

# Protecting land activists from state violence: the case of NFSW and KMP in Negros, the Philippines

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*Abstract:* This article examines the concept of protection beyond the conventional human rights state-centric perspective. The article accounts for protective practices, strategies, and tactics that activists use to keep themselves and their livelihoods safe as they are engaged in rights promotion. The article draws on the case of the National Federation of Sugar Workers (NFSW) and Kilusang Magbubukid ng Pilipinas (KMP, translation: Peasant Movement of the Philippines), both of which have endured persistent attacks by the state as they fight for land reform. In examining the case of NFSW and KMP, this article explores how protective practices comprise both short-term tactics and long-term strategies; pursued with, independent of, or in opposition to the state; and, deployed on local, national, and global stages together with and through allies and supportive actors networks.

*Keywords:* Land activists, human rights, human rights defender, protection, state violence

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## Introduction

On 20 October 2018, nine members of the National Federation of Sugar Workers (NFSW) were shot dead by armed assailants while resting in a makeshift tent after the first night of their *bungkalan* activity in Sagay City, Negros Oriental (CNN Philippines 2018). *Bungkalan* is a seasonal activity conducted by tenant farmers whereby they cultivate idle land during *tiempo muerto* (dead season), the period between the sugarcane planting and harvesting season. Shortly after the incident, the NFSW issued a statement condemning the massacre. The NFSW held President Duterte responsible and linked the massacre to the string of state attacks, accompanied by numerous instances of red-tagging (NFSW 2018a).<sup>1</sup>

The murder of nine farmers in Sagay City was not an isolated incident. Many activists and their allies have been murdered by either unknown assailants or killed during police operations.<sup>2</sup> From July 2016 to March 2021, human rights organisation *Karapatan* (2021) documented 394 cases of extrajudicial killings, including peasant activists. Although the extra-judicial killings attracted most of the media and human rights attention, they were accompanied by arrests, harassments and incidents of torture and ill-treatment. Various human rights organisations have described the situation in the Philippines as alarming. In a report, the international human rights organisation *Global Witness* (2020) noted that ‘the Philippines has become even deadlier for activists since 2018.’<sup>3</sup> At national level, an inquiry by the Commission on Human Rights (2020) concluded that the state wilfully violated the rights of human rights defenders and demanded that ‘all forms of violence against HRDs must cease immediately’.

The Sagay City incident, alongside the string of killings and other forms of abuses, has brought the protection of rights defenders into policy discussions and public discourse. However, while protection has become a major concern, it remains relatively understudied. According to human rights scholar Alice Nah, ‘there has been insufficient debate about the meaning of protection ... and how protection is enacted’ (2020: 9). This point is especially apparent when protection is explored beyond the institutionalised mechanisms and remedies offered by various international and domestic legal frameworks. As Kelly & Jensen (this issue) point out in the introduction to this volume, these limitations are due partly to the conventional perspective that sees

<sup>1</sup> Red-tagging may be defined as ‘the act of labelling, branding, naming, and accusing individuals and/or organisations 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” (Simbulan 2011)’.

<sup>2</sup> See for example the so-called Bloody Sunday incident. For more information, see: <https://www.rappler.com/nation/dead-arrested-calabarzon-crackdown-progressives-march-7-2021/>

<sup>3</sup> Globally, the Philippines was second only to Columbia.

protection in relation to the state. Yet, these conventional protection mechanisms are easily challenged when the state itself denigrates human rights. The Philippine state is no exception. Not only has it persistently and quite unashamedly committed various acts violating human rights; it has also brazenly undermined institutions and mechanisms providing protection. Given anaemic protection mechanisms, often vulnerable violent practices of political leaders, activists, rights defenders, and their allies had to fill the gap by employing strategies and tactics to keep themselves and their livelihoods safe. To understand these practices, this article expands the horizon by examining protection beyond the state, its practices, and institutionalised mechanisms. It examines local practices and notions of protection and explores how these strategies have allowed activists to continue with their activities notwithstanding the palpable threat of state violence. The article asks, ‘How do activists protect or keep themselves safe amid a hostile political environment? What tactics and strategies do they use, independent of, with or against state institutions?’

These questions are explored using the case of the National Federation of Sugar Workers (NFSW) and *Kilusang Magbubukid ng Pilipinas* (KMP, translation: Peasant Movement of the Philippines). The NFSW was formed in 1971 at around the time Martial Law was imposed. Soon after, the NFSW began organising sugar workers to demand better working conditions in the haciendas, and ultimately land reform (Riedinger 1995; Putzel 1992). KMP was subsequently founded in 1985. In 1986, the KMP became the sole representative of the peasant sector in the Constitutional Commission that drafted the 1987 Constitution (Putzel 1992). The NFSW and KMP are allied organisations. Both are prominent militant organisations at the national level that have constituencies throughout the Philippines. For decades, they have championed land reform and promoted the welfare of farmers. NFSW and KMP are both part of a well-organised and strong coalition advocating structural and political change in the Philippines, a struggle that continues to the present day.

