



**PERMANENT MISSION OF THE REPUBLIC OF THE PHILIPPINES  
TO THE UNITED NATIONS AND OTHER INTERNATIONAL  
ORGANIZATIONS, GENEVA**

**NV-CDS-533-2023**

The Permanent Mission of the Republic of the Philippines to the United Nations and Other International Organizations in Geneva presents its compliments to the Special Procedures Branch, Office of the High Commissioner for Human Rights, and has the honor to refer to the latter's letter dated 10 October 2023 (reference AL PHL 4/2023) transmitting the joint communication from Special Procedures mandate holders on allegations of judicial harassment, red-tagging, office raids, and targeted financial sanctions against religious groups, human rights, indigenous and humanitarian organizations, human rights defenders, Indigenous Peoples, journalists, and lawyers in the name of countering terrorism and terrorist financing .

The Mission has further the honor to transmit the enclosed Written Response of the Government of the Republic of the Philippines on the above-mentioned joint communication.

The Permanent Mission of the Republic of the Philippines to the United Nations and Other International Organizations in Geneva avails itself of this opportunity to renew to the Special Procedures Branch, Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 29 December 2023

**Office of the High Commissioner for Human Rights**  
Attention: Special Procedures Branch  
Palais des Nations, 1211 Geneva 10, Switzerland  
Email address [ohchr-registry@un.org](mailto:ohchr-registry@un.org)



**WRITTEN RESPONSE OF THE PHILIPPINE GOVERNMENT  
ON THE JOINT COMMUNICATION FROM SPECIAL PROCEDURES MANDATE  
HOLDERS (REFERENCE NO. AL PHL 4/2023)**

**1. Please provide additional information and any comment you may have on the above-mentioned allegations**

The Philippine Government shall defer to the findings of the courts regarding the accuracy of allegations cited in the joint communication, in recognition of the latter's "*competence, independence and impartiality*" as enunciated in Article 14 of the International Covenant on civil and political Rights (ICCPR).

On the context of the Philippines' status as a compliant State Party to eight core human rights treaties, the submit the following comments:

**Information on due process and fair trial safeguards in criminal prosecutions:**

The joint communication consistently referred to "*search and arrest warrants*" and the filing of "*charges*" in the cases of Rev. Glofie Gonzales- Baluntong, Rev. Nathaniel "Dodo" Vallente, Mariel A. Domequil and Frenchie Mae C. Cumpio, all indicating the application of due process and fair trial safeguards as found in Article 14 of the ICCPR on the presumption of innocence and to be informed of charges filed. In the Philippines, both search and/or arrest warrants are issued by a competent, independent and impartial court after a judicial process.

The joint communication, on page 9, mentioned that the court, after due process, quashed the arrest warrants and dismissed the cases filed against Mr. Windel B. Bolinget, unequivocally highlighting the availability of accessible judicial remedies and an independent judicial system in keeping with Article 14 of the ICCPR.

Concerns on international human rights law requirements, trial without undue delay, presumption of innocence, and principle of non-retroactivity are all worthy arguments that may be raised by their respective counsels for the Court's determination.

The Philippines takes special exception to the case of Ruperta "Peti" Enriquez who was charged for recruiting a minor to become an armed combatant considering that the UN Secretary General's Report on Children in Armed Conflict dated 5 June 2023, in page 47, identifies the New Peoples' Army in the PH as a non-State actor that gravely violates the rights of the child in situations of armed conflict.

The Philippines, as a State Party to UN Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (UNOPAC) is duty bound to prohibit recruitment of children for use in hostilities and conduct measures to criminalize such recruitment under Article 4 of the

Protocol.

The UN Declaration on Human Rights Defenders, clarified through the Office of the High Commissioner on Human Rights (OHCHR) UN Fact Sheet No. 29 on "Human Defenders: Protecting the Right to Defend Human Rights", emphasizes that "actions taken by human rights defenders must be peaceful in order to comply with the said Declaration<sup>1</sup>. This was further reinforced through the European Union's (EU) Guidelines on Human Rights Defenders<sup>2</sup> excluding "individuals or groups who commit or propagate violence" from the definition of human rights defenders<sup>3</sup>.

