

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls

Ref.: AL PHL 3/2024
(Please use this reference in your reply)

29 August 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on violence against women and girls, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 52/4, 50/17, 49/10, 50/7 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **terrorism-related charges against human rights defenders and development workers affiliated with anti-poverty network CERNET**, including Ms. Estrella F. Catarata, Ms. Maria Ira Pamat, Dr. Petty Orbeta De Castro, Ms. Nancy Estoloso, Ms. Noemi Truya-Abarientos, Ms. Jhonggie Rumol, Mr. Jaime Paglinawan Sr., Dr. Oliver Gimenez, Ms. Cristina Muñoz, Ms. Alma Garcia, Ms. Evelyn Abella, Ms. Teresa Claire F. Alicaba, Ms. Crescenciana Labitad, Mr. Ritchie Nellas, Rev. Zuriel Tiempo and Dr. Miguel Udtohan, **as well as the continued harassment of the organisation's current and former members.**

The **Community Empowerment Resource Network, Inc. (CERNET)** is a network composed of nine humanitarian and development non-governmental organisations (NGOs) founded in 2001, based in Cebu City and active in the Visayas islands, in the central part of the Philippines. The organisation works alongside marginalised groups to promote economic, social and cultural rights in their communities by providing small project funds to grassroots initiatives.

Ms. Estrella F. Catarata is a woman human rights defender, social worker and psychologist. From 1996 to 2013, she was the Executive Director of Central Visayas Farmer's Development Center (FARDEC) Inc., an NGO based in Cebu City advocating for land rights and sustainable food production. In 2001, FARDEC was one of nine NGOs to form the CERNET network. Ms. Catarata remained a Board Officer of CERNET until 2013. She is now the Executive Director of Sibol ng Agham at Teknolohiya (SIBAT) Inc., a non-profit NGO providing community-based renewable energy systems to marginalised communities.

Ms. Maria Ira Pamat is a woman human rights defender, development worker and the Executive Director of the Women's Development Center Inc. (WDC), an NGO providing shelter to women and children victims of violence and supporting community livelihood programmes in Bohol province. She is also a former board

member of CERNET.

Dr. Petty Orbeta De Castro is a woman human rights defender, a dentist and the Executive Director of the Visayas Primary Health Care Services Inc. (VPHCS), an NGO promoting healthcare programmes amongst the most marginalised groups in the Visayas islands – poor urban dwellers, farmers, fisherfolks, women and children. She used to be a council member of CERNET representing VPHCS, as well as the treasurer of the CERNET Board.

Ms. Nancy Estoloso is a woman human rights defender and the Executive Director of Tuburan for Rural Women Empowerment and Development Inc. (TUBURAN), an NGO promoting the rights of women in rural communities in the province of Negros Oriental. She is also a former council and board member of CERNET.

Ms. Noemi Truya-Abarientos is a woman human rights defender, a lawyer and the Deputy Executive Director of the Children’s Legal Bureau, Inc. (CLB), an NGO based in Cebu City working to protect children from abuse and exploitation. She is also a former Council member of CERNET, where she used to represent the NGO FARDEC.

Ms. Jhonggie Rumol is a woman human rights defender, development worker and a consultant at Visayas Institute for Human Development Agency, Inc. (VIHDA), an NGO promoting labour rights in the Visayas region, of which she used to be the Executive Director. She is also a former Strategic Partnership Program Coordinator at CERNET.

Mr. Jaime Paglinawan Sr. is a human rights defender and trade union leader. He is the Chairperson of trade union AMA Sugbo - KMU and the Vice Chairperson of Kilusang Mayo Uno (KMU) for Visayas, a federation of trade unions aiming to protect and promote workers’ rights. He is also a board member at VIHDA and the Chairperson of the Central Visayas chapter of Bagong Alyansang Makabayan (BAYAN), a political alliance of left-wing organisations.

Dr. Oliver Gimenez is a human rights defender, doctor of medicine and a former Executive Director of CERNET. He has worked as part of medical missions in rural communities and is currently the Municipal Health Officer of the municipality of Medellin, Cebu province.

Ms. Cristina Muñoz is a woman human rights defender, social worker and a former Administrative and Finance Officer at CERNET. She is currently the Officer in charge at CERNET, standing as its Executive Director.

