,' (7 October 2022).

234 Inquirer, 'Makabayan refiles own version of bill protecting human rights defender,' (1 August 2022).

235 Rappler, 'Abante grills PNP, AFP over opposition to human rights defenders bill,' (29 November 2023); PNA, 'HR Defenders bill 'dangerous': NTF-ELCAC,' (20 January 2023).

2. Anti-Militarization Campaigns

Rooted in a long history of anti-dictatorship, anti-militarism and anti-imperialism, the human rights movement in the Philippines has resisted the escalation of military operations and sought to deconstruct and challenge claims of national security by the government and the armed forces.

Immediately in the post-9/11 period, the local human rights movement opposed the global CT agenda and its extension to the Philippines. Some of the campaigns waged post-9/11 onwards were mimicked in recent years during the Siege of Marawi and the passage of the ATA 2020; the opposition to foreign military bases, joint military exercises, and the involvement of foreign troops; fact-finding and exposition of military abuses, killings and torture of suspects, and of displacement due to military operations; and even solidarity with other nations impacted by militarism or foreign military interventions. Human rights advocacy groups have joined Left-oriented political groups as well as anti-war, peace, feminist and environmental organizations in these anti-militarism campaigns.²³⁶

Exposing the human rights violations and massive costs of militarism has helped strengthen resistance efforts. However, this approach is not enough to fully rebut the core argument of the militarist, COIN-CT approach: that there is ongoing violence or armed conflict, hence, the necessity to confront or resolve this.

3. Push for an Inclusive Politically-Negotiated Settlement

The direct response comes from peace groups advocating for civilian approaches to resolving the armed conflict.²³⁷ The argument is that the military approach and war come not only with immense economic costs and harm to human rights, it is also ineffective and counterproductive to long-term peace and security. The alternative being pushed is that the two parties should find and build creative solutions through a process of dialogue and problem-solving.

Unfortunately, of these three strands of response, there are not a lot of organizations involved in peace advocacy and peacebuilding—either due to the lack of transparency and sufficient space for participation in the formal process, the complexity of working on peace and security issues, or the misunderstanding of and therefore bias against peace advocacy as simply pacification, and thus not radical enough.

Moreover, the peace process itself has been faced with perennial challenges, leading to a dominant belief that it is hopeless. The GRP, under six presidents starting from Corazon Aquino to Rodrigo Duterte, and the NDF, formally representing the CPP-NPA, have been engaged in protracted, on-and-off negotiations for around 33 years, from 1986 until its latest termination in 2019, to put an end to the world's longest running communist armed rebellion which has been going on for almost 54 years.²³⁸

²³⁶ Some of the groups involved or new formations closer to this strategy are the broad Bagong Alyansang Makabayan (BAYAN) alliance, Manggagawa para sa Kalayaan ng Bayan (MAKABAYAN), BISIG-Akbayan, Alliance of Progressive Labor (APL), SANLAKAS, Partido Lakas ng Masa (PLM), Partido ng Manggagawa (PM), Kilusan para sa Pambansang Demokrasya (KPD), STOP The War Coalition Philippines, Focus on the Global South, Mindanao People's Peace Movement (MPPM), KAISA KA, Pambansang Koalisyon ng Kababaihan sa Kanayunan (PKKK), Peace Women Partners, Piglas Kababaihan, SARILAYA, Woman Health, Women's Legal Bureau (WLB), Youth for Nationalism and Democracy (YND), Konsensya Dabaw and the Mindanao Peaceweavers (MPW), among many. The groups named in the earlier section would also generally share the same platforms and join campaigns of these advocacy groups.