Interviews with four leaders were conducted to explore localised strategies and tactics. Three of them were chapter leaders on the island of Negros, one of the poorest areas of the Philippines and a hotbed of insurrectionist politics (Caouette 2004). One of the leaders interviewed occupied a national position. Secondary literature on and communications from the NFSW and KMP were additional sources. The conversations with the leaders of the NFSW and KMP offer a glimpse of their recent experiences of state violence and how they responded to them. Conversations with the NFSW and KMP were conducted remotely due to the pandemic restrictions in the Philippines as well as health and safety concerns for both researchers and leaders of the NFSW emanating from the ongoing state security operations on Negros.

In examining the case of the NFSW and KMP, it is useful to situate their protective practices in the broader socio-political and historical context. In the short-term, their protective practices are imperative for simply staying alive and continuing their

struggle for land reform and farmer welfare. From a long-term perspective, however, these practices are situated in the broader struggle for social justice, aimed at addressing extreme social and political inequalities where a few families have managed to occupy and dominate social life (Sidel 1999; Kusaka 2017; McCoy 1993). While the domination has often been hegemonic, domination has been maintained through violence and counter-insurgency campaigns (McCoy 1993; Hedman & Sidel 2005; Jensen & Hapal 2022; Quimpo 2008). State violence, including extrajudicial killings, mass persecution and torture, is a response to—and fuel for—large-scale insurrections that have extended throughout the twentieth century demanding social justice and equality (Jensen 2018). The conflict in Negros is a continuation of the struggles for rural justice that hark back to the Huk rebellion (Kerkvliet 1979; Kerkvliet 2002) as well as the Maoist insurgency launched by the New People's Army and anti-dictatorship organisations (Quimpo 2008; Abinales & Amoroso 2005; Caouette 2004; Rutten 2008). Long-term, substantive protection against state violence is only possible when rural, social justice is achieved against the coalition of state officials and agro-industrial corporations organised in the strong family networks of the elite. Seen in this light, for NFSW and KMP social justice (i.e., equitable re-distribution of land) is the ultimate form of protection.

This article offers two main contributions. Empirically, this article aims to provide an account of how protection is understood and enacted as actors like NFSW and KMP are engaged in rights defending and promotion (Nah 2020). This includes accounting for tactics and manoeuvrings to minimise their exposure to state violence, as well as multi-levelled and long-term protective strategies undertaken with, independent of, or in opposition to the state. Conceptually, the article contributes to understanding the various dimensions of protective practices from below (Jensen & Kelly, this issue). In exploring the dimensions of protective practices from below, this article renders visible the intersections and gaps between experiences of violence and abuse, everyday manoeuvrings, strategies to achieve long-term political goals, and formal protection mechanisms provided by the state and international bodies.

The article is divided into four main sections. The first section problematises the concept of protection. It discusses the limitations of the conventional perspective of thinking about protection through the state, and instead proposes to examine protection as rights defenders are engaged in the promotion of human rights. The second section introduces the human rights situation in Negros, in particular the issue of land ownership, and the case study of the NFSW and KMP. It discusses how activists have been besieged by the state, through violence and through their exclusion as legitimate members of the political community. The third section illustrates that while the state onslaught has been constant and persistent, the two organisations have considerable strategic and operational capacities to protect themselves. The final section returns to Negros and explores the various, protective strategies and tactics of NFSW and KMP

and illustrate how the various strategies rely on the ability to manoeuvre between different registers and invoke different networks, locally, nationally and globally, at different moments in time.

### Unpacking protection

In exploring the ways land activists keep themselves safe from state violence, we must first unpack the concept of protection. As Nah (2020) points out, protection is a foundational concept in human rights discourse and practice; the state as the main duty-bearer possesses the obligation to respect, fulfil and protect human rights. In the Philippines, there is no shortage of protected rights. The 1987 Constitution of the Philippines protects a long list of rights, including the freedom of speech, expression, and assembly; protection from arbitrary arrest and seizure of property; the right to due process; and freedom from torture. The emphasis on protection was largely borne out of a history of state violence including, most notably, the atrocities committed by the Marcos dictatorship that left the Philippines bloodied and bankrupt (McCoy 2001).

Soon after democracy was reinstated in 1986, activists and human rights organisations began their work reinforcing the domestic legislative framework based on the foundations laid by the 1987 Constitution. These included advocating for human rights laws and supporting the ratification of international instruments and/or protocols (Pangalangan 2011).<sup>4</sup> Alongside their legislative advocacy work, activists and human rights organisations continued to monitor violations of state actors, provide assistance to victims, capacitate grassroots communities, and mainstream human rights. They also sought to make the state accountable for its abuses by participating in official inquiries conducted by domestic and international institutions. Together, these actions constitute an ongoing attempt to build what Bennet *et al.* (2015) call a ‘rights defender’s protection regime’. For Bennet *et al.* (2015) this regime is constituted by a constellation of actors located in different levels of society performing different albeit complementing practices and sharing a common goal of upholding human rights standards for all.

