

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

REFERENCE:
AL PHL 3/2019

25 April 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 34/18, 34/5 and 40/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **new accusations of bias in favour of communist "terrorist" groups formulated against the current United Nations Special Rapporteur on the rights of indigenous peoples, which appeared in the national press covering the submission of a report to the Permanent Mission of the Philippines in Geneva regarding abuses of indigenous peoples' rights by the Communist Party of the Philippines and the New People's Army. These accusations were reiterated in a press briefing in Malacanang on 13 March 2019.**

Special Procedures mandate holders have previously expressed their grave concerns over acts of retaliation taken against Ms. **Tauli-Corpuz** for her work in her capacity as the United Nations Special Rapporteur on the rights of indigenous peoples in a joint communication sent on 8 June 2018, case no. PHL 5/2018. We regret that no response has been received to this letter and urge your Excellency's Government to strengthen its engagement with UN human rights mechanisms, including Special Procedures, and to provide a response at the earliest available opportunity.

In February 2018, the Department of Justice of the Philippines filed a petition before the Regional Trial Court of Manila seeking to declare the Communist Party of the Philippines and the National Peoples' Army as terrorist organisations. In the petition, Ms. Tauli-Corpuz, along with other human rights defenders, was listed by the Department of Justice as affiliated with these organisations and de facto accused her of involvement in terrorism. The Court eventually decided in a ruling dated 27 July 2018, that her name should be removed from the list, as nothing in the petition pointed to her being an officer or representative of the Communist Party or the National Peoples' Army.

According to new information received:

On 22 February 2019, national media reported that the National Security Council Deputy Director General handed over a report prepared by indigenous peoples'

groups to the Philippine Permanent Representative to the United Nations, his Excellency Evan Garcia. The report documents human rights violations allegedly perpetrated by the New Peoples' Army in the Philippines. Media quote a letter from the National Security Council accompanying the report as follows:

“It must be noted that the current UN Rapporteur Victoria Tauli-Corpuz seems to have never lifted a finger to intervene in these communist terrorist groups' (CTGs) violations and has rather trained her attention to government forces who have been trying to defend the human rights of the indigenous people”

On 13 March 2019, Deputy Chief of Staff for Civil-Military Operations, Brigadier General Antonio Parlade, stated in a press briefing in Malacanang, Manila, that the United Nations had been “infiltrated” by the Communist Party of the Philippines through Ms. Tauli-Corpuz.

We wish to express our serious concern over the continued allegations levelled against Ms. Tauli-Corpuz by the Philippine authorities accusing her of Communist Party affiliation and terrorist activities, along with their further dissemination by Philippine media. While we have previously expressed such concerns and stressed that such alleged accusations are without grounding in fact or law, we wish to additionally highlight that indeed Philippine courts have cleared Ms. Tauli-Corpuz from similar allegations.

We further express our concerns that the allegations against Ms. Tauli-Corpuz do not stem from legitimate national security considerations, but rather seem to be a retaliation against her for her work in the defence of human rights. We wish to highlight that when high-level officials engage in speech which disparages the work of human rights defenders, they undermine the value of their vital work, denigrate them in the eyes of the public and may put them at risk of threats, violence or other forms of harassment.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide information regarding any steps which have been taken in order to denounce and retract allegations against Ms. Tauli-Corpuz which purport to connect her with terrorist activities
3. Please provide information on what steps have been taken to ensure that human rights defenders in the Philippines, and their families, are not subject to

acts of retaliations for their interaction with international bodies, including UN mechanisms.

4. Please indicate what measures have been taken to ensure that human rights defenders in the Philippines are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

David Kaye

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Michel Forst

Special Rapporteur on the situation of human rights defenders

Fionnuala Ní Aoláin

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to articles 19 and 22 of the International Covenant on Civil and Political Rights, ratified by the Philippines on 23 October 1986, which provide for the rights to freedom of opinion and expression and freedom of association.

We wish to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

We also wish to refer your Excellency’s Government to Human Rights Council resolution 22/6, which urges States to acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law (operative paragraph 5). Furthermore, this resolution also urges States to ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights (operative paragraph 10).

In this regard, we would like to bring to your Excellency’s Government’s attention that in his report to the General Assembly on impact of counter-terrorism measures on civil society, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism urged States to ensure that their counter-terrorism legislation is sufficiently precise to comply with the principle of legality, so as to prevent the possibility that it may be used to target civil society on political or other unjustified grounds. (A/70/371, para 46(c)).

We would further like to refer to Human Rights Council resolution 34/5, which notes that, in some instances, national security and counter-terrorism legislation and other measures, such as laws regulating civil society organisations, have been misused to target human rights defenders or have hindered their work and endangered their safety in a manner contrary to international law. The resolution further recognises the urgent need to address, and to take concrete steps to prevent and stop, the use of legislation to hinder or limit unduly the ability of human rights defenders to exercise their work, including by reviewing and, where necessary, amending relevant legislation and its implementation in order to ensure compliance with international human rights law. (A/HRC/RES/34/5 pp12)

Human Rights Council resolution 36/21 reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, including the Human Rights Council, its special procedures, the universal periodic review mechanism and treaty bodies, as well as regional human rights mechanisms, bearing in mind that free and unhindered access to and communication with individuals and civil society are indeed indispensable to enable the United Nations and its mechanisms to fulfil their mandates (A/HRC/RES/36/21).

In connection with the above alleged facts and concerns we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- Article 5 (a, b and c), which states that everyone has the right to meet or assemble peacefully to form, join and participate in non-governmental organisations, associations or groups and to communicate with non-governmental or intergovernmental organisations.
- Article 6 (a, b and c), which provides for the right to seek and disseminate information on all human rights and fundamental freedoms, along with studying, discussing and forming opinions on such.
- Article 9(3)(c) which provides for the right to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.
- Article 9 (4), which states that everyone has the right to unhindered access to, and communication with, international bodies.
- Article 12 (2), which states that the State shall take all necessary measures to protect individuals from any violence, threats, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.