Ms. Alma Garcia is a woman human rights defender and a former Advocacy Officer at CERNET.

Ms. Evelyn Abella is a former CERNET Council Member representing youth-led organisation for human rights and social justice PAGBAGO (*Panaghugpong sa mga Gagmay nga Bayanihang Grupo sa Oriental Negros*, the “Collective of Small Bayanihan Groups in Negros Oriental”) and a former auditor of the CERNET Board. She is now retired.

Ms. **Teresa Claire F. Alicaba** is a former Small Projects Fund (SPF) Project Officer at CERNET, currently working as a Project Officer at the University of the Philippines in Cebu City.

Ms. **Crescenciana Labitad** is an administrative officer of the Visayas Primary Health Care Services Inc. (VPHCS) and a former council member of CERNET representing VPHCS.

Mr. **Ritchie Nellas** is a former People's Organization (PO) Capacity Building Officer at CERNET.

Rev. **Zuriel Tiempo** is a pastor with the United Church of Christ in the Philippines and a former Council member of CERNET, where he represented the College of Maasin Extension Program (CMEDP).

Dr. **Miguel Udtohan** is President of the College of Maasin in Southern Leyte province and a former member of the CERNET Board and its Council, where he represented CMEDP.

Concerns regarding the “red-tagging” of human rights defenders and the use of regulations to counter terrorist financing (CFT) against civil society organisations were raised in several previous communications sent to your Excellency's Government by special procedures mandate holders, including [PHL 4/2023](#), [PHL 1/2023](#), [PHL 2/2022](#), [PHL 6/2021](#), [PHL 5/2021](#), [PHL 3/2021](#), [PHL 1/2021](#). We thank your Excellency's Government for its replies dated 29 December 2023, 18 September 2023, 6 October 2022, 11 and 19 January 2022, 14 January 2022, 2 September 2021 and 1 February 2021 respectively. However, we remain concerned in view of the following allegations that were brought to our attention.

According to the information received:

General allegations against CERNET and its members

CERNET has been the target of unfounded accusations of supporting the communist insurgency in the Philippines for several years. CERNET, its members, and its partner organisations have faced harassment, intimidation, abductions, and extrajudicial killings allegedly perpetrated by state security forces, since 2006. The attacks escalated in 2008 when false charges were filed against CERNET's Executive Director and Finance Officer, which were subsequently dismissed in 2009. The persecution continued after the dismissal. In 2018 and 2019, CERNET was relentlessly red-tagged by state security forces affiliated with the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC) established by the Rodrigo Duterte administration. In 2020, a staff member of Central Visayas Farmer's Development Center (FARDEC), a member of CERNET's consortium, was abducted from her home and found dead a year later in Metro Manila. In 2021, FARDEC's program coordinator in Bohol was arrested on false charges related to firearms and explosives. In September 2022, CERNET's Board Secretary and KINABUHI coordinator faced false accusations of multiple counts of frustrated homicide. CERNET's former Finance Officer was harassed by members of the military in 2022. On 10 January 2023, two members of CERNET consortium, a woman human rights defender and another staff, were

abducted by military personnel in Cebu, along with her partner who also worked for a member of CERNET's consortium. They were released after several days of interrogation and coercion to surrender.

Regarding recent allegations

In May 2023, a criminal complaint under the Terrorist Financing Prevention and Suppression Act of 2012 (Republic Act No. 10168) was filed by a Brigadier General Commander of the Joint Task Force Cebu, 3rd Infantry Division of the Philippine Army, against 27 individuals with ties to CERNET. The defendants are former and active humanitarian workers and human rights defenders, in particular women, who were or still are affiliated with CERNET, leading the group to be dubbed the "CERNET 27". The list of 27 defendants includes three persons who were deceased at the time of the complaint, as well as two people no longer residing in the Philippines. Those named in the complaint were accused of delivering 135,000 pesos (about 2300 USD) to the South Eastern Front (SEF) group of the National People's Army (NPA) – which is designated as a terrorist organisation – in Dumaguete City in 2012.

On 13 August 2023, CERNET received a subpoena from the Philippine Department of Justice, implicating 27 of its former council members, board members, staff and partner organisations for alleged violation of the Terrorist Financing Prevention and Suppression Act.

On 28 September 2023, the accused individuals filed counter affidavits during the preliminary investigation held in Cebu City.