While activists and human rights organisations contributed significantly to achieving justice, accountability and in institutionalising protective mechanisms, a huge deficit remains in terms of the state’s fulfilment of its obligations. The institutionalisation of protective mechanisms does not guarantee robust implementation. Take

<sup>4</sup> The work of these activists and human rights organisations has led to the passage of human rights laws. This includes the Anti-Torture Law of 2009; the Philippine Act on Crimes against International Humanitarian Law, Genocide and other Crimes Against Humanity of 2009; and the Human Rights Victims Reparation and Recognition Act of 2013.

the case of Republic Act 9745 or the Anti-Torture Act. Since the law was passed in 2009, only one conviction has been made despite the thousands of documented cases. Poor implementation renders the law mute, and thus offers little protection to vulnerable populations (Amnesty International 2014). Furthermore, these mechanisms are often reactive and are constrained by weak or ineffective institutions. According to Pangalangan (2011: 62), the poor implementation of protective mechanisms is further exacerbated by the proceduralisation and de-ideologisation of human rights. This reduces protective mechanisms ‘to fixed rules to be enforced mechanically by non-political bodies ... [loyal only] to an abstract constitution or constitutional ideal.’ However, the enforcement of human rights in the Philippines is hardly impartial and non-political. For Pangalangan (2011: 66), the proceduralisation and de-ideologisation of human rights have ‘induced a fixation on procedure and indifference on actual results.’

Apart from its failures in fulfilling its protective obligations, the Philippine state itself has repeatedly undermined and denigrated human rights. This is not exclusive to land activists who have been repeatedly accused by state actors of being communist fronts. In the case of President Duterte, this also broadly encompasses human rights institutions and advocates, actors who he accuses of siding with criminals, lawless entities, or insurgents. As President Duterte said in a speech in 2020, ‘Human rights, you are preoccupied with the lives of the criminals and drug pushers ... The game is killing ... I say to the human rights, I don’t give a shit with you’ (Luna 2020). However, President Duterte is not unique in terms of blatantly disregarding and denigrating human rights. The report by Philip Alston<sup>5</sup> on the string of killings and other human rights violations during the Arroyo (2001–2010) administration pointed to incidents of torture and/or killing and vilification of leftist activists; red-tagging activities targeted against civil society organisations; and critical deficits in the justice system, perpetuating the culture of impunity. Even Duterte’s predecessor, President Benigno Aquino III (2010–2016), whose presidency was characterised by an unprecedented degree of cooperation between some civil society organisations and the security sector, was not immune to the violent potentials of the state against its perceived enemies.<sup>6</sup>

Given the significant deficits and excesses of the state, activists, civil society organisations and human rights organisations have filled the gap to ensure the safety of (or at the very least, mitigate risks faced by) their members and/or those who they represent or support. Safety and security may involve protecting bodily integrity, (digital) privacy, psychosocial well-being, political and economic freedoms and, minimising exposure to threats (e.g., violence, health and environmental hazards) (Nah 2020). The protective practices of activists and rights defenders point to the insufficiency

<sup>5</sup> Alston was the former UN Special Rapporteur on extrajudicial, summary, or arbitrary exactions. For the full report, see: [https://www.hr-dp.org/files/2014/06/27/Mission\\_to\\_Philippines\\_2008.pdf](https://www.hr-dp.org/files/2014/06/27/Mission_to_Philippines_2008.pdf)

<sup>6</sup> See KARAPATAN (2016) report.

of examining protection solely through the state and its mechanisms. To borrow from Nah (2020: 13), understanding protection entails examining practices ‘as [rights defenders and/or activists] *are engaged in and so that they can continue in the promotion and protection of human rights.*’<sup>7</sup> For Jensen & Kelly (forthcoming), understanding protection requires conceptualising protection *from below*. This may allow us to appreciate the many ways in which people seek protection as well as unearth how people and activists understand protection along with the gaps between formal and informal forms of protection.

In examining protection as activist or rights defenders are engaged in the promotion of human rights, it may be useful to examine it in three ways or categories. The first category relates to long-term strategies and short-term tactics (Jensen & Kelly forthcoming). Long-term strategies may refer to the protracted struggle of activist groups and/or human rights organisations and the protective effects of attaining broader social goals (e.g., land reform and equity). Short-term tactics on the other hand may pertain to ways in which activists address and mitigate clear and present dangers emanating from the current socio-political environment. The second category is concerned with protective practices that are undertaken with or independent of the state. This may include both formal and informal practices that are independent of, taps into, or directly opposes the state or state mechanisms (Ichim & Mutahi 2020). Finally, protective strategies and tactics may be examined or characterised based on where it is situated, whether at the local, national, or global level. This multi-levelled, albeit complementing practices, relate to the constellation of actors comprising what Bennet et al. (2015) refer to as a ‘rights defender’s protection regime’.

### **Besieged land activists**

The National Federation of Sugar Workers (NFSW) was founded in 1971 due to the persistent issues of land ownership and unfair wages on sugar plantations (Riedinger 1995). The NFSW’s work focused on claiming the rights of both sugar farm workers and mill workers, challenging the labour code violations, as well as denouncing unequal land ownership. Over the years, the NFSW has conducted various educational programmes and organised initiatives with sugar farmers, as well as with potential allies (Riedinger 1995). The KMP, on the other hand, is a broad coalition of landless peasants, small farmers, farmworkers, rural youths and peasant women. The KMP and NFSW have been close allies since the former’s inception in the 1980s (Kilusang Magbubukid ng Pilipinas n.d.). Together, the KMP and NFSW form part of the wider peasant movement in the Philippines that pushes for genuine land

<sup>7</sup> Emphasis not ours.

reform. While both the NFSW and KMP have memberships in different parts of the Philippines, this article focuses on their chapter on Negros.