²³⁷ Some of those long involved in pushing for the peace talks are the CBCP (Catholic Bishops' Conference of the Philippines), NCCP (National Council of Churches in the Philippines), and the Coalition for Peace. Another major platform is the Citizens Alliance for Just Peace (CAJP), an alliance of four major peace networks in the country (the Philippine Ecumenical Peace Platform (PEPP), Pilgrims for Peace, Sulong Peace or formerly Sulong CARHRIHL, and Waging Peace Philippines. Other groups involved are the Gaston Z. Ortigas Peace Institute (GZOPI), the Initiatives for International Dialogue (IID), Generation Peace Youth Network (GenPeace), Peacebuilders Community, Inc. (PBCI), Balay Mindanaw Foundation, Inc (BMFI), and Forum Ziviler Friedensdienst e.V (forumZFD), Center for Peace and Conflict Studies (CPCS), the Global Partnership for the Prevention of Armed Conflict (GPPAC) and Conciliation Resources (CR), among others.

²³⁸ Center for International Security and Cooperation, 'Profile: Communist Part of the Philippines - New People's Army,' *Stanford University-Freeman Spogli Institute for International Studies*. Accessed 5 October 2022.

Within the government, it does not help that many of the previous presidents and elected civilian leaders have been beholden to the military, which has led to the appointments of former generals to civilian posts. In the end, this made the military agenda ascendant in the government's analysis and direction, crowding out other critical voices, broader analysis and alternative approaches to achieving peace and security and, in the end, undermining civilian approaches to the resolution of the conflict. Engagement towards security sector reform is perceived as directed towards the rehabilitation of the image of the armed forces, rather than a sincere overhaul of the broken civilian-military relations, especially effective civilian oversight. Meanwhile civil society groups engaged with the military are often seen as being co-opted into apologizing for or are unwittingly used for window-dressing of the armed forces, rather than critically pushing the envelope on needed reforms.

The formal negotiations have also been undermined by the disconnect between the ceasefire agreements among the negotiating panels and the continuing armed operations and clashes among ground troops; the continuing lack of inclusivity and transparency in the formal peace process which has led to a lack of broad public awareness, support and ownership; the continuing social injustices and human rights abuses outside the negotiations; and the doubts on the sincerity of both parties to commit to the primacy of a politically-negotiated settlement over the military approach and war-making.²³⁹ On the last point, Bolasco concluded that *“both Parties have looked at negotiations as opportunities that allow both sides to secure economic and political benefits, gain some kind of respite from the fighting, be visible in the public consciousness, have a voice in a public conversation that engages a sizeable intellectual audience, and lastly, and interestingly, as a way to actually still wage war, physically and symbolically, from both ends of the negotiating table.”*²⁴⁰ Both continue to see the talks as an extension of broader political contestation, including the “war of hearts and minds.” It is therefore not that the peace process is hopeless. It is ultimately because the two parties, who both claim to represent the aspirations of the people, have not given peacemaking enough chance to succeed.

239 Soliman M. Santos Jr., ‘Rethinking and renewing the GRP-NDFP peace talks in 2022,’ *Rappler* (22 March 2022).

240 Maria Karina Africa Bolasco, ‘The GRP-NDFP Peace Talks: Tactical Discontinuities in a Shared Narrative,’ *Kyoto Review of Southeast Asia* Issue 31. Accessed 15 December 2022.



Source: Shutterstock, Luis Dela Cruz
Quezon City, Philippines – September 21 2022: Religious groups participated in the protest in University of the Philippines to mark the 50th anniversary of declaration of Martial Law in the Philippines.

Given these, our popular understanding of the peace process has to change. Determining the country's peace and security needs has to be expanded beyond the two principal parties. While a new peace strategy should continue to support the push for a negotiated settlement, it also needs to go beyond this. It should be owned across movements and sectors, not only by mediators and peace advocates. And it should be integrated with the other strategies mentioned above: restoring accountability and ensuring support for victims, pushing for legal reforms and broader structural transformation, countering the rise of militarism and pushing for effective civilian oversight over the military, and supporting dialogues and problem-solving across sectors and society.

What should be clear from the past five decades of violence and abuses rooted in this protracted conflict is, first, that there are no shortcuts and, second the need to transcend the orthodoxies and our respective silos in the broad peace and human rights movement. The question is where do we start, and what is or are our leverage point(s)?

