

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

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(Please use this reference in your reply)

7 June 2024

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolution 52/9.

As you know, from January 23 to February 2, 2024, I visited the Philippines at the invitation of the Government to examine the state of freedom of opinion and expression in the country. During my visit I had the opportunity to meet with government officials and State institutions as well as a wide range of civil society representatives. Among other issues, we discussed the “United Nations Joint Programme on technical cooperation and capacity-building for the promotion and protection of Human Rights in the Philippines” (UNJP) and the valuable role it had begun to play as a multi-stakeholder forum to address human rights issues with the full participation of civil society and the United Nations. At the conclusion of my visit, I noted in my preliminary observations to the government that a future body established to pursue the work of the UNJP should take a similar inclusive multi-stakeholder approach.

In this context, I wish to offer comments regarding the recently adopted Administrative Order (AO) No. 22, which created the “Special Committee on Human Rights Coordination” following the completion of the “United Nations Joint Programme on technical cooperation and capacity-building for the promotion and protection of Human Rights in the Philippines” (UNJP).

*Context*

On 8 May 2024, the Government issued Administrative Order (AO) No. 22 creating a “Special Committee on Human Rights Coordination” with the purpose of enhancing mechanisms for the promotion and protection of human rights in the Philippines. This body will be composed of members of the Department of Justice, the Department of Foreign Affairs and the Department of Interior and Local Government.

Upon issuing the Order, President Marcos Jr. underscored the importance of maintaining and intensifying the accomplishments of the UNJP, which will expire on 31 July 2024, by means of the “institutionalization of a robust multi-stakeholder process for the promotion and protection of human rights in the Philippines”.

The “Special Committee on Human Rights Coordination” is mandated to conduct investigations and data-gathering on alleged human rights violations by law enforcement agencies, expand civic space and engagement with the private sector, monitor and ensure effective implementation of government policies and programs aimed at upholding and protecting human rights of persons deprived of liberty and implement a human rights-based approach towards counter-terrorism and drug control.

The “Special Committee on Human Rights Coordination” is intended to replace the Philippines-UN Joint Program on Human Rights (UNJP), which followed the adoption of Human Rights Council’s resolution 45/33, and facilitated technical cooperation and capacity-building in support of national initiatives and institutional frameworks in six areas, namely: (1) domestic investigative and accountability measures; (2) data gathering on alleged police violations; (3) civic space and engagement with civil society and the Commission on Human Rights; (4) national mechanism for reporting and follow-up; (5) counter-terrorism legislation; and (6) human rights-based approaches to drug control.

The 2023 UNJP’s Annual Programme Narrative Progress report highlighted how “the UNJP contributed to increased engagement between Government and civil society actors, with engagement between more than 600 members of CSOs with Government actors through the UNJP”. Further, among the best practices drawn from the experience of the UNJP, the report highlighted formal platforms such as the Technical Working Groups with full participation of Government, the UN, civil society actors and the Commission on Human Rights, which “proved critical to identifying priority actions, discussing impact and making relevant adjustments where necessary”, emphasizing that “an important part of sustaining progress beyond the end of the programme will be to retain the collective spirit and openness of such forums”. It remains crucial that the new body pursues and builds on the work of the UNJP, drawing on the best practices identified, including ensuring an active involvement of civil society.

*Applicable international human rights law standards*

I respectfully draw the attention of your Excellency's Government to the relevant provisions of international human rights law enshrined in customary and treaty law, under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR), acceded to by the Philippines on 23 October 1986.

In particular, I make reference to the international human rights standards applicable under articles 19 and 22 ICCPR and articles 19 and 20 UDHR, which guarantee the rights to freedom of opinion and expression and freedom of association; and article 26 ICCPR and article 7 UDHR, which recognize the right to equality before the law and the prohibition of discrimination. These provisions should be read together with article 2 ICCPR, whereby the State has the duty to adopt laws as necessary to give domestic legal effect to the rights, provide effective remedies for violations of these rights and ensure that the domestic legal system is compatible with the Covenant.

The right to freedom of expression in article 19(2) ICCPR includes the right “to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media”. States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one's own and public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (Human Rights Committee, General Comment No. 34, para. 11).

With regards to the right to freedom of association (article 22 ICCPR), in its resolution 24/5 the Human Rights Council reminded States of their obligation to respect and fully protect the rights of all individuals to associate freely, including for individuals espousing minority or dissenting views or beliefs and human rights defenders (A/HRC/26/29, para. 22).

Civil society organisations and their members benefit from several human rights as enshrined in the International Covenant on Civil and Political Rights, including the rights freedom of opinion and expression (19 ICCPR), freedom of association (22 ICCPR), the right to an effective remedy (article 2 (3) (a) ICCPR) and to be protected from discrimination (article 26 ICCPR).

The creation of an environment conducive to an open, free and vibrant civic space requires a strong legislative framework that protects and promotes individuals' and organisations' rights to freedom of association and expression in conformity with international human rights law and standards.

Similarly, in order to establish the appropriate conditions for a robust civil space and a strong and healthy engagement between the State authorities and bodies and the civil society, it is essential to provide civil society actors access to information and to participate in decision-making processes.