NFSW and KMP's history in Negros is situated in the skewed distribution of land, its adverse consequences for the dispossessed, and militant and insurrectionist struggle. Land is concentrated in so-called haciendas held by private landholders (Ibon Foundation 2017). The haciendas were products of Philippines' colonial past where a tenant system led to the accumulation of land and wealth by a few families and disenfranchisement of the rest (Franco & Borrás 2007). Together, these haciendas form part of the local sugarcane industry worth roughly PHP 70 billion or roughly USD 1.4 billion (Sugar Regulatory Administration n.d.).<sup>8</sup> Despite the huge profits generated by the industry, farmers receive minimal pay for their labour. According to the government, an average sugar worker received a salary of USD 6.00 per day in 2019 (Philippine Statistics Authority 2020). The situation of sugarcane workers deteriorates throughout the *tiempo muerto season* (dead season). *Tiempo muerto* is the period between planting and harvesting when work in sugarcane plantations ceases for nearly six months. Seasonal work and meagre pay have therefore resulted in poverty, chronic hunger and malnutrition (Besana 2017).

The enduring issues of land ownership, inadequate government support, food insecurity, poverty and political repression fuelled the rise of militant action, and even armed insurrection (Rutten 1996; Putzel 1992). This escalated in the 1970s during the Martial Law era and especially during the sugar crisis, which reduced the price of this commodity from USD 0.36 to USD 0.15 per pound (New York Times 1976; Pineda-Ofreneo 1985). In the case of NFSW, Rutten (1996) describes how its militant action and rights-claiming activities were rendered ineffective by repressive policies and ineffective institutions. Soon after, NFSW leaders, which included priests and nuns, joined the New People's Army (NPA), while others became sympathetic (Rutten 1996).<sup>9</sup> Widespread recruitment in and out of the haciendas ensued, creating a political mass base that provided some degree of support and protection from the state's brutal counter-insurgency measures (Rutten 1996).

While the histories of both NFSW and KMP are inextricably linked to the Communist Party of the Philippines-New People's Army-National Democratic Front (CPP-NPA-NDF), its insurrectionist politics is not unique to them. Likewise, the unrest is not unique to the island of Negros, nor was it exclusive to the Marcos dictatorship. Seen from the perspective of Philippine history, regional peasant uprisings were a prominent feature of the country's colonial past. Ben Kerkvliet's (1979) account of the rise and fall of the Huk rebellion describes the widespread peasant unrest throughout the Philippines prior to and immediately after World War II. In

<sup>8</sup> USD 1.00 is equal to PHP 50.00.

<sup>9</sup> This included NFSW co-founder, and former Catholic priest Luis Jalandoni. Jalandoni is currently a senior adviser for the National Democratic Front of the Philippines (Inquirer.net, 2018a).



many ways, the militant action of sugar workers and farmers in Negros from the 1970s is a continuation of the struggle for due recognition of peasants' claims and land reform.

The Philippine state has often addressed peasant unrest with the threat or actual use of force. The government justified the violence in the name of reinstating law and order and eliminating the communist threat, which the state believes is the culprit causing unrest in the countryside. Based on the NFSW's analysis of the Philippine's political economy, the violent practices of the state against the farmers are a concrete manifestation of the landed elite's control over the state, particularly its law enforcement apparatus, both police and military. This has led to various incidents of human rights violations. For instance, the Escalante massacre in 1985 led to the killing of 20 farmers and farm workers during a protest. The perpetrators were believed to be the joint forces of the local police, the Civilian Home Defense Force, the Regional Special Action Forces, and unidentified armed civilians. The armed assailants were believed to be acting at the behest of a local politician. No high-ranking public official was held accountable for the massacre, except for three low-ranking policemen who were jailed in 1996 and later released on parole in 2007 (Ombion 2004; Guanzon-Alipasok 2011). Since the Escalante massacre, state violence against farmers has persisted.

Post-democratisation, the 1987 constitution made land reform an imperative. This led to the passage of Republic Act 6657 or Comprehensive Agrarian Reform Law (CARL) in 1988. CARL was later expanded in 2009 through Republic Act 9700 or the Comprehensive Agrarian Reform Program Extension with Reforms (CARPER). Despite this however, land reform remains weak and inadequate. For NFSW and KMP, land reform issues have remained unresolved due to the slow redistribution of land, which according to them is often caught in legal loopholes, the entry of huge agricultural corporations and, the poor administration of support services for farmers. However, the post-democratisation setting also saw the substantial weakening of the CPP-NPA-NDF, due to internal disagreements on ideology and strategy and to the intensified counter-insurgency campaigns of the government (Kerkvleit 1996; Borras 2001). This fragmented the bases of support of the CPP-NPA-NDF, including the peasantry. Consequently, this also led to the rise of reformist agendas, which militant peasant organisations associated with the CPP-NPA-NDF also pursued (Borras 2001). Nonetheless, peasant insurrection (as well as retaliation of the state) persisted in certain pockets of the Philippines. As Borras (2001) writes, in 1988 the KMP rejected land reform proposals forwarded by the Aquino regime, labelling it as pro-landlord and anti-peasant, and instead intensified its land occupation campaigns often with direct participation of the NPA.