VII. Challenges and Pathways: Resistance, Reimagination and Transformation from Below

The prospects for human rights and for a transformative approach to peace and security under the new Marcos Jr. administration are dim. While Marcos Jr. assured the international community of its commitment to human rights²⁴¹ and his (former) national security adviser publicly expressed her opposition to red-tagging and preference to address root causes,²⁴² the same practice of repression and killings of activists and Church leaders,²⁴³ law practitioners²⁴⁴ and journalists²⁴⁵ continues.

241 PNA, 'Marcos vows to protect human rights,' (10 June 2022).

242 PhilStar, 'Incoming NSA chief on 'unproductive' practice of red-tagging: Let's stop doing that,' (24 June 2022).

243 BusinessWorld, 'Analysts: Red-tagging continues with Marcos,' (21 August 2022); Manila Times, 'Red-tagging still threat to Church,' (14 January 2023).

244 PhilStar, 'SC issues show cause order vs. Lorraine Badoy for red-tagging, threatening judge,' (4 October 2022).

245 Rappler, 'Broadcaster Percy Lapid killed in Las Piñas, 2nd under Marcos,' (4 October 2022); Danilo Araña Arao, 'Press freedom under Bongbong is fake news,' *East Asia Forum* (10 October 2022).

President Marcos Jr. himself rarely made specific pronouncements on red-tagging and the armed conflict and stalled talks with the CPP-NPA and often only expressed support for the programs of the NTF-ELCAC and AFP on counter-terrorism and counter-insurgency.²⁴⁶ There is also no indication that national peace talks will be reopened soon as Cabinet members and military generals expressed their preference to continue with local peace engagements through the NTF-ELCAC.²⁴⁷ With security and anti-terrorism as her primary agenda,²⁴⁸ Sara Duterte, the Vice-President and Education Secretary and the daughter of former President Rodrigo Duterte, has been more direct and vocal on her “hardline” stance against “criminals and terrorists”²⁴⁹ She championed the return of mandatory Reserved Officers Training Corps (ROTC) in schools,²⁵⁰ and the creation of confidential funds under the Education department to pursue “peace and order and national security” and to support “intelligence and surveillance” targeting, among many, “recruitment [of children and youth] in terrorism and violent extremism.”²⁵¹

The recent reshuffling of military leadership²⁵² and the continued appointments of former generals in the civilian government²⁵³ suggest that the current administration will continue to appease the military and take a business-as-usual, hard security approach.

Ultimately, the fundamental challenge before us is the lack of broad public ownership and the marginalization of affected communities, not only in the peace process but also and more importantly, in our overall ways of shaping our common security needs and approach. With the continuing lack of paradigm change among the two principal parties to the GRP-CNN armed conflict, the needed reimagination will have to come from the people themselves.

Lumad Husay. IPs have been caught not only in the crossfires in armed clashes within their ancestral domains, but also in the propaganda warfare on who are the legitimate voices of IPs and who are not.

Framed as either government IPs or as NPA IPs rather than first and foremost indigenous communities with the capacity and agency to think and decide for themselves, indigenous communities are being divided and polarized and, in the process, denied their own unique voice to their distinct experiences and aspirations.

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246 Manila Bulletin, ‘Marcos lauds NTF-ELCAC, LGUs’ peace efforts,’ (28 October 2022); GMA News, ‘Marcos: Imperative to empower Philippines vs. terrorism, external threats,’ (8 November 2022).

247 CNN Philippines, ‘Marcos admin won’t revive peace talks; Calos rejects red-tagging,’ (10 June 2022); *Rappler*, ‘NTF-ELCAC not recommending CPP-NPA peace talks under Marcos,’ 15 July 2022.