Thus, following the allegations in the joint communication, Ms. Enriquez's involvement in a case that holds her judicially accountable for the recruitment of children pursuant to the PH compliance with the UNOPAC removes her from the definition of human rights defenders under the UN Declaration on Human Rights Defenders, UN Fact Sheet No. 29, and the EU Guidelines on Human Rights Defenders. Neglecting to file cases for the application of judicial accountability mechanisms may be regarded as non-compliance to the UNOPAC.

### **Measures to ensure civil society in PH can carry out legitimate work in a safe and enabling environment**

The Philippines has over 101,000 registered non-profit organizations, around 60,000 of which are non-government organizations engaged in advocacy work<sup>4</sup>.

Executive Order No. 31 was issued on 20 June 2023 institutionalizing the legitimate work of civil society in a safe and enabling environment through open government partnership<sup>5</sup>.

On the other hand, the Philippines-United Nations Joint Program on human rights (UNJP) highlights transparent State efforts in engaging with civil society organizations<sup>6</sup> in a safe and enabling civic space.

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<sup>1</sup> Page 10, Human Rights Defenders: Protecting the Right to Defend Human Rights, UN Fact Sheet No. 29

<sup>2</sup> [https://www.eeas.europa.eu/sites/default/files/eu\\_guidelines\\_hrd\\_en.pdf](https://www.eeas.europa.eu/sites/default/files/eu_guidelines_hrd_en.pdf)

<sup>3</sup> Page 2, Item 3 of the document entitled "Ensuring protection - European Union Guidelines on Human Rights Defenders". Council of the EU, 2008

<sup>4</sup> PH Human Rights Situationer,

<<https://www.officialgazette.gov.ph/downloads/2020/06jun/20200609-PH-Human-Rights-Situationer.pdt>>

<sup>5</sup> [https://www.officialgazette.gov.ph/downloads/2023/06jun/20230620\\_E0-31-FRM.pdf](https://www.officialgazette.gov.ph/downloads/2023/06jun/20230620_E0-31-FRM.pdf)

<sup>6</sup> "The following civil society organizations are part of the UNJP:

1. Ateneo Human Rights Center (AHRC)
2. Balay Rehabilitation Center (Balay)
3. Alternative Law Groups (ALG)
4. Free Legal Assistance Group (FLAG)
5. Life Haven, Inc.
6. End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT) Philippines
7. In Defense of Human Rights and Dignity Movement (iDEFEND)
8. Emilio Aguinaldo College-Cavite, School of Criminology

As Co-Chair of the UNJP, the Department of Justice further engages with civil society through quarterly consultative dialogues with human rights defenders. These dialogues include the participation of UN representatives, together with civil society, who have previously raised issues of "red-tagging," harassment and/ or intimidation in the filing of cases against them. This initiative has positively resulted in the expeditious dismissal of some of the said cases.

On 29 November 2023, more than 36<sup>7</sup> civil society organizations participated in a

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9. Sulong Peace Incorporated (SPI)
  10. Professional Criminologist Association of the Philippine (PCAP)
  11. Asian Center for Drug Policy
  12. Families of Victims of Involuntary Disappearance
  13. Medical Action Group
  14. !BON Foundation
  15. KARAPATAN
  16. Philippine Alliance of Human Rights Advocates

<sup>7</sup> The following civil society organizations attended the 2<sup>nd</sup> Philippine Human Rights Defenders National Assembly (PHRDNA):