Peasant militancy, or even insurrection, accompanied by the brutal retaliation of the state is a recurring theme in Negros despite the restoration of democracy in 1986. The presidency of Rodrigo Duterte is no different. Rodrigo Duterte seemingly began

on a high note when he assumed the presidency in 2016. Winning the popular vote and with the help of the Philippine left, garnering the support from no less than CPP founder Jose Maria Sison, President Duterte promised sweeping and radical changes (Lamcheck & Sanchez 2021). President Duterte, a self-proclaimed socialist, stressed the need for land reform and appointed the prominent peasant leader Rafael Mariano. Mariano was one among several leftist leaders who assumed a position in Duterte's cabinet. In the House of Representatives, leftist legislators from the MAKABAYAN bloc (Makabayang Koalisyon ng Mamamayan, translation: Patriotic Coalition of the People) joined the so-called super-majority coalition of Duterte (Lamcheck & Sanchez 2021).

The left's tenuous alliance with President Duterte may be seen as 'jumping into the pigsty,' a political move where progressive groups cooperate with powerful and resource-rich traditional politicians to achieve concessions—a move which, at best, has produced mixed results (Teehankee 2001; Quimpo 2008; Jensen & Hapal 2022). However, the honeymoon period was brief and soon after, state violence against farmers began to escalate. This may be seen in the case of the Sagay City massacre, an incident which led to the deaths of nine farmers participating in NFSW's *bungkalan* activity, described in the opening paragraph of this article. While the NFSW argues that cultivating idle land to feed hungry farmers is morally justifiable, the government took a different view. Oscar Albayalde, Chief of the Philippine National Police (PNP), argued that the incident was engineered by the CPP-NPA to 'create [an] untoward incident [and] then blame it on the government' (ABS-CBN News 2018). The Armed Forces of the Philippines (AFP) furthermore alleged that the NFSW was a front for the CPP-NPA and that the *bungkalan* activity was part of a wider effort to destabilise and overthrow the government (Philippine News Agency 2018).<sup>10</sup>

The Sagay City massacre triggered the issuance of two important orders from President Duterte. Directly citing the recent acts of violence in Negros and in other parts of the Philippines, the President ordered the immediate deployment of additional forces of the AFP and PNP in Samar, Negros Oriental, Negros Occident and Bicol through Memorandum Order 32, s. 2018. Shortly after, President Duterte issued Executive Order No. 70, s. 2018, which institutionalised the whole-of-nation approach to put an end to the local communist insurgency in the Philippines. One provision of this executive order created the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC), a body notorious for its red-tagging activities. For some human rights organisations, the issuance of both Memorandum Order 32 and Executive Order 70 was eerily reminiscent of the Martial Law era and an instrument

<sup>10</sup> The Communist Party of the Philippines, through a statement, refuted government's claims that the New People's Army (NPA) was involved in the incident (Inquirer.net, 2018b). The NFSW also called-out the AFP for red-tagging NFSW leaders, calling the allegation 'ridiculous' (NFSW, 2018b).

of state harassment and repression against activists ([Philippine Alliance of Human Rights Advocates 2019](#); [KARAPATAN 2019](#)).

In line with the implementation of Memorandum Order 32, the Central Visayas Police Regional Office (PRO-7), headed by then Director Debold Sinas, carried out Operation Plan (Oplan) Sauron, an intensified law enforcement campaign against rebel groups, criminals, and/or entities involved in the illegal drugs trade ([CNN Philippines, 2019](#)). The plan was set in motion through the Simultaneous Enhanced Managing Police Operation 1 (SEMPO 1) in December 2018. For a three-day period, the joint forces of the police and the military conducted raids in the towns of Guihulngan, Mabinay, and Sta. Catalina. The operation resulted in the killings of six members of the KMP and the arrest of 26 others for allegedly possessing illegal firearms ([Karapatan 2019](#)). The police insisted that the farmers had fought back ([Inquirer.net 2018c](#); [ABS-CBN News 2019](#)). On 30 March 2019, between 2:00 AM and 5:30 AM, the Simultaneous Enhanced Managing Police Operation 2 (SEMPO 2) was conducted in the towns of Canlaon City, Manjuyod, and Sta. Catalina in Negros Oriental. By the end of SEMPO 2, 14 individuals had been killed, and 15 arrested. According to then PRO-7 Director Sinas, the police served 37 arrest warrants to various individuals for illegal possession of firearms. As during SEMPO 1, 14 individuals died because they allegedly either resisted arrest or engaged the security forces in a shoot-out.

Beyond the violence, there is also the persistent attempt to delegitimise NFSW and KMP. Authorities claim that NFSW and KMP's activities were nothing more than lawless acts. Seen as lawless actors, members of the NFSW became the object of prosecution and law enforcement. NFSW members were further delegitimised through the red-tagging activities of the government. The allegation was that their actions and causes were nothing more than a ploy of the communist insurgents and their allies. This was further exacerbated by the recent passage of the Anti-Terrorism Law, and the subsequent designation of the Communist Party of the Philippines, the New People's Army (CPP-NPA) as terrorists.<sup>11</sup> The criminalisation and delegitimation of NFSW's *bungkalan* activity and the persistent red-tagging activities of the government obfuscate NFSW and KMP's political claims and exclude them from the mainstream political community.