248 Inquirer, ‘VP Duterte tells US counterpart Harris: Security is my ‘first love’,’ (21 November 2022).

249 PNA, ‘VP Sara reiterates ‘no mercy’ stance vs. criminals, terrorists,’ (5 September 2022).

250 Manila Bulletin, ‘VP Duterte tackles ‘ways forward’ for mandatory ROTC,’ 5 September 2022).

251 PhilStar, ‘Sara getting separate confidential funds as Vice President, DepEd chief,’ (16 September 2022).

252 Nikkei Asia, ‘Marcos sacks Philippine military chief in surprise move,’ (8 January 2023).

253 Manila Times, ‘Marcos likely to appoint more retired generals,’ (19 January 2023); *Rappler*, ‘Marcos: No one plotted to oust Clarita Carlos as national security adviser,’ (21 January 2023).

IP groups, particularly the Lumads,²⁵⁴ have been trying to carve out a space for themselves to dialogue among themselves, build a common agenda with regard to the peace process, and to develop and assert their own peacemaking and peacebuilding practice, including the use of “alternative modes of dispute resolution that are conciliatory rather than adversarial.”²⁵⁵

A stream of this IP-centered peacemaking has adopted the term “*husay* justice,” or *husay*²⁵⁶ for short. Within this stream, an IP-CSO convergence²⁵⁷ led to the founding of Lumad Husay Mindanaw²⁵⁸, an inter-tribal alliance or convergence that “sees itself offering *husay* as a locally-grounded indigenous peace platform supporting ‘culturalized’ peacebuilding with, and in, formal government and rebel groups’ peace processes (or lack there-of), and related government programs serving Lumad communities.” It is guided by the overarching principle of restoration (“*pagpasig-uli*”), articulated as:

“We are not against anyone, as long as we are standing together for the rights of IP; this is the idea of all IP for the benefit of all IP. Therefore, people don’t have to abandon their group or agenda, as long as their sense of identity is claimed and asserted.

“The mandate comes from the ground, we have to make our own structure and formula to use, so it will not be opposed, everything has to be organized at the ground. Pasiguli sa relasyon (Restoration of Relationships) needs to start at the community level, there is a need to prepare the ground, cleanse, deal with the damage.”²⁵⁹

Simons wrote about this in his dissertation entitled “Lumad Husay (Indigenous Conciliation): Decolonizing Justice & Re-storying Culture in Mindanao, Philippines”:

254 Lumad (plural Lumadnon) is a collective term of self-ascription used by some members of approximately 18 and 24 non-Islamized tribes, and numerous additional sub-tribes, that claim portions of Mindanao as their ancestral domain.

255 Pacifico Agabin, ‘The Influence of Philippine Indigenous Law on the Development of New Concepts of Social Justice,’ In V. V. Palmer, M. Y. Mattar, & A. Koppel (Eds.), *Mixed Legal Systems, East and West*. Surrey, England (2015), p.170.

256 Simons (2021) cites Sidney, Edgerton, Gonzalo and Saway in his dissertation “Lumad Husay (Indigenous Conciliation): Decolonizing Justice & Re-storying Culture in Mindanao, Philippines”: “*In Bisayan, husay is understood as follows: Used as a noun, husay refers to a “hearing” or a “settlement of accounts”; as a verb, husay means “to be peaceful,” “put in order,” “untangle,” or “unsnarl”; and as an adjective, it is translated as “orderly,” “without confusion,” or “well arranged with everything put in its place.” (G Sidney Silliman, 1982, p. 237) Edgerton (2008), in a tidy description of Bukidnon Lumad conflict resolution processes (pp. 40-44) describes husay’s core meaning as “orderly and without confusion” and “avoiding conflict or bad feelings through the mediation of disputes” (p. 40); such that paghusay simply means “mediation sessions” (p. 41). In the most recent research... conducted by Tagakaolo anthropologist Matet Gonzalo with her own community in Davao Occidental Province, the word used is nearly identical – pag-usay – meaning a “process of restoring positive relations or goodwill between two people who are conflicting/fighting” (“pamaagi sa pagbalik sa maayong relasyon o kabubut-on sa duha ka tawo nga nagbangi/nag-away”) (Gonzalo, 2018, p. 7, n. 14). Further, the title for Bukidnon, Talaandig and Higaonon mediators is “balaghusay” meaning those who are responsible for the husay session (A. L. Saway et al., 2017).” See Jeremy L. Simons, ‘Lumad Husay (indigenous conciliation). Decolonizing justice & re-storying culture in Mindanao, Philippines,’ (Thesis, Doctor of Philosophy), University of Otago, (June 2021), p. 137. Accessed 5 October 2022.*

