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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, on her visit to the Philippines**

**Comments by the State\***

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\* The present document is being issued without formal editing.



# Comments of the Government of the Republic of the Philippines on the advanced unedited report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan

## I. Introduction

### Paragraph 2

1. During her visit, the Special Rapporteur met with the **Executive Minister/Secretary on 1 February 2024 and other** senior officials from the Office of the President...

### Correction of Factual Inaccuracy (Paragraph 6)

2. The arrest of journalist Frenchie Mae Cumpio and human rights advocates Mariel Domequil and Alexander Philip Abinguna occurred in February 2020, not 2021 as stated in the report.

3. On their arrest, Special Rapporteur Khan stated that their case reflects the human cost of “red tagging” and underscores procedural flaws that have limited their recourse. It is important to clarify that they were **lawfully arrested** on 7 February 2020 by the Criminal Investigation and Detection Group of the Philippine National Police alongside the 802<sup>nd</sup> Infantry Brigade of the Philippine Army in Barangay 96, Calanipawan, Tacloban city. They are facing charges of illegal possession of firearms and explosives, and terrorism financing. These cases are being heard in court, hence **these individuals are afforded their constitutional right to due process** under the 1987 Constitution, and the so-called “red tagging” has no association with the ongoing legal cases.

## II. Legal framework

### Legislative Developments (Paragraphs 17–20)

4. The Philippine Government is committed to the protection of journalists and media freedom. While there have been challenges, significant progress has been achieved since 2016.

5. The executive branch has **supported several bills that directly address the rights of media practitioners:**

- **Media Workers Welfare Bill** (House Bill No.454, House Bill No.304, House Bill No. 2487, House Bill No.6245, House Bill No. 7178)
- **Journalist Protection Act** (Senate Bill No.2335)
- **Magna Carta for Workers in the Media and News Sector** (House Bill No.1924)

## III. Main Findings

### A. Vilifications, threats and harassment of civil society actors

#### On Alleged Red-Tagging and Role of NTF-ELCAC (Paragraphs 21, 22 and 35)

6. The Philippine Government does not engage in nor condone red-tagging and adheres to clear policies that discourage such practices.

7. On the recommendation to abolish the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC), H.E. President Ferdinand R. Marcos, Jr. has categorically stated that the NTF-ELCAC will remain operational reflecting the administration’s firm commitment to the anti-insurgency campaign.

8. The recommendation to abolish NTF-ELCAC is based on a flawed assumption of NTF-ELCAC's responsibilities and initiatives. It is emphasized that NTF-ELCAC's counter insurgency campaign is **mainly focused on improving the socioeconomic conditions of vulnerable communities**. *It implements* an amnesty program for rebels. Applicants to the amnesty program are issued safe conduct passes, proving the Philippine Government's sincerity to end the armed conflict.

9. Special Rapporteur Khan's statement in Paragraph 22 that the NTF-ELCAC is the "major culprit and instigator" of alleged "red tagging", "red baiting" or "terror-tagging" is incorrect and misleading. Further, her statement that the "military, state security officials, senior government officials and some media outlets have also encouraged this practice" is also incorrect and biased. The NTF-ELCAC's whole-of-nation approach is instrumental in the Philippine Government's ongoing efforts to attain inclusive and sustainable peace.

10. The NTF-ELCAC, composed of different agencies and departments of government, has been instrumental in the drive to dismantle the Communist Terrorist Groups (CTGs) in the country. The lines of efforts adopted by the Philippine Government have brought peace to the countryside, where numerous rebels and NPA sympathizers have surrendered and returned to the folds of the law. They have been reintegrated into society through the E-CLIP Program.

11. Due to the effectiveness of the NTF-ELCAC, supporters of the CTGs are trying to paint a picture that individuals and organizations are red-tagged, when in fact, it is their former colleagues in the underground and former rebels themselves who are testifying in the Philippine Senate and other fora that underground mass organizations who are actually front organizations of the CTGs are the recruiters of NPA rebels. This is simply truth-telling.

#### **On the non-mention of legal status of the CPP-NPA as a terrorist organization (Paragraph 21)**

12. Paragraph 21 did not state the legal status of the CPP-NPA as a designated terrorist organization under the Anti-Terrorism Council resolution (ATCR) No.12 (2020) and ATCR No.54 (2023), in accordance with Section 25 of the ATA. The inclusion of the legal status of the CPP-NPA as a designated terrorist organization under the ATA, as well as other foreign jurisdictions, will adequately explain the context of the Philippine Government's efforts to prevent the CPP-NPA's terrorist attacks against civilians and soldiers nationwide.

#### **On allegation of oppression of journalists and free speech (Paragraph 21–35)**

13. The allegation of oppression of journalists and free speech must also be thoroughly considered on a case-to-case basis, as the right to peaceful assembly is freely exercised in the country. This is evidenced by the numerous rallies held every month in the country, as well as the generous provision of civic spaces where activists could protest and express their dissatisfaction. This indicates that the Philippines continues to respect the right to freedom of speech and opinion of its citizens and that the premises of Special Rapporteur Khan's conclusions are unrepresentative of the situation of civil rights in the country.

#### **On the definition of terrorism (Paragraph 31)**

14. The Philippines likewise disagrees with Special Rapporteur Khan's statement in Paragraph 31 which noted that the definition of terrorism should be limited to "**acts against civilians committed with the intention of causing death or serious injury**", as it is not consistent with the provisions of the ATA, as well as the international community's perspective that **terrorism can victimize anybody**. Limiting the definition of terrorism to apply only to acts against civilians, would, in effect, exclude government security forces from the protection afforded by the ATA against terrorist attacks. Moreover, such limitations could also embolden terrorist organizations to launch more attacks against government security forces as their actions would no longer be prosecuted and penalized under the ATA.

## **B. Safety of journalists and ending impunity**

### **On Journalist Safety and Case Monitoring (Paragraph 36)**

15. The Philippine Government's updated monitoring data reflects the Government's ongoing efforts to investigate and pursue accountability in the cases of four journalist killings since July 2022.

### **Clarification on the Mandate and Structure of the Presidential Task Force on Media Security (Paragraphs 38–39)**

16. The **Presidential Task Force on Media Security (PTFoMS)** was established under Administrative Order No.1, series 2016 with a clear mandate to prevent violence against journalists, address threats and foster a safe and enabling environment for media work. Administrative Order No.1 enjoins all branches and units of the Philippine Government to support PTFoMS, and opens participation to civil society and media actors as observers and resource persons, ensuring transparency and multi-stakeholder input.

17. The Media Security Vanguards Program designated focal officers from the Philippine National Police as frontline protectors of journalists at the local level, in provinces and cities. This localized approach allows PTFoMS to respond proactively to risks faced by media practitioners.

### **On the Special Rapporteur's call for the institutional independence of PTFoMS**

18. The Philippine Government does not concur with the recommendation that PTFoMS should be made institutionally independent from the Executive. The PTFoMS' continued placement within the Executive Branch enables:

- Efficiency and Swift Response: Rapid Deployment of security and investigative resources.
- Seamless Inter-Agency Coordination: Effective communication with the Philippine National Police, National Bureau of Investigation, Department of Justice, Armed Forces of the Philippines and Department of National Defence.
- Political Accountability: Direct alignment with national policies on public safety and freedom of expression.
- Multi-sectoral Oversight: Inclusion of civil society and media organizations ensures independent perspectives.

19. The Philippine Government is of the view that institutional independence is not necessary for PTFoMS to fulfil its mandate. In fact, operational integration within the Executive strengthens responsiveness, particularly in urgent, security related situations.

### **On Training, Engagement and Capacity (Paragraph 40)**

20. PTFoMS addresses concerns regarding stakeholder awareness and training by:

- Conducting orientation programs for Media Security Vanguards nationwide.
- Facilitating dialogues and information-sharing between law enforcement and media groups.
- Collaborating with stakeholders for ongoing improvement of protective mechanisms.

### **On DOJ-led Reforms and Accountability Mechanisms (Paragraphs 41–43)**

21. PTFoMS works closely with the Department of Justice (DOJ) and defers to the DOJ on matters of prosecution, judicial reform and circulars aimed at enhancing inter-agency coordination.

**On the Recommendation for a Special Prosecutor (Paragraph 44)**

22. The role of a dedicated Special Prosecutor for crimes against journalists is already institutionalized under the PTFoMS framework, particularly the Operational Guidelines of Administrative Order No.1. PTFoMS' Operational Guidelines provides for close coordination with DOJ prosecutors, and the PTFoMS is strengthening case monitoring and legal support mechanisms to reinforce this initiative.

**C. Media freedom and the right to information****Paragraph 52**

23. "... It is succeeded by a Special Committee on Human Rights Coordination with the purpose of enhancing mechanisms for the promotion and protection of human rights in the Philippines, created by **Administrative Order No.22 series of 2024 realizing the Philippine pledge during the UN Human Rights Council High-Level Event on 11 December 2024 commemorating the 75<sup>th</sup> anniversary of the Universal Declaration of Human Rights. It is composed of the Office of the Executive Secretary as Chair, the Department of Justice as Co-Chair, and the Department of Foreign Affairs and the Department of Interior and Local Government as members.**"

**Paragraph 55**

24. "... In this context, the Special Rapporteur welcomes the approach of the new leadership of the National Commission on Indigenous Peoples that intends to revise the free, prior and informed consent guidelines. ..."

**D. Reforming the legal framework****On the Provisions of the Anti-Terrorism Act (Paragraph 60)**

25. The Philippines' highest court, the Supreme Court, has already ruled as constitutional Section 29 of the ATA regarding warrantless arrests and the extension of detention of apprehended terrorists. Likewise, Special Rapporteur Khan's call for judicial oversight has been addressed by the Supreme Court in A.M. No.22-02-19-SC, or the Rules on the ATA of 2020 and Related Laws, where law enforcement agents or military personnel are required to apply at the Court of Appeals for the issuance of a surveillance order before such surveillance activities are conducted, to ensure that the right to privacy and freedom of expression of individuals are respected.

26. The CPP-NPA has consistently called for the repeal of the ATA as it severely hampers their capability to recruit new terrorists, particularly among the youth and student sector, and to raise funds for their terrorist attacks.

**IV. Conclusion and recommendations****Recommendation to release those unfairly detained or prosecuted (Paragraph 65)**

27. **The recommendation in paragraph 65 comes from a wrong presumption that the cases raised by the Special Rapporteurs in her communications were cases of "unfair" detention or prosecution. Said cases are undergoing lawful judicial proceedings. The Executive Branch cannot dictate upon the Judiciary to release individuals undergoing lawful judicial proceedings because to do so will violate the Principle of Separation of Powers.**

## Supplementary comments of the Government of the Republic of the Philippines on the advanced unedited report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

28. The **National Action Plan for Unity, Peace and Development (NAP-UPD)** for 2025–2028<sup>1</sup> is the current Administration’s strategic roadmap which prioritizes safeguarding human rights protection and advancing an inclusive space for all. In promoting peace and sustainable development, the NAP-UPD utilizes a whole-of-society approach to foster public trust and collaboration across sectors to support the national peace agenda. The NAP-UPD focuses on 12 key strategies to achieve the outcomes of Unity, Peace and Security, and Socioeconomic Development toward fostering conflict-resilient and empowered communities in the Philippines by 2028.

- The Philippine Government has issued the following directives respecting and safeguarding the human rights of Filipinos, including their freedom of expression without fear of violence, abuse, or intimidation:
  - **Executive Order No.23, series of 2023**, reinforces and protects the freedom of association and right to organize of workers with the creation of an Inter-Agency Committee to strengthen coordination and expedite the investigation, prosecution and resolution of cases; and
  - **Administrative Order No.22, series of 2024**, established the Special Committee on Human Rights Coordination for the promotion and protection of human rights in the country.
- **The Philippine Government stands on high moral ground and rejects the rhetoric of “red-tagging” due to the absence of any policy or jurisprudence substantiating such a claim.** “Red-tagging” is often used by the CPP-NPA-NDF to weaken the capability of the country’s law enforcement agencies to address the terrorist group’s operations in urban and town centres nationwide. NTF-ELCAC’s expose of the CPP-NPA-NDF has been validated with the assistance of former members and supporters of the CPP-NPA-NDF who have chosen the path of peace and reconciliation with the government as well as revelations from arrested CPP-NPA-NDF members and supporters.
- NTF-ELCAC ensures inter-agency convergence, thereby harmonizing existing policies and programs across different government agencies to address armed conflict. The NTF-ELCAC prioritizes transparency among its member agencies to uphold good governance and respect for human rights. NTF-ELCAC has established mechanisms to address issues of law enforcement agencies committing transgressions while performing their duties. Aggrieved parties have the **recourse of filing complaints** as the Philippines’ justice system and courts function freely and independently.
- The Philippines Government strongly denies allegations that the charges filed against Frenchie Mae Cumpio and her co-accused (collectively referred to as the “Tacloban 5”) are baseless and politically motivated. **Their indictment was grounded on legitimate law enforcement action and legal procedures where the Regional Trial Court (RTC