On 30 April 2024, during a press conference held by the Philippine Information Agency (PIA) in Dumaguete City, Negros Oriental province, a Brigadier General "red-tagged" CERNET and its member organisations, and labelled FARDEC's former Executive Director Estrella F. Catarata as leader of a communist terrorist group.

On 8 May 2024, the Philippine Department of Justice filed charges against the 27 individuals named in the initial complaint for allegedly violating Section 8(ii), in relation to section 9 of the Terrorism Financing Prevention and Suppression Act of 2012 by making 'available any property or funds, or financial services or other related services to a designated and/or identified person, organization, association, or group of persons'.

On 18 May 2024, the Cebu City Police Office posted on its official Facebook page the slightly blurred mugshot of one of the defendants, Ms. Estrella F. Catarata, in a press release advertising her arrest as "Top 1 Most Wanted Person in the Central Visayas". The woman human rights defender whose photo was used was wrongly referred to as a "businesswoman", and alleges that she was not arrested, but instead voluntarily presented herself before the Regional Trial Court Branch 74 before being released on bail.

On 20 May 2024, referring to the case against CERNET members, Justice Secretary [REDACTED] warned that those who finance terrorist organisations "[would] face extreme consequences as harsh as those met by the terrorists themselves" and instructed the prosecution to "put behind bars all

financiers of terrorism.”

On 24 June 2024, the Cebu Regional Trial Court granted a motion to dismiss the case against two of the three deceased individuals who were still included in the accusations against CERNET.

On 27 June 2024, Rev. Zuriel Tiempo and another defendant were arraigned. The arraignment hearing for the remaining defendants was set to 19 September 2024 by the judge after they filed a Petition to Review before the Department of Justice as well as a Motion to Defer Proceedings before the court.

At the time of writing, all of the accused individuals residing in the Philippines have posted bail after their arrest warrants were issued by the court and are currently free.

Without prejudging the accuracy of the information, we wish to express our deep concern regarding the criminalisation and the “red-tagging” of 27 human rights defenders, in particular women human rights defenders and humanitarian workers with ties to CERNET. We are concerned that these actions seem to demonstrate a deliberate misapplication of counter-terrorism legislation, including CFT law, for the purpose of discrediting legitimate human rights and humanitarian activities.

The targeting of these human rights defenders and humanitarian workers through intimidation, reputational harm and criminalisation is of particular concern, as it appears to be in direct retaliation for their legitimate and peaceful activities promoting economic, social and cultural rights in the Philippines. We are concerned that such measures risk obstructing the delivery of vital and well-protected humanitarian, human rights and development services.

The “red-tagging” of human rights defenders by labelling them as “communists” or “terrorists” and the portrayal of them and their work as a threat to national security, including through statements by police forces, both online and offline, is an issue of serious concern. We have previously communicated such concerns to your Excellency’s Government about the widespread red-tagging of human rights defenders (see for example PHL 1/2023, PHL 2/2022, PHL 6/2021, PHL 5/2021, PHL 3/2021 and PHL 1/2021 among others) and how this practice seeks to delegitimise their activities, create misunderstandings about their work, and increase the risk of reputational harm, threats, and attacks against them. The practice of “red-tagging” causes significant reputational harm to individuals and organisations and violates their right to privacy. It also has a wider chilling effect on civil society, restricting freedom of expression, peaceful assembly and association and sowing fear that peaceful political activities will be met with oppressive retaliation. At its very worst, “red-tagging” contributes to the normalisation of extrajudicial killing of human rights defenders and creates an environment in which extrajudicial killings can occur with relative impunity. Indeed, the Supreme Court of the Philippines has declared that “red-tagging”, vilification, labelling and guilt by association threaten the right to life, liberty and security.¹

In relation to this concern, we would like to refer your Excellency's Government to the report of the Special Rapporteur on the situation of human rights

¹ <https://sc.judiciary.gov.ph/sc-red-tagging-threatens-right-to-life-liberty-and-security/>

defenders to the Human Rights Council, *Final warning: death threats and killings of human rights defenders* (A/HRC/46/22), in which she noted that being “tagged” as “red”, or “communist”, is a serious threat, that has previously resulted in acts of violence, including murder against human rights defenders.

