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ICTUR was founded to
defend and extend trade union rights and
to raise awareness of these rights and their violations
around the world

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Attn:

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CC:

Silvestre Bello III, Secretary, Department of Labor and Employment
Menardo Guevarra, Secretary, Department of Justice
Jose Luis Martin Gascon, Chairperson, Commission on Human Rights
International Department, Kilusang Mayo Uno (KMU)
Centre for Trade Union and Human Rights in the Philippines
Ecumenical Institute for Labor Education and Research, Inc., Philippines
Clément Nyaletsossi Voule, United Nations Special Rapporteur on the
rights to freedom of peaceful assembly and of association
Head of Trade Union and Human Rights, ITUC, Belgium
International Department, Zenroren, Japan
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Dear Mr President,

The International Centre for Trade Union Rights is writing to express profound concern and alarm at the massacre of protesting workers at the Hacienda Nene plantation in the Bacolod / Sagay City area of Negros Occidental. We wish also to raise our concerns at an eruption of threats and violence against packing plant workers in sites producing for the Sumifru Philippines Cooperation in Compostela Valley, Mindanao, including the murder, on 31 October, of a union activist. Both cases concern the KMU-affiliated NAMASUFA union.

We note that these episodes of severe violence take place against the background of repeated *stigmatisation* of trade unions (particularly the KMU and its affiliated unions) by the highest offices of State, purporting to link their lawful activities with those of the insurgency, and in the context of the *militarisation of unionised plantations*, particularly in Mindanao, with trade unionists and activists pressured by security forces to 'surrender' into custody - supposedly as supporters of illegal armed groups.

We note also our previous letters of 2017-18 in which we have repeatedly raised increasing concerns regarding, i) the declaration of martial law in Mindanao, ii) the stigmatisation of trade unionists, and iii) an epidemic of harassment and violence against trade unionists in the Philippines.

Massacre at Hacienda Nene

We write with profound concern over the killing, on 20 October, of nine members of the NAMASUFA union. The facts, as we understand them, are that an unknown group of armed men, estimated at between five and ten persons, attacked a workers' camp, established to protest about the slow pace of long-promised land reform and to call for improvements to their living and working conditions. It is reported that firing lasted for more than ten minutes. We are profoundly concerned by reports by witnesses that the attackers appear to have hunted down workers who tried to escape and executed them. We understand that two of those who were shot and killed were minors.

Those killed, we are informed, were all members of the KMU-affiliated NAMASUFA union, which organised the workers' protest. We recall that the authorities have, over the past year, repeatedly made public statements purporting to link KMU-affiliated unions as 'fronts' for illegal armed groups. We recall also the spate of attacks, raids, arrests, and killings of members of KMU-affiliated and other left-leaning trade unions, and we recall the warnings issued by our organisation in previous letters, and by other human rights groups, against the dangers of stigmatisation of human rights defenders and labour activists.

It was further reported, President Duterte, that you made an abrupt statement on 28 October, announcing that any further occupations of land by farmers would be dealt with harshly, 'my order to the police is to shoot them. If they resist violently, shoot them, and if they die, I do not care'. We find this statement disturbing, and express the firm hope that the State will take all appropriate steps to protect human rights and human life in responding to similar cases.

Violent attacks against trade unionists at Sumifru

ICTUR further wishes to raise serious concerns about the situation facing packing plant workers in sites producing for Sumifru in Compostela Valley, Mindanao. Sumifru is part of the corporate group of the Japanese multinational giant Sumitomo¹, and reports 20,000 - 30,000 employees in the Philippines². However, in other forums it claims that workers at its plantation packing sites are outsourced and it thus refuses to enter bargaining arrangements with their trade union representatives. It is these workers who have held a series of protests and actions in Compostela Valley calling for regularisation of their employment situation, recognition of the NAMASUFA agricultural workers union, and negotiations for a collective bargaining agreement.

ICTUR understands that the local Department of Labor and Employment (DOLE) endorsed the union's request for a certification election at packing

¹ Sumifru reports the relationship as 'joint venture' (<http://www.sumifru.com.ph/about-us.php>), while Sumitomo describes Sumifru as its 'subsidiary' (<https://www.sumitomocorp.com/en/jp/business/case/group/26869>)

² Sumifru and Sumitomo corporate websites (as above) give different figures

plant 90 more than ten years ago. However, the Sumifru (Philippines) Corporation has refused to implement this ruling and it continues to contest the case vigorously, arguing that it does not directly employ these workers. Following a transfer of ownership (a merger), the union was forced out when the workers were dismissed and rehired by a sub-contracting company – on condition that they agreed to be members of a fake company union a so-called ‘workers cooperative’, which lacked formal accreditation as a union.

Since the union’s initial victory more than ten years ago, it has won its case repeatedly before arbitrators, local labour officials, and the courts. In 2017 the Supreme Court ruled against the company, upholding decisions of the DOLE Secretary and the Court of Appeal, which found that ‘Sumifru's control over the subject employees is evident’ and which required the employer to provide preliminaries in order to start the ballot³. Even after this decision, Sumifru is still contesting the decade-old ruling that it should hold a certification election.

On 1 October 2018, in its campaign to secure recognition at packing plants across the plantation, the union launched strike action. In the build up to the strike, and continuing, several union activists have reported serious human rights violations, including violence and intimidation from unknown armed thugs, but also from the police, and the military.