- a. Alliance of Workers in The Informal Economy/Sector (ALL WIES)
2. Ateneo Human Rights Center
3. Catholics for Reproductive Health (C4RH)
4. Children's Legal Rights and Development Center (CLRDC)
5. Carmen Solo Parents Association
6. Community and Family Services International (CFSI)
7. Divorce Advocates of the Philippines
8. Divorce Pilipinas Coalition (DPC)
9. Emilio Aguinaldo College-Cavite
10. Families of Victims of Involuntary Disappearance (FIND)
11. Filipino Families for Resilience and Sustainability (FILFAM4RES), Inc.
12. Florentino Catalan Elementary School
13. Hands Off our Children Movement, Inc.
14. !Defend
15. Kabataan Kontra Droga at Terorismo (KKDAT)
16. La Proteccion de La Infancia. Inc.
17. League of Parents of the Philippines (LPP)
18. Life Haven Center for Independent Living
19. Mindanao Indigenous Peoples Council of Elders And Leaders (MIPCEL)
20. Mindanao Indigenous People Youth Organization (MIPYO)
21. National Council for Solo Parents (NCSP)
22. Non-Moro Indigenous Peoples Youth Network
23. National Press Club
24. Outright International
25. Philippine Alliance of Human Rights Advocates
26. Philippine Association for Citizens with Developmental and Learning Disabilities, Inc.
27. Physicians for Peace
28. Professional Criminologist Association of the Philippines (PCAP)
29. Resources for the Blind, Inc.
30. Safe Schools Philippines, Inc.
31. Scalabrini Migration Center (SMC)
32. United Filipino Workers in Malaysia Inc.
33. UP Institute of Human Rights

State-sponsored conduct of the 2<sup>nd</sup> Philippine Human Rights Defenders National Assembly. Participating human rights defenders freely conveyed specific human rights advocacies, challenges and/ or grievances during the said assembly. Representatives from foreign missions<sup>8</sup> in the PH attended the assembly, while representatives of the Commission on Human Rights, as the independent national human rights institution, UN, and EU delegation to the PH participated as speakers, facilitators and/ or reactors.

In pursuit of Article 8 of the Universal Declaration of Human Rights<sup>9</sup>, the PH's competent, independent and impartial judiciary provides for accessible independent protection mechanisms, such as the *Writ of Amparo* and *Habeas Data*, for acts that violate fundamental rights granted by law, such as harassment, intimidation, persecution and/ or "red-tagging".

A court-issued *Writ of Amparo* and *Habeas Data* ensure the protection of rights enshrined in the 1987 Philippine Constitution, such as the rights to life, liberty, security and privacy. The following are examples of cases wherein the *Writ of Amparo* and/or a *Writ of Habeas Data* were accessed;

- Grant of a permanent protection order in favor of one Vivian Sanchez against members of the police on 15 October 2019<sup>10</sup>; and
- Issuance of *Writ of Amparo* and *Habeas Data* in favor of an organization with members identifying themselves to be in the legal profession, the National Union of Peoples' Lawyers (NUPL)<sup>11</sup>

The joint communication, in page 5, references the issuance of the protective *Writ of Amparo* in the case of Rev. Edwin Egar, highlighting the accessibility and effectiveness of judicial remedies whereby civil society can carry out their legitimate work in a safe and enabling environment without fear of harassment and intimidation.

In addition, a person may file a case in court for threats and coercion under Article 282 to 289 of the Revised Penal Code of the Philippines which is a remedy available for the protection against any person who shall threaten infliction upon person, honor or property of another person or of his family of any wrong

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34. WOW LEAP Inc.

35. Yakap ng Magulang

36. Yes For Peace, Inc

<sup>8</sup> The following foreign missions attended the PHRDNA:

1. Embassy of Belgium
2. Embassy of Denmark
3. Embassy of Finland
4. Embassy of France
5. Embassy of Ireland
6. Embassy of Italy
7. Embassy of Sweden

<sup>9</sup> Article 8, Universal Declaration of Human Rights

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

<sup>10</sup> SC G.R. No. 242257

<sup>11</sup> SC G.R. No. 246175, 03 May 2019

amounting to a crime<sup>12</sup>.