We would also like to refer to the report of the previous High Commissioner for Human Rights on the human rights situation in the Philippines (A/HRC/44/22), presented at the 44th session of the Human Rights Council in June 2020. In her report, she noted that for decades, red-tagging had been a persistent and powerful threat to civil society and freedom of expression, and that those working to promote and protect human rights had been acutely affected by such smears.

We express concern at the use of counter-terrorism and terrorism financing legislation and measures against civil society. In this regard, we would like to recall the provisions of Human Rights Council resolution 24/5 and 15/21, which noted grave concern about the fact 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.” We recall that States are urged 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. (A/HRC/RES/22/6, para. 10).

We would like to reiterate our concerns regarding the broad definition of “terrorism” under the Anti-Terrorism Act of 2020, the expansion of executive branch authority, the absence of judicial oversight, and the apparent lack of due process in cases concerning alleged infringements of the law. Notwithstanding the Supreme Court striking down parts of the legislation as unconstitutional in 2021, concerns remain about the designation powers of the Anti-Terrorism Council. In this respect, we recall the importance of ensuring the necessary safeguards for due process and fair trial under international human rights law (see PHL 4/2023).

With respect to the accusations of counter-terrorism financing, particularly against human rights defenders and humanitarian workers, to the extent that these measures entail terrorism-related listing and asset freezing procedures, we recall that these measures must comply with due process and procedural rights, including the right to a fair trial, the right to appeal and the right to effective protection by the courts. We further express our concerns about the potential consequences of asset freezing measures, vital humanitarian and human right services – including health, food, shelter, and education services with potentially detrimental impacts on the fundamental social, economic and cultural rights of Indigenous Peoples, internally displaced persons, human rights defenders, religious minorities, women and children and any other vulnerable category of the population that could be the beneficiary of this services. In this context, we emphasise the importance of adopting an intersectional approach to accurately reflect the experiences and impacts as determined by gender, religion, age, indigeneity and beyond.

We are also particularly concerned about the way in which law enforcement disseminated inaccurate information regarding the defendants, Ms. Estrella F. Catarata, thereby defaming her, putting her and potentially other colleagues at additional risk. As noted by the Special Rapporteur on violence against women and

girls in her report A/HRC/38/47, women, including women human rights defenders, are particularly targeted by online and technology-facilitated violence, eliminating a sense of safety for those affected, both online and offline. It is concerning when law enforcement reportedly directly participates in subjugating women human rights defenders to such violence.

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.

As 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 comment(s) you may have on the above-mentioned allegations.
2. Please provide information as to the factual and legal basis for the charges brought against Ms. **Estrella F. Catarata**, Ms. **Maria Ira Pamat**, Dr. **Petty Orbeta De Castro**, Ms. **Nancy Estoloso**, Ms. **Noemi Truya-Abarientos**, Mr. **Jhonggie Rumol**, Mr. **Jaime Paglinawan Sr.**, Dr. **Oliver Gimenez**, Ms. **Cristina Muñoz**, Ms. **Alma Garcia**, Ms. **Evelyn Abella**, Ms. **Teresa Claire F. Alicaba**, Ms. **Crescenciana Labitad**, Mr. **Ritchie Nellas**, Rev. **Zuriel Tiempo**, Dr. **Miguel Udtohan** as well as the other defendants in the case. Please also provide updates on the human rights defenders' judicial process, including on the due process and fair trial safeguards available to them and how the latter are in accordance with the international human rights law requirements of trial without undue delay, the presumption of innocence and the principle of non-retroactivity.
3. Please provide detailed information as to the specific measures that have been put in place by your Excellency's Government to ensure human rights defenders, humanitarian workers, 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 the authorities or any other agent acting on their behalf or with their acquiescence.
4. Please explain what measures will be taken to investigate the dissemination of false information on Estrella F. Catarata using facebook by law enforcement, violating her privacy and safety, and thereby placing her at heightened risks, and the steps that will be taken to ensure that such inappropriate management of the personal information any of anyone in police custody is not repeated.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). 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.

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

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

Gina Romero

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Ben Saul

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

Reem Alsalem

Special Rapporteur on violence against women and girls, its causes and consequences

Laura Nyirinkindi

Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the principles and international standards applicable to this communication.