257 Groups involved in an indigenous peoples-centered reimagining is the IP-CSO convergence, composed of the Mindanao Indigenous People’s Peace Forum (MIPPF), Lumad Mindanaw Peoples Federation (LMPF), and the Katawhang Lumad (Lumad Peoples) sector of the Mindanao Peoples Peace Movement (KL-MPPM), supported by the IID and several units within Ateneo de Davao University (ADDU), including the University Community Engagement and Advocacy Council (UCEAC), the Mindanawon Centre for Inter-cultural Dialogue, and the Ateneo Institute of Anthropology.

258 Davao Today, ‘IP leaders advocate IP inclusion in peace talks,’ (23 June 2018).

259 Luman Husay Mindanaw Conference Notes, 18 August 2016, cited by Simons (June 2021).

“Using *husay* as an umbrella term for (at least) the fifteen different customary justice and peacemaking traditions that form core elements of each group’s identity who were present at the meeting... their focus, as revealed in their comments and discussions, was primarily outward-facing towards non-Lumad who had a difficult time understanding their cultures and therefore intervened violently in their culture and communities; and upward-facing in relation to higher level peace processes negotiators and actors whom they believed had the power and capacity to restrain those fomenting the various forms of violence. In terms of a legal culture framework, *husay* represented a cultural motif or form that could be easily comprehended as the external face of Lumad justice advocacy, thus raising the legal consciousness of non-indigenous actors and allies who could support its use and help create spaces for Lumad legal mobilization asserting their cultural agenda in the peace process...

“...as well as a generic term for indigenous peacemaking and customary justice in Mindanao. This consists of practices of relational conciliation (*pasiguli sa relasyon*), holistic restoration expressed locally and metaphorically as ‘*hugasan ang yuta aron matamnan pagusab*’ (cleansing the land in preparation for replanting), and narrative justice of the ancient peace pacts and traditional precedents found in various epics across the island, particularly the *Mamalu-Tabunaway* narrative.”²⁶⁰



Source: Shutterstock, Luis Dela Cruz
Philippines – July 25, 2022: Filipino people staged a protest against Marcos–Duterte.

Lumad Husay, therefore, constitutes a political assertion among IP groups that affected communities are not mere subject to definitions of security and safety defined and negotiated from the top, rather, they are catalysts able to shape meanings and lead in crafting solutions. While they recognize the value of the formal negotiations between the GRP and the NDF, such “political settlement is not the only expression of a peace process” and, therefore, regardless of the termination or future resumption of such formal talks, they will “independently as indigenous peoples talk to both the government and rebels on [their] own terms” and will continue to build solutions to conflict and insecurity in their own communities, based on their multiple customary justice concepts and internal legal cultures.²⁶¹

Independent Citizen’s Spaces for Deliberation and Agenda on Peace and Security. In the end, robust and cross-sector dialogical spaces building towards an independent citizen’s agenda on peace and security are needed to break the deadlock, and to infuse political will, accountability and creativity into the peace process. Judge Soliman Santos, one of the leading legal and peace scholars working on the intersection of human rights and conflicts involving non-state armed groups, posited that “*A critical mass of local community-based peace constituencies—in other words, a local mass base for peace—should also be able to help push the talks to move...*”²⁶²

Notably, there are ongoing efforts to further broaden the GRP-NDF peace constituency and to strengthen the community and citizens’ voices, with the aim of lifting fundamental material and political barriers to a political settlement. For one, the Initiatives for International Dialogue (IID) and Gaston Z. Ortigas Peace Institute (GZOPI) have been involved in convening, on the one hand, GPPAC Working Group on Enabling Collaboration/WGEC, an international solidarity and support group of peacebuilders, mediators and conflict experts to accompany and interface with local peacebuilders; and on the other, the National Civil Society Peace Dialogue/s, a dialogue platform across various regions of the country and across peacebuilding, human rights, community-based organizations and even international non-governmental organizations (INGOs) to map, discuss and problem-solve the web of issues driving the GRP-NDFP conflict, ranging from economic development, agrarian reform, militarism and impunity, to often forgotten and critical issues like gender and feminist conceptions of security, and indigenous people’s rights and domain. These are just two of the many spaces for rethinking peace and security and for bridging expertise and energy across international, national and local levels.