- 2. Please provide information on the due process and fair trial safeguards available to Rev. Glofie Gonzalez-Baluntong, Mariel A. Domequil, Frenchie Mae C. Cumpio, Rev. Nathaniel "Dodo" Valiente and the 16 alleged directors, officers and bank signatories of the RMP-Northern Mindanao Region in their prosecutions, including in accordance with the international human rights law requirements of trial without undue delay, the presumption of innocence, and principle of non-retroactivity**

The Philippine legal system strives to safeguard the fairness and integrity of its judicial processes. Thus, all persons accused in the commission of a crime are accorded due process in accordance with the Bill of Rights of the Philippine Constitution and relevant laws.

Article III<sup>13</sup> of the 1987 Philippines Constitution enumerates a person's fundamental civil and political rights. Section 12 to Section 22 provide the rights of the accused, such right to speedy disposition of cases, presumption of innocence, and prohibition against *ex post facto* law.

Moreover, Section 30 of the Republic Act (RA) 11479<sup>14</sup> or the Anti-Terrorism Act (ATA) and Section 2 of RA No. 7438<sup>15</sup> provide ample protection on the rights of persons arrested, detained or under custodial investigation. The ATA also provides additional safeguards for accused persons, which includes the imposition of penalties for violation of the rights of a detainee (Section 31), for torture or coercion in investigation and interrogation (Section 33), for infidelity in the custody of detained persons (Section 42), and for furnishing false testimony, forged document or spurious evidence in the conduct of the investigation or hearing (Section 43).

Likewise, under Section 47 of the ATA, the Commission on Human Rights is mandated to give the highest priority to the investigation and prosecution of violations of civil and political rights of persons in relation to the implementation of the said Act. It should be noted that the above-mentioned entities and persons are charged before the courts of law, and as such the *sub judice* rule applies.

Section 2 of Republic Act No. 10168 or the Terrorism Suppression and Prevention Act (TFPSA) specifically declares that it is the State's policy to recognize and adhere to international commitments to combat the financing of terrorism, specifically to the International Convention for the Suppression of the Financing of Terrorism, as well as other binding terrorism-related resolutions of the United Nations Security Council pursuant to Chapter 7 of the Charter of the

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<sup>12</sup> [https://www.officialgazette.gov.ph/l\\_930/12/08/act-no-3815-s-l930/](https://www.officialgazette.gov.ph/l_930/12/08/act-no-3815-s-l930/)

<sup>13</sup> <https://www.officialgazette.gov.ph/constitutions/the-1987-constitution-of-the-republic-of-the-philippines/the-1987-constitution-of-the-republic-of-the-philippines-article-iii/>

<sup>14</sup> <https://www.officialgazette.gov.ph/2020/07/03/republic-act-no-11479/>

<sup>15</sup> <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/2/3344>

United Nations (UN).

In the same manner, it is the State's duty to protect life, liberty, and property from acts of terrorism and to condemn terrorism and those who support and finance it and to recognize it as inimical and dangerous to national security and the welfare of the people, and to make the financing of terrorism a crime against the Filipino people, against humanity, and against the law of nations.

Other safeguards are contained in the Rules of Court particularly in the Revised Rules of Criminal Procedure. The said Rules require the conduct of a preliminary investigation before the filing of a complaint or information for an offense where the penalty prescribed by law is at least four (4) years, two (2) months and one (1) day. Should the investigating prosecutor find cause to hold the respondent for trial, a resolution and information shall be prepared. Otherwise, he shall recommend the dismissal of the complaint.

Moreover, during trial, the accused in all criminal prosecutions are entitled to the following rights: (a) To be presumed innocent until the contrary is proved beyond reasonable doubt; (b) To be informed of the nature and cause of the accusation against him; (c) To be present and defend in person and by counsel at every stage of the proceedings, from arraignment to promulgation of the judgment; (d) To testify as a witness in his own behalf but subject to cross-examination on matters covered by direct examination. His silence shall not in any manner prejudice him; (e) To be exempt from being compelled to be a witness against himself; (f) To confront and cross-examine the witnesses against him at the trial; (g) To have compulsory process issued to secure the attendance of witnesses and production of other evidence in his behalf; (h) To have speedy, impartial and public trial; and (i) To appeal in all cases allowed and, in the manner, prescribed by law.