Fair trial guarantees

In connection with above alleged facts and concerns, we would like to draw your attention to articles 14, 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Philippines on 23 October 1986, which guarantee the rights to fair trial guarantees, including the presumption of innocence, freedom of opinion and expression and freedom of association. These rights are also guaranteed under articles 7,10,11,19 and 20 of the Universal Declaration of Human Rights (UDHR).

Freedom of association

We also recall article 21 of the ICCPR, which recognises that the right to freedom of peaceful assembly should be enjoyed by everyone, as provided for by article 2 of the Covenant and resolutions 15/21, 21/16 and 24/5 of the Human Rights Council. In its resolution 24/5, the Council reminded 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 and human rights defenders (A/HRC/26/29, para. 22.). We also recall article 22 of the ICCPR protects the right to freedom of association, which protects the rights of everyone to associate with others, to pursue common interests. Freedom of association is closely linked to the rights to freedom of expression and to peaceful assembly and is of fundamental importance to the functioning of democratic societies. These rights can only be restricted in very specific circumstances, where the restrictions serve a legitimate public purpose as recognized by international standards and the restrictions must be a necessary and proportionate means of achieving that purpose within a democratic society, with a strong and objective justification.

Although article 22 (2) recognizes national security as a permissible ground for restrictions that may be placed on the exercise of the right to freedom of association, such restrictions must be prescribed by law, necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others, proportionate, and non-discriminatory. The Human Rights Committee has further affirmed that recognition of the right of peaceful assembly imposes a corresponding obligation on States parties to respect and ensure its exercise without discrimination (CCPR/C/GC/37, para. 8) As stated in a report by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards [A/HRC/17/27, para. 66; and A/HRC/29/25/Add.1]

UN Declaration of Human Rights Defenders

We would also 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 bring to the attention of your Excellency's Government the following provisions:

- article 1, which states that everyone has the right to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels;
- article 2, which states that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms;
- articles 5(a), 6(c), 9 and 12, which state that everyone has the right, individually and in association with others, to meet or assemble peacefully for the purpose of promoting and protecting human rights; to study, discuss, form or hold opinions on the observance of all human rights and fundamental freedoms and to draw public attention to these matters; to benefit from an effective remedy and be protected in the event of the violation of these rights; and to participate in peaceful activities against violations of human rights and fundamental freedoms
- article 12, paragraph 2, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, 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.

We would also like to refer to Human Rights Council Resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

Furthermore, we would like to refer your Excellency's Government to the Human Rights Council resolution 22/6, which 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.

Women human rights defenders

We further would like to draw your attention to Human Rights Council resolution 31/32, in which States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defense of human rights. This should include the

establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women defenders. Such policies and should be developed with the participation of women defenders themselves.

Moreover, we would like to remind your Excellency's Government of the General Assembly resolution 68/181, on the protection of women human rights defenders. Specifically, we would like to refer to articles 7, 9 and 10, whereby States are called upon to, respectively, publicly acknowledge the important role played by women human rights defenders, take practical steps to prevent threats, harassment and violence against them and to combat impunity for such violations and abuses, and ensure that all legal provisions, administrative measures and polices affecting women human rights defenders are compatible with relevant provisions of international human rights law.

We would also like to recall to your Excellency's Government that the Working Group on discrimination against women and girls, in its report on political and public life (A/HRC/23/50) stated that women human rights defenders are often the target of gender-specific violence, such as intimidation, attacks, and death threats, which are sometimes condoned or perpetrated by State actors. The Working Group has further called upon States to eliminate all forms of violence against women in order to fulfil women's human rights and to improve the enabling condition for women's participation in political and public life.

In addition, in its report on women deprived of liberty (A/HRC/41/33), the Working Group underlined the increasing risk faced by women human rights defenders of criminalization and detention as a result of their legitimate work. Women who work specifically to combat gender stereotypes and advance women's rights are most likely to be targets for criminal persecution and imprisonment. Certain laws, including 'complicity' laws, 'public order' laws and anti-terrorism laws, may be particularly instrumentalized to target women human rights defenders. The Working Group recommended States to eliminate any laws or policy measures designed to criminalize the public roles of women.

Definition of terrorism

We recall that while there is no agreement on a multilateral treaty on terrorism which inter alia defines terrorism, States should ensure that counter-terrorism legislation is limited to criminalizing conduct which is properly and precisely defined on the basis of the provisions of international counter-terrorism instruments and is strictly guided by the principles of legality, necessity and proportionality. The definition of terrorism in national legislation should be guided by the model definition proposed in Security Council resolution 1566 (2004) and also by the Declaration on Measures to Eliminate International Terrorism and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, which were approved by the General Assembly (S/RES/1566; A/RES/51/210). We recall the model definition of terrorism advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, which provides clear guidance to States on appropriate conduct to be proscribed and best practice (A/59/565 (2004), para. 164 (d)). As explained by the former Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in his report (E/CN.4/2006/98, para 37), the model definition includes acts that have the following cumulative characteristics:

- a) Acts, including against civilians, committed with the intention of causing death or serious bodily injury, or the taking of hostages; and
- b) Irrespective of whether motivated by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, also committed for the purpose of provoking a state of terror in the general public or in a group of persons or particular persons, intimidating a population, or compelling a government or an international organization to do or to abstain from doing any act; and
- c) Such acts constituting offences within the scope of and as defined in the international conventions and protocols relating to terrorism.

We respectfully refer your Excellency's Government of the relevant provisions of the United Nations Security Council resolutions 1373 (2001), 1456 (2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180 which require that any measures taken to combat terrorism and violent extremism, including incitement of and support for terrorist acts, comply with States' obligations under international law, in particular international human rights law, refugee law and international humanitarian law. Counter-terrorism measures must conform to fundamental assumptions of legality, proportionality, necessity and nondiscrimination. Wholesale adoption of security and counter-terrorism regulations without due regard for these principles can have exceptionally deleterious effects on the protection of fundamental rights, particularly for minorities, historically marginalized communities and civil society.

Counter-Terrorism Financing

With regard to the alleged asset freezing and countering the financing of terrorism (CFT) measures, we underscore that any rights limitations in the name of the fight against terrorism and the financing of terrorism must meet the objective criteria of proportionality, necessity, legality and non-discrimination under international law. Moreover, pursuant to the Financial Action Task Force (FATF) Recommendations, CFT measures must comport with a risk-based approach whereby "measures to prevent or mitigate money laundering and terrorist financing are commensurate with the risks identified" (FATF recommendation 1). Where non-profit organizations are regulated in the name of countering the financing of terrorism, only "focused and proportionate measures, in line with the risk-based approach" should be adopted—and only to the subset of NPOs identified as being vulnerable to terrorist financing (FATF recommendation 8). In this context, we note that the Asia-Pacific Group on Money Laundering previously cautioned in the 2019 Mutual Evaluation Report for the Philippines that the reported failure to implement countering the financing of terrorism measures specifically tailored to the subset of non-profit organizations vulnerable to terrorist financing "may discourage or disrupt legitimate [non-profit organization] activities." The assessment team also noted at the time that there were reportedly repetitive regulatory requirements that some non-profit organizations found "burdensome."

We reiterate that impartial humanitarian action and assistance are vital to ensuring adequate protection for a range of fundamental rights (see, e.g., PHL 4/2020, p. 8). We underscore the positive interplay between human rights and international humanitarian law in the context of counter-terrorism and we echo the observation by the Special Rapporteur on the promotion and protection of human rights while countering terrorism that “designating certain non-State armed groups in non-international armed conflicts as terrorists and linking the provision of humanitarian activities – protection and assistance – as a form of support for terrorism or to persons or entities designated as terrorists result[s] in the lowering of fundamental human rights and humanitarian protections for the weakest and most vulnerable.” (A/75/337, p. 13)

We further recall that the counter-terrorism arena is often viewed as gender-neutral, both in its practices and consequences. Security and counter-terrorism intrusions, harms and human rights violations do not fall equally on men and women and on all women, girls and families. The overregulation and visibility of some families, some women and some girls to the security State operates largely along entrenched racial, ethnic and religious lines. Disproportionate gender harm is manifested in this case combined with discrimination on grounds of race or ethnicity. The Working Group on Discrimination against Women and Girls noted in its thematic report on women deprived of liberty that measures to combat terrorism and corresponding national security measures sometimes profile and target women, in particular those from certain groups, and sometimes even women human rights defenders. Women and girls may also be targeted and detained based on their religion, ethnicity, tribal identity or place of origin.