However, long-term support, investment and commitment are needed to carve out and nurture a civic space that allows for this broad societal reflection and deliberation—what do safety and security mean to each of us and all of us especially the most marginalized, and what steps should we take to build and nurture societies where the well-being, dignity and autonomy of the many and not the few is at the center?

261 Lumad Husay Mindanaw. “Among Hunghong alang sa Kalinaw” An Open Letter to the Filipino People from the Stewards of the Lands, Mountains, Forests, and Rivers in Mindanao. March 29, 2019. On file.

262 Soliman M. Santos Jr., ‘How Do You Solve a Problem Like the GPH-NDFP Peace Process: Paradigm Shifts for 2016 & Beyond,’ Siem Reap, Cambodia: Center for Peace and Conflict Studies (May 2016).

[Annex:

The Philippine Government's Counterterrorism and Counterinsurgency Architecture

The **1987 Constitution** is the fundamental law of the land in the Philippines, which establishes the structure, policies, roles and duties of the Philippines' government and which contains the Bill of Rights. The **President** is the Head of State and Head of Government, and functions as the commander-in-chief of the **Armed Forces of the Philippines (AFP)**.

Except under the martial rule of the dictator Ferdinand Marcos Sr.(1972-1986) the post-colonial Philippines has a tradition of democratic and civilian control over the military. In principle, civilian authorities formulate the national security policy – through a **five-year National Security Policy** – and determine the functions of the armed forces in its implementation.

Supporting the President on national security issues are two bodies: the **National Security Council (NSC)**¹ and the **Cabinet Security Cluster**². The NSC comprised of, on one hand, a collegial and advisory body, chaired by the President, composed of concerned officials of the Cabinet and Congress and other government officials and private citizens who may be invited by the President; and a permanent Secretariat, which provides technical support to the former and which is headed by a **Director-General / National Security Adviser**. On the other hand, Cabinet Security Cluster members are exclusive to the President's Secretaries, and cabinet clustering serves as a mechanism for coordination among different departments. In principle, Cabinet secretaries act as mere alter egos of the President.

1 The Council was created during the Quirino Administration through Executive Order (EO) No. 330, dated 01 July 1950. It was last reorganized by virtue of EO No. 34, series of 2001. The Council's Executive Committee is composed of the President and at least nine others: the Vice President; the AFP chief of staff; National Security Council director; the Executive Secretary; and the Secretaries of Foreign Affairs, National Defense, Interior and Local Government, Justice, and Labor and Employment.

2 Every President is empowered to reorganize their Cabinet according to their priorities. Under President Duterte, the Security, Justice and Peace Cabinet Cluster (SJGCC) was created pursuant to Executive Order No. 24 s.2017. The NSC was the Secretariat of the SJGCC.

Key bodies and actors involved in peace and security policy-making and implementation are:

- The **Philippine National Police (PNP)** reports to the **Department of the Interior and Local Government (DILG)** and is charged with maintaining internal security in most of the country. On the other hand, the **AFP** reports to the **Department of National Defence (DND)** and is responsible for external security but also carries out domestic security functions in regions where the government assesses a high incidence of terrorist or separatist insurgent activity, particularly the Mindanao region. The two agencies share responsibility for counterterrorism and counterinsurgency operations. The PNP's Special Action Force (SAF) is responsible for urban counterterrorism operations.
- **Governors, mayors, and other local government officials** have considerable influence over local police units, including the appointment of top provincial and municipal police officers and the provision of resources.
- The government also continues to support and arm civilian militias. The armed forces control the **Civilian Armed Force Geographical Units (CAFGU)**, while the national police commands the **Civilian Volunteer Organizations**. These paramilitary units often receive minimal training and are poorly monitored and regulated. Some political families and clan leaders, particularly in Mindanao, maintain private armies and, at times, recruit CAFGU and Civilian Volunteer Organization members into those armies. Civilian control over some security forces is not fully effective.³
- The **Office of the Presidential Adviser on Peace, Reconciliation and Unity (OPAPRU)**, formerly called the Office of the Presidential Adviser on the Peace Process (OPAPP),⁴ was first established in 1993 and is responsible for “the coordination and implementation of all components of the comprehensive peace process.” Under the agency, there are several government peace panels (or implementing panels, in the case of a final peace agreement) established to conduct negotiations with rebel groups, such as the MILF, MNLF, CPP-NPA-NDF, CBA-CPLA and RPM-P/RPA/ABB. The government peace panel for the GRP-NDF was dissolved following the termination of the talks in November 2017.
- President Duterte issued Executive Order 70 s. 2018 which, among others, formed the **National Task Force to End Local Communist Armed Conflict (NTF-ELCAC)** to lead the implementation of the government's “Whole-of-Nation approach” and formulation and coordination of a National Peace Framework, including a “mechanism for localized peace engagements or negotiations”.

3 U.S. State Department, ‘Philippines 2021 Country Report on Human Rights Practices,’ (12 April 2022). Accessed 17 July 2022.

4 The agency was created through Executive Order No. 125, s. 1993, later amended through Executive Order No. 3, s. 2001 and re-organized through Executive Order No. 158, s. 2021.

In the past decade, the Philippines adopted two laws that are primarily aimed at counterterrorism: (1) the **Anti-Terrorism Act (ATA) of 2020**⁵, which superseded the **Human Security Act (HSA) of 2007**⁶, and (2) the **Terrorism Financing Prevention and Suppression Act (TFPSA) of 2012**⁷.

Expanding on the executive branch's power, the ATA also allows state security forces to arrest suspected terrorists and detain them for up to 24 days without charge and without sufficient judicial oversight. Another controversial provision is one referring to "material support" (to an activity that is deemed a terrorist act) which may have a chilling effect on agencies delivering humanitarian aid. The June 2020 communication of the Mandates of the Special Rapporteurs to the government of the Philippines, including by the Special Rapporteur on the protection and promotion of human rights and fundamental freedoms while countering terrorism Fionnuala Ni Aolain, has expressed concerns that the law's definition of terrorism and terrorist acts (including "incitement" and "encouragement, praising, glorification or justification") is "overbroad and vague", does not fall within agreed international law boundaries of terrorist acts, and may curtail freedom of opinion, expression and right to privacy.⁸

Prior to the ATA, the prosecution has to prove elements of terrorism with the courts in order to designate an organisation or an individual as terrorist. Due to difficulty in doing this, law enforcement would usually use **provisions of rebellion or insurrection**⁹, or more often, **on common crimes**, such as murder or illegal possession of firearms, **under the Revised Penal Code and special laws** to run after alleged insurgent rebels or terrorists.

Key governmental bodies, including private actors, are involved in implementing and oversight on counterterrorism laws and measures, and their mandates are described below:

- The **Anti-Terrorism Council (ATC)** was first established under the HSA 2007 and was further empowered through the ATA 2020. The ATA granted the ATC the power to determine probable cause and to unilaterally designate individuals or organizations as terrorists, including to authorize their arrest without a judicial warrant.
- The **National Intelligence Coordinating Agency (NICA)** serves as the Secretariat of the ATC.
- The **Anti-Money Laundering Council (AMLC)** created by the Anti-Money Laundering Act of 2001¹⁰ has the authority to investigate allegations of and to freeze property or funds believed to be linked to terrorist financing. AMLC represents the Philippines in the Asia/Pacific Group on Money Laundering (APG), an inter-governmental/regional organisation consisting of 41 member jurisdictions and the largest Financial Action Task Force (FATF)-style regional body (FSRB) in the world. APG's objective is "to ensure that individual members effectively implement the international standards against money laundering, terrorist financing and proliferation financing related to weapons of mass destruction."¹¹