Nevertheless, it should also be pointed out that there are already two (2) convictions for violations of Section 8 of the TFPISA in relation to the Rural Missionaries of the Philippines (RMP). This indicates the strength of the prosecution's evidence against the accused.

Anent the Civil Forfeiture case filed against Cumpio and Domequil, the regional trial court has awarded judgment in favor of the government.

The Rules on Civil Forfeiture, in turn, govern all proceedings for civil forfeiture, asset preservation and freezing of monetary instrument, property, or proceeds representing, involving, or relating to an unlawful activity or a money laundering offense under RA 9160 or Anti-Money Laundering Act (AMLA), as amended. It prescribes the following procedures:

1. Filing of a Petition for Civil Forfeiture shall be verified and must contain the following:

- (a) The name and address of the respondent;
- (b) A description with reasonable particularity of the monetary instrument, property, or proceeds, and their location; and
- (c) The acts or omissions prohibited by and the specific provisions of the

Anti-Money Laundering Act, as amended, which are alleged to be the grounds relied upon for the forfeiture of the monetary instrument, property, or proceeds; and the reliefs prayed for.

3. The respondent shall be given notice of the petition;
4. The respondent shall file a verified comment or opposition;
5. A judge shall determine if probable cause exists on the basis of the allegations of a verified petition and may issue and may issue an ex parte provisional asset preservation order effective for a period of twenty days from the respective dates of service to the respondent or any person acting in his behalf, and upon each covered institution or government agency;
6. A hearing at a date and time within the twenty-day period is scheduled at which the respondent may for good cause show why the provisional asset preservation order should be lifted;
7. After which, the court will then determine whether the provisional asset preservation order should be modified or lifted, or an asset preservation order should be issued; and
8. The respondent or the party whose personal or real property has been preserved pursuant to an asset preservation order, is still given the opportunity to seek for the discharge of the said Order by raising the following grounds:
  - (a) The order was improperly or irregularly issued or enforced;
  - (b) Any of the material allegations in the petition, or any of the contents of any attachment to the petition thereto, or its verification, is false; and
  - (c) The specific personal or real property ordered preserved is not in any manner connected with the alleged unlawful activity as defined in the AMLA.

All these laws and measures discussed clearly guarantee full respect for human rights.

2. **Please provide information as to the factual and legal basis for the designation of indigenous leaders Jennifer Awingan-Taggaoa, Windel Bolinget, Stephen Tauli and Sarah Abellon Alikes as terrorists by ATC Resolution Number 41 dated 7 June 2023. Please provide updates on any legal proceedings against them or review procedures for the designation;**

The basis for the designation is Section 25 of RA 11479 or the Anti-Terrorism Act (ATA) which states that:

“Section 25. Designation of Terrorist Individual, Groups

of Persons, Organizations or Associations. — Pursuant to our obligations under United Nations Security Council Resolution (UNSCR) No. 1373, the ATC shall automatically adopt the United Nations Security Council Consolidated List of designated individuals, groups of persons, organizations, or associations designated and/or identified as a terrorist, one who finances terrorism, or a terrorist organization or group.

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The ATC may designate an individual, groups of persons, organization, or association, whether domestic or foreign, upon a finding of probable cause that the individual, groups of persons, organization, or association commit, or attempt to commit, or conspire in the commission of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Act.

This designation process is in line with the requirements of the United Nations Security Council Resolution (UNSCR) 1373). The constitutionality of Section 25 has also been upheld by the Supreme Court.<sup>16</sup>

Furthermore, the Anti-Money Laundering Council (AMLC) is authorized to freeze the assets of the designated individual, groups of persons, organization or association pursuant to Section 11 of the TFPISA. With regard to the designation and the sanctions freeze order (SFO), these are likewise published.

As to the legal proceedings related to the designation, this is not within the function of the AMLC.