In this vein, I refer to the Human Rights Council resolution 53/13 ([A/HRC/RES/53/13](#)), which “reaffirms that creating and maintaining a safe and enabling environment, both online and offline, in which civil society can operate free from hindrance and insecurity, assists States in fulfilling their existing international human rights obligations and commitments, without which equality, accountability and the rule of law are severely weakened” (paragraph 1). The resolution “urges States to recognize and promote the important role of a diverse and pluralistic civil society and to acknowledge the important contribution of civil society, including grass-roots organizations, human rights defenders, journalists and media workers, to the promotion of human rights, including the principle of non-discrimination, and to ensure a safe and enabling environment for their work,” further urging States to “take every opportunity to support diversity of civil society participation” (paragraphs 4 and 6).

*Compatibility of the structure and design of the “Special Committee on Human Rights Coordination” with international human rights standards*

During my visit, government interlocutors mentioned that by creating a Special Committee on Human Rights Coordination, the Government intends to take greater ownership of its human rights accountability. I note that the Special Committee brings together several Departments that play a fundamental role in the promotion and protection of human rights in the country. Additionally, section 4 of the Administrative Order No. 22, encourages all national government agencies and instrumentalities, all local government units and the private sector to render full support to the Special Committee.

By comparison, the participation of civil society in the Special Committee's work and proceedings is restricted to its hypothetical regulation in the Implementing Guidelines of the Administrative Order and their role appears to be limited to “coordination and/or consultation”, according to section 5 of the Administrative

Order.

Civil society is a major stakeholder in the promotion and protection of human rights. Civil society organizations, including organizations representing victims of human rights violations, can bring valuable insights and give legitimacy to governments' initiatives. Experience from around the world shows that human rights problems cannot be resolved without effective dialogue and collaboration between civil society and the authorities.

A key measure of success of the United Nations Joint Program was to provide an inclusive forum where all stakeholders had begun to discuss human rights problems and search for solutions in a constructive manner. I encourage the government to ensure that the Special Committee builds on that important achievement. It is vital that civil society is fully represented in all its diversity in the Special Committee and is substantively and meaningfully engaged in its work.

Civil society should further be consulted in the process of designing the structure intended to succeed the UNJP and be included in the work of this structure through dynamics of continuous engagement.

Additionally, the Commission on Human Rights, an organ that has held an independent mandate to investigate human rights violations in the Philippines since 1987, does not appear to have a significant role in the new Committee. The inclusion and strong participation of National Human Rights Institutions in the structures and mechanisms purported to address and remedy human rights violations is essential in every country.

I further note that the Administrative Order No. 22 does not give the United Nations the same convenor role that it had under the UNJP. It is widely recognized that the United Nations played a pivotal role in creating and sustaining an environment conducive to constructive dialogue among the various national stakeholders. I believe such a role could be useful to retain the positive achievements of the UNJP and ensure a smooth transition to the new structure. It would also enhance the credibility of the government's new initiative domestically and internationally. I encourage Your Excellency's government to seek the technical assistance of the United Nations to support the Special Committee.

Finally, as I mentioned in my preliminary observations at the end of my visit to the Philippines, tackling the deep-seated human rights problems in that country will require fundamental and sustained reforms, a clear political commitment to accountability and a readiness to engage constructively and substantively with civil society. The new Special Committee should embody those elements in its structure, process, objectives and delivery.

I trust that your Excellency's Government will give careful consideration to my comments when designing the Implementing Guidelines for Administrative Order No. 22 and when implementing the structure that succeeds the UN Joint Program for Human Rights. I remain available for further engagement with your Government on this issue and other issues arising from my visit to the Philippines.

It is my responsibility, in accordance with the mandate given to me by the Human Rights Council, to attempt to clarify all matters brought to my attention. In

this regard, I would be very grateful to receive your observations on the following matters:

1. Please provide any additional information and/or comments you may have on the above-mentioned observations.
2. Please provide information on the measures adopted to effectively ensure the active participation of civil society organizations in the “Special Committee on Human Rights Coordination” and in the broader joint efforts to enhance mechanisms for the promotion and protection of human rights and accountability in the Philippines. Please indicate whether and in which way this will be explicitly provided for in the Implementing Guidelines of Administrative Order No. 22. Further, please indicate the steps taken to comply with and implement the recommendations I put forward in the preliminary observations released at the end of my visit in this regard.
3. Please provide information about the measures taken to ensure an active role for the Commission of Human Rights in the “Special Committee on Human Rights Coordination”, indicating whether and in which way this will be explicitly provided for in the Implementing Guidelines of Administrative Order No. 22.
4. Please provide information on how the Special Committee is envisaged to cooperate with the United Nations entities, including the OHCHR, and with other relevant international organizations and international courts, as well as to draw on the United Nations’ and other relevant partners’ technical assistance capabilities. Please indicate the measures taken to allow for this cooperation and to create the necessary channels to facilitate it, including whether it will be enshrined in the Implementing Guidelines of Administrative Order No. 22.

This communication, as a commentary on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public through the communications [website](#) within 48 hours. This communication as well as any response to it will also be included subsequently in the report of my visit to the Philippines to the Human Rights Council.

Please accept, Your Excellency, the expression of our most distinguished consideration.

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