5 Republic Act No. 11479 (3 July 2020).

6 Republic Act No. 9372 (6 March 2007).

7 Republic Act No. 10168 (18 June 2012).

8 OHCHR, 'Comments on the pending legislation 'The Anti-Terrorism Act of 2020'', (29 June 2020). OL PHL 4/2020.

9 Republic Act No. 6968 (24 October 1990).

10 Republic Act No. 9160, as amended, (23 July 2021).

11 Asia/Pacific Group on Money Laundering, 'APG History and Background,' accessed 17 July 2022.

- Law enforcement and military personnel have to file for an order from the **Court of Appeals (CA)** to surveil any suspects and their communications, and to compel **Telecommunications Service Providers (TSP) and Internet Service Providers (ISP)** to produce any suspects' customer information and identification records, call and text data records, content and other cellular or internet metadata. The CA has the power to hear applications to proscribe an individual or groups as terrorists upon giving due notice and opportunity to be heard to those about to be proscribed, and to hear any appeal against or any application for extension for actions made due to terrorist designations. The courts and the **Commission on Human Rights (CHR)** have to be immediately notified of the detention of suspects without a warrant of arrest. The CHR has the mandate to investigate violations of human rights, including those in relation to the ATA.
- The **United States, Japan, and Australia** are the Philippines' three most important security partners, especially on counterterrorism and P/CVE initiatives.

Aside from the ATA and the TFPISA, another key measure is the **National Action Plan on Preventing and Countering Violent Extremism (NAP P/CVE)** adopted in mid-2019.¹² Ostensibly, it was designed to broaden counterterrorism strategy from an exclusively kinetic, military approach to include and complement a “soft approach that addresses the underlying conditions that drive individuals to support and join violent extremist groups”. Moreover, it is aimed to elicit a new ‘whole-of-society’ approach to tackling the threat posed by violent groups, by engaging a wide range of stakeholders including communities, prisons, religious leaders, learning institutions, social media users, and Filipinos working and studying overseas.

The creation of the Philippines' NAP P/CVE followed the development and adoption of action plans to prevent or counter ‘violent extremism’ in the past years – by the United Nations Secretary-General (in 2016), the UN Office of Counterterrorism (in 2017), the ASEAN (in 2018) and several countries (Albania, Burkina Faso, Denmark, Finland, France, Kenya, Kosovo, Mali, Montenegro, Morocco, Nigeria, Norway, Somalia and Switzerland). The NAP was an inter-agency **United Nations** and government effort, spearheaded by **UNDP Philippines** and supported by the government of **Japan**. On the government side, it was led by the National Security Council and the Anti-Terrorism Council (ATC). UNDP, not having previously been involved in counter-terrorism efforts, was now leading the UN charge on P/CVE as part of the development agency's global shift in priorities.¹³

To mainstream and coordinate the P/CVE efforts of the government, a new unit called **Preventing and Countering Violent Extremism and Insurgency – Project Management Office** under the DILG was formed.

12 National Security Council, ‘The National Action Plan on Preventing and Countering Violent Extremism (NAP P/CVE),’ (July 2022). On file.

13 Lynch C (2017), ‘U.N. Seeks More Than \$100 Million to Tackle Violent Extremism’, Foreign Policy, 8 March (<https://foreignpolicy.com/2017/03/08/u-n-seeks-more-than-100-million-to-tackle-violent-extremism/>)

About Civic Futures

Civic Futures is a philanthropic initiative conceptualised and launched by the Funders Initiative for Civil Society (FICS) which acts as its secretariat and the Fund for Global Human Rights (FGHR) which is a founding member. Civic Futures exists to mobilize the funding community working across multiple issue areas to equip civil society to push back against the overreach of national security and counter-terrorism powers, increasingly used by governments around the world to harm civic space.

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