<sup>11</sup> Petitions to junk the Anti-Terrorism Law were filed immediately after it was passed. Petitioners questioned the wide latitude of powers given to the executive to conduct warrantless arrests and hold persons under detention for up to 21 days. As of December 2021, the Supreme Court has declared the law constitutional. However, it struck down a provision (Section 4) of the law that may consider advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights, which are intended to cause death or serious physical harm to a person, to endanger a person's life or to create a serious risk to public safety as acts of terrorism.

## Activism and mitigating violence

In response to the killings and the violence, the NFSW and KMP, together with its allied organisations, conducted a fact-finding mission called the National Fact-finding and Solidarity Mission (NFSM). Through the mission, police claims were refuted. For example, multiple witness accounts from both operations indicated that the police were unprovoked by those who were killed. Furthermore, witnesses claim that the victims were unarmed and already subdued by the police when they were killed. Other witnesses alleged that the police had robbed the deceased.<sup>12</sup>

Despite its compelling findings both the NFSW and KMP face considerable challenges in bringing these to court. According to the NFSW, many of the families in both the SEMPO 1 and 2 cases decided not to file charges against the police because they feared for their own safety. As with other cases, witnesses are afraid to testify because of continuing threats, fear of reprisals and uncertainties due to endemic delays in case trials ([Asian Human Rights Commission 2011](#)). Some family members had declared their intention to file charges but later withdrew. The NFSW and KMP suspect that the military and/or police had a hand in convincing them not to pursue legal proceedings. The NFSW and KMP also had to contend with counter-charges filed by the landowners in relation to the *bungkalan* activity.

These legal obstacles and counter-charges place additional strain on the already limited resources of the NFSW, KMP and their allies, rendering the process of seeking justice prohibitively inaccessible. Nonetheless, the fact-finding mission is a purposeful attempt to tap into the Philippine justice system that did sometimes, albeit rarely and slowly, provide a modicum of justice.<sup>13</sup> For NFSW and KMP however, the value of the fact-finding mission goes beyond the legal arena. By exposing the wrongs of the state, the NFSW and KMP, together with their allies, were able to energise and consolidate their domestic and international support networks. These networks of support in turn act in parallel with the NFSW and KMP to pressure the government to stop the attacks against peasants and other marginalised groups. Together with their allies, the NFSW and KMP organised demonstrations to highlight the gross human rights violations in Negros. The support networks also provided legal, non-legal and capacity-building support, especially at the local level. The mobilisation of

<sup>12</sup> For the full report of the National Fact-finding and Solidarity Mission see: <https://www.karapatan.org/FINAL+REPORT+OF+THE+NATIONAL+FACT-FINDING+AND+SOLIDARITY+MISSION+IN+NEGROS+ORIENTAL%2C+PHILIPPINES+April+4-8%2C+2019>

<sup>13</sup> One such case involved Karen Empeño and Sherlyn Cadapan, victims of enforced disappearance in 2006 perpetrated by the military. While Empeño and Cadapan remain missing, their families achieved justice in 2018 when former General Jovito Palparan was sentenced to life imprisonment nearly 12 years after they disappeared. Arguably, however, Empeño and Cadapan's case is the exception rather than the norm.

the NFSW, KMP and their allies prompted formal inquiries and the re-introduction of legislation protecting rights defenders. The cases in Negros were also central in the report submitted by civil society organisations to the United Nations Human Rights Council describing the critical situation of human rights in the Philippines.

While these actions made the killings in Negros a national and international issue, the government remained undeterred in its counter-insurgency and anti-criminality campaign. Duterte even promoted Debold Sinas as PNP Chief for his role in suppressing the violence in Negros. Furthermore, the situation in Negros remains difficult. According to the NFSW and KMP, in addition to red-tagging activities, state security forces also conducted ‘hacienda hopping’ operations. In these operations, state security forces persuade members to work with them to eradicate the CPP-NPA by acting as ‘assets’.<sup>14</sup> Becoming an ‘asset’ entails identifying the members and leaders of the NFSW and KMP. Other members became members of the government-sponsored paramilitary force, the Civilian Armed Force Geographical Unity (CAFGU) (Rutten 1996).

To minimise the risk of victimisation, the NFSW and KMP deployed various measures at the local level. This includes the deployment of documentation teams. Beyond data collection, the documentation teams render the network of support outside Negros tangible and visible, reinforcing solidarity between and among communities in Negros and their allies. The documentation teams also conduct rights education and paralegal training programmes at the community level, often with the help of volunteer lawyers. Through these activities, local communities became aware of the legal remedies available to them, as well as support organisations that they may call for help. Farming communities also record daily activities and encounters with state forces or paramilitary forces. The journaling process is essential in informing reports and investigations.

Along with the human rights documentation, the NFSW and KMP are also engaged in consciousness-raising activities. As KMP National Chairperson Danilo Ramos said in an interview, ‘community education is a key component of consolidation work’. Ramos further explains that education work is not limited exclusively to discussions of their sectoral issues. The topics covered also include Philippine history, its connection to various socio-economic issues, and how it impacts on their daily life. As one KMP leader emphasised, ‘critical consciousness tempers the mind and reinforces the will to continue the struggle’.