- On 4 September 4, Victor Ageas, a member of Executive Board of NAMASUFA was ambushed and fired upon by motorcycle-riding gunmen, but managed to evade his attackers. Ageas added that the attack came a day after a protest was held, and that two men had followed him home the previous evening, and that two unknown men had called at his house looking for him on 26 July.
- On August 20 Melodina Gumanoy, Secretary of NAMASUFA was targeted by motorcycle riding men on her way to work, but she managed to evade them.
- On 3 October violence against striking workers was reported by thugs, but also by army and police personnel.
- On 6 October the Department of Labour and Employment (DOLE) issued an assumption of jurisdiction order over the strike.
- On 8 October the police, thugs and members of the military ordered the workers to leave their strike camps
- On October 11, military and police officers violently dispersed strikes that were taking place at a number of packing plants. The KMU reported that seven workers were injured, while the Centre for Trade Union and Human Rights in the Philippines reported four arrests, naming Jimboy Cagas, Ramil Monte, Elizar Diayon (Vice President of NAMASUFA) and Errol Tan (Executive Member of NAMASUFA).
- On 13 October the military said that it intended to deploy more soldiers

³ *Sumifru (Philippines) Corp v Nagkahiusang Mamumuo Sa Suyapa Farm (Namasufa-Naflu-Kmu) GR No. 202091, 07 June 2017, Supreme Court of The Philippines*

to ‘prevent chaos’ at Sumifru sites in Compostela Valley.

- On 31 October Danny Boy Bautista, an activist member of NAMASUFA, employed at packing plant 340, was shot dead in Barangay Poblacion, Compostela.

We are concerned in this case most seriously by the violence and intimidation against trade unionists carried out by State actors and unknown persons. We are also concerned by comments from the Mayor of Davao City, Sara Duterte, who gave a statement claiming that the KMU ‘support’ the illegal armed group, the NPA. We note that this is just one example among many of a State official making such a claim, placing labour activists at risk.

Finally, we note that the Sumitomo corporation’s Corporate Social Responsibility statement, which includes the following commitments:

‘Our suppliers and business partners are expected to:

- 1. Respect human rights and not to be complicit in human rights abuses*
- 4. Respect the rights of employees to associate freely in order to ensure open and fair negotiations between labor and management*
- 10. Cooperate with members of local host communities and contribute to sustainable regional development⁴.*

Clearly, in the light of the situation unfolding in Compostela Valley, there is a need for the corporation, and the Governments of the Philippines and Japan, to assess to what extent the corporation has fulfilled its own commitments, and whether it has met the standards for human rights and industrial relations practice established by the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights.

* * *

ICTUR is gravely concerned at the alarming deterioration of trade union rights in the Philippines. ICTUR wishes to remind the government of the Philippines of its obligations under international law and in particular under the fundamental International Labour Organisation (ILO) Conventions, all of which the Philippines has ratified.

The ILO’s Committee on Freedom of Association has stated clearly that fundamental rights – especially those relating to human life and personal safety – must be fully respected and in order to guarantee the principles of freedom of association, enshrined in Conventions 87 and 98. According to the Committee, **the rights of workers can only be ‘exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organisations, and it is for governments to ensure that this principle is respected’.** (*Compilation of decisions of Committee on Freedom of Association*, Sixth Edition, 2018, para. 84). The Committee has further noted that an independent judicial inquiry should be instituted immediately to investigate assaults on the physical or moral integrity of individuals, in order to determine responsibility, punish those responsible and prevent repetition (*Compilation*, paras. 105 and 282). Failure to hold guilty parties to account

⁴ <https://www.sumitomocorp.com/en/jp/sustainability/csr>

creates a culture of impunity, ‘which reinforces the climate of violence and insecurity, and which is extremely damaging to the exercise of trade union rights’ (*Compilation*, para. 106).

ICTUR considers the ‘red-labelling of trade unions by State actors and the media as highly dangerous. We reiterate our profound concern at the perpetuation of an environment in which the work of such activists is disparaged. The ILO Committee on Freedom of Association has expressed ‘deep concern’ at such ‘stigmatisation and intimidation’, emphasising the ‘importance of strong measures to avoid such actions and statements against individuals and organisations that are legitimately defending their interests under Conventions Nos 87 and 98’ (Committee on Freedom of Association of the ILO, Interim Report - Report No 374, March 2015, Case No. 2254). The Committee has expressed particular concern at **‘blanket linkages of trade unions to an insurgency have a stigmatising effect and often place union leaders and members in a situation of extreme insecurity’** (*Compilation*, para. 93). And in his 2008 report, the UN Special Rapporteur on Extrajudicial Executions concluded that ‘characterisation of ... civil society as “enemies” is ... completely inappropriate. Unsurprisingly, it has encouraged abuses’ (Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philipp Alston, Addendum, 16 April 2008, UN Doc: A/HRC/8/3/Add.2, para. 15).

We note the complex background to land reform and workers’ protests in the Philippines, and we urge the authorities, and the investigation, to have regard to previous massacres of striking plantation workers, which have suffered from distortions of admitted facts. We urge the authorities to ensure that the investigation into this most recent case must proceed with the utmost care and independence, to establish the truth of what happened, resisting pressure from the media and other actors to arrive at a quick, easy or convenient explanation.

ICTUR calls on the government to undertake all necessary measures to ensure that it complies with the Philippines’ international obligations, and to protect the fundamental freedoms of workers to join and form unions and take action in defence of their interests. ICTUR will report these incidents in the journal *International Union Rights*, which was established in 1993, and which enjoys a readership in more than 100 countries.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'D. Blackburn', followed by a horizontal line extending to the right.

Daniel Blackburn, Director