In addition, under the sub-judice rule, comments and disclosures pertaining to the judicial proceedings are restricted in order to avoid prejudging the issue, influencing the court, or obstructing the administration of justice.

It is also worth mentioning that under Rule 6.7 of the 2020 Implementing Rules and Regulations (IRR) of the ATA, on Periodic Review of Designations, the Anti-Terrorism Council (ATC) shall conduct a review every three (3) years to determine if the basis for designation under Rule 6.2. and 6.3 still exists. The ATC may consult with, and collect information from, relevant law enforcement agencies or from other foreign jurisdictions to support the review.

**3. Please provide detailed information as to the specific measures that have been put in place to ensure religious organizations, human rights defenders, direct services organizations, including for internally displaced persons, journalists, lawyers, and other members of civil society in the Philippines can carry out their legitimate work in a safe and enabling environment, without fear of harassment and intimidation from authorities or any other agent acting on their behalf**

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<sup>16</sup> [https://lawphil.net/judjuris/juri2021/dec2021/gr\\_252578\\_2021.html](https://lawphil.net/judjuris/juri2021/dec2021/gr_252578_2021.html)

**or with their acquiescence;**

The AMLC is not in a position to provide information as this is not within the ambit of AMLC's function.

- 4. Please explain what, if any, terrorist risk assessment was relied upon in the adoption of the alleged asset freezing and other CFT measures. Please provide information as to how these measures and the underlying regulations adopted by the Anti-Terrorism Council and Anti-Money Laundering Council comport with the international human rights law requirements of proportionality, necessity, and nondiscrimination, as well as the risk-based and proportionate approach stipulated in the FATF recommendations; and**

The UN Special Rapporteurs may refer to the AMLC published 2022 Terrorism and Terrorism Financing Risk Assessment<sup>17</sup>. The TF Risk Assessment is considered by relevant government agencies in their prioritization and use of resources. However, it is not the only reference used by the relevant agencies in identifying priorities and actions to be taken. As to the enactment of the ATA and TFPISA, the congressional deliberations may be referred to.

It should be stressed that the Philippines is considered as largely compliant with respect to FATF Recommendation 1 and Immediate Outcome 1 related to risk assessments.

- 5. Please provide information about any existing notice or hearing mechanism prior to the regulations and related asset freezing, as well as any appeals and complaint mechanisms available to individuals and entities after such measures are implemented.**

It was emphasized that under the ATA there are notice and hearing mechanisms that are available. Its Implementing Rules and Regulations particularly Rule 2.2 further declares that the State shall at all times uphold the basic rights and fundamental liberties of the people as enshrined in the Constitution.

With regard to the Sanctions Freeze Order, the following provisions clearly protect the interest of an aggrieved party:

Rule 8.10. Petition to determine basis of sanctions freeze order During the effectivity of the sanctions freeze order, an aggrieved party may, within twenty (20) days from the date of issuance, file with the Court of Appeals a petition to determine the basis of the sanctions freeze order according to the principle of effective judicial protection.

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[http://www.amlc.gov.ph/images/PDFs/2021%20JAN%20TF%20RA%20EXECUTIVE%20SUMMARY%20\(WEBSITE\).pdf](http://www.amlc.gov.ph/images/PDFs/2021%20JAN%20TF%20RA%20EXECUTIVE%20SUMMARY%20(WEBSITE).pdf)

Rule 8.11. Lifting of sanctions freeze order based on mistaken identity

Any person whose property or funds have been subject of a sanctions freeze order by reason of having a similar name as the subject of designation may apply for the lifting of the sanctions freeze with the AMLC by submitting relevant government-issued identification documents or other relevant documents that would show the true identity of the aggrieved party.

Rule 8.12. Access to frozen funds; humanitarian exemption

The person whose property or funds have been frozen under any freeze order may, upon a verified request before the ATC, withdraw such sums as the ATC determines to be reasonably necessary for monthly family needs and sustenance, including for the services of counsel and the medical needs of such person and his/her immediate family.