However, the militarisation of the region and the mobility restrictions brought by the pandemic have posed new challenges to the effectiveness, speed and reach of

<sup>14</sup> ‘Asset’ is a euphemism for a local informant. As part of its broader counter-insurgency strategy, state security forces bring in former combatants or sympathisers to provide information on armed insurgents and their support networks. In exchange for information, state security forces facilitate their amnesty and reintegration.

these activities. The NFSW and KMP collect documentation through phone calls and have made efforts to conduct activities online. Furthermore, the NFSW and KMP attempt to adjust their daily routines and render them less predictable to reduce the risk of victimisation. These adjustments were borne out of intensive security assessments and risk profiling of its members and their workplaces. However, these adjustments need constant calibration and a heightened sense of vigilance concerning their surroundings.

According to one KMP leader, this was partly a hard-learned lesson after the publicised death of activist Zara Alvarez and other activists, which taught activists that no one was safe, regardless of their profile.<sup>15</sup> Relying on relative unpredictability entailed the constant changing of meeting venues and irregular working hours. Other adjustments included not travelling at night and keeping a low profile in public places so as not to attract attention. The measures increase with the status an individual has in the organisation. Red-tagged members avoid visiting the office. They sometimes avoid their homes because they may be under surveillance. Lesser-known members can continue working at their office, albeit with certain precautions in place. Furthermore, the NFSW and KMP have identified safe houses where leaders and members can stay. While in the community, NFSW and KMP members would usually cease their organising work at around 03:00 PM to avoid checkpoints and patrols. They have also prepared for surprise military visits in the community and advise only female household members to talk to the military troops, as women may diffuse tensions.

Despite these protective tactics, the risk of being killed is very real. 'It is as if we are awaiting our deaths' said one leader when asked about his decision to continue. Other members have decided to join the New People's Army. As another leader said, 'For them, joining the NPA would give them a fair fight (against the security forces), unlike continuing the struggle for land and just wages here, where you can die defenceless.' In this way, at the same time as the organisations actively distance themselves from the armed struggle, state violence pushed some farmers and activists into joining what state violence aimed to fight. Taking up arms may be seen as an act of defence against a hostile state. This also shows that while NFSW and KMP have their own strategies and tactics, protective acts may be variegated especially when seen from an individual level. This decision of some farmers to take up arms is not entirely surprising. The island of Negros has a long history of peasant radicalisation produced by repressive acts of the state.

Beyond the various tactics they employ, for NFSW and KMP protection ultimately is contingent on the integrity and strength of their organisation and collective action. As one KMP leader said, 'It is important that we, in our organisation, believe

<sup>15</sup> Notable examples of murdered activists include Zara Alvarez and Randall Echanis. Alvarez was gunned down by unidentified perpetrators in Bacolod City, Negros Occidental on 17 August 2020. Echanis was tortured and murdered on 10 August 2020 while at his home in Quezon City.

in the things that we are fighting for; these are for the betterment of the farmers and the Filipino people. ... that is why our collective belief is important to our mission'. The KMP leader continued,

Right now, we are strengthening our organisation. With unity, conscientisation and collective action, we continue to face the landed class. We talk to local government units to encourage them to support us in our call for government aid, subsidies, as well as support for other basic sectors. We need all of these so we, together with the Negros farmers, can attain our aspirations.

It is important to note that while talks with government units may be framed as a way to access much needed support services for farmers, it may also be seen as an attempt to tap into or invoke patronage networks. As we wrote elsewhere, patron client ties were an important asset for urban poor organisations in preventing or mitigating the shocks brought by displacement and state violence (Jensen & Hapal 2022). Arguably, the tenuous alliance of the above-ground organisations by the CPP-NPA-NDF was an attempt to tap into and capitalise on the ultimate patron—the Philippine President—to gain protection and create space to usher social reforms (Lamcheck & Sanchez 2021).

The unity expands beyond Negros to a broader coalition struggling for social justice in the Philippines. The coalition was key in protesting repressive laws and policies that have legitimised state violence. The coalition was also active in the nationwide petitions to dispense with the Anti-Terrorism Law of 2020. Recently, however, these mobilisations have been limited, due mainly to the draconian policies implemented by the government in response to the COVID-19 pandemic (Hapal 2021). Despite these limitations, the coalition has remained persistent, albeit not always successful. Beyond the state, the coalition channels its grievances to the international community through various platforms. By focusing the attention of the international community about marginalised groups in the Philippines, the coalition aims to pressure the Philippine state to cease its violent acts. This was the case when the Office of the High Commission on Human Rights (OHCHR) recommended to the Philippine state that it should, among other things, rescind Memorandum Order 32, s. 2018 and review the implementation of Executive Order 70, s. 2018 (OHCHR 2020).

### **By way of a conclusion: strategies and practices of defending rights**

Given the limitations of the legal and formal protection frameworks, activists often find themselves navigating through and around a perilous political environment. As the case involving the NFSW and KMP illustrates, activists have been the object of intense policing, surveillance, red-tagging, arrests, and killings. In response, the

NFSW and KMP have employed a broad set of activities that are either pursued independently of, or in coordination with, their allies to protect themselves. This section explores the strategies and tactics employed by the NFSW and KMP to protect the organisations and their members. It illustrates that the various strategies rely on the ability to manoeuvre between different spaces and invoke different networks, locally, nationally and globally, at different moments in time.

At the local and short-term, the NFSW and KMP have largely framed protection in terms of survival and maintaining their ability to continue their struggle for land reform. This is not to say that the NFSW and KMP have rejected the protection potentially offered by legal and formal mechanisms. On the contrary, and as demonstrated in their fact-finding mission, the NFSW and KMP are both keen to tap into these mechanisms. The NFSW and KMP have pursued these mechanisms with an implicit understanding that it would entail a long and arduous process that, at least from an immediate perspective, offers little protection. Relying on legal and formal mechanisms alone could possibly be fatal for the NFSW, the KMP. Survival entails not being harmed by the state either through killings, torture, or incarceration. It is achieved through the tactics of avoidance, laying-low or instituting precautionary measures. Survival also entails mounting some form of defence, often with the help of allies at the national level. This defence may come in the form of the deployment of documentation teams and the conduct of paralegal training programs in vulnerable communities.

These survival strategies are not entirely new, nor are they unique to the NFSW and KMP (Lopez 2021). Based on the continuing conversations with various human rights organisations conducted for this article, such survival strategies are integral to their work. Often, human rights organisations map out their strengths, weaknesses, opportunities and threats (SWOT) on an annual basis. This anticipatory exercise informs subsequent security and safety protocols such as adopting a buddy system while working in the field, conducting courtesy visits to local state forces, and using secure (end-to-end encryption) digital communication platforms. They also deploy rapid-response paralegal teams during mobilisations, installing closed circuit television (CCTV) within their workplace, and conducting human rights and paralegal trainings. Institutionalised and technology-based protection mechanisms are often features of human rights organisations situated in city centres. Meanwhile, those in the periphery, such as militarised areas, rely on daily tactics such as avoidance and laying low. Recently, the notion of psychosocial well-being has also emerged as an important component of safety and security (Lopez 2021). This entails emphasising both the bodily safety and mental health of rights defenders through the provision of services such as counselling, or psychological first aid (PFA).

Strategies geared towards maintaining the integrity of the NFSW and KMP as organisations complement the goal of survival. Keeping the NFSW and KMP intact,



especially at the local level, is an important concern as it allows them to continue the struggle in pursuit of their broader political goal. From this perspective, the collective strength of an organisation performs a protective function. This is the reason why the NFSW and KMP expend much energy on conducting political education amongst their ranks, primarily to reiterate the importance of collective action, and the virtue and necessity of their struggle.

Collective action is not restricted to the local level. At national level, the NFSW and KMP are part of a broad coalition of activists seeking transformation and social justice. Building coalitions and reinforcing networks of support perform a protective function through the demonstration of strength (through numbers) and the amplification of their claims through various channels. The protective tactics employed by the coalition include mass mobilisations, rallies, online petitions and campaigns and other acts of open resistance.<sup>16</sup>

The perceived legitimacy provides a modicum of protection and potentially insulates them from violence, despite the conflicts with the state and its policies. In the case of the Sagay City massacre, by reframing the killings as an issue of rights defenders struggling against dispossession, NFSW and KMP were able to counter the state's narrative that incident was nothing more than a case of lawless violence. This, in turn, rendered them defensible. Consequently, this has legitimised the conduct of Congressional inquiries and the reintroduction of legislation aimed at defending rights defenders. These inquiries leverage the work of the NFSW and KMP's allies in Congress, some of whom are members of the broad coalition of local activists. This reframing process also rendered the plight of Negros' farmers intelligible and actionable to the United Nations Human Rights Council. While the Council and Congress do little to provide immediate protection, such inquiries lay the foundations for interstate human rights mechanisms and the passage of laws to protect rights defenders.

Overall, the tactics of survival, collective action at local and national level, and multi-levelled advocacy campaigns form part of a protection regime (Bennett *et al.* 2015). This regime engages both legal and formal mechanisms of protection, while simultaneously enacting protection independent of the former. This two-pronged approach is reflective of two distinct, though related, objectives. In the short-term, it is imperative that organisations such as the NFSW and KMP survive the onslaught of state violence. The tactics of survival employed by the NFSW and KMP do not necessarily rely solely on mounting a defence (i.e., strengthening their resolve and reinforcing the integrity of their organisation) against state violence. The organisations also rely on tapping into interrelated claims that may render their issues intelligible and actionable for various local and international actors.

<sup>16</sup> See for example, <https://www.facebook.com/DefendNegros>

Seen this way, protection is not exclusively enacted by the NFSW and KMP. Instead, enacting protection is contingent on the ability of the NFSW, KMP and their allies to bring in other actors. Reinforcing this entails leveraging existing alliances, creating platforms of engagement for actors outside their coalition, and presenting compelling counter-narratives to further widen their networks of solidarity and support. This process of widening support relies not only on presenting their struggle as a moral and just cause; it also invokes and relates to their experiences of victimhood and their claims as human rights defenders.

While survival tactics, as well as the broadening and mobilisation of support networks are undertaken in the short to medium-term, it is always done in conjunction with the attainment of broader socio-political goals. In the case of NFSW and KMP, it is land re-distribution through genuine land reform. Seen this way, short-term tactics allow NFSW and KMP to continue with their work. For NFSW and KMP, full protection can be achieved only once the systematic and structural issues in Philippine society are resolved. Once these issues are resolved, the collective struggle for land rights arguably loses its relevance. As one leader of the NFSW contends, to address the unrest on the island of Negros, one must first address the root cause of conflict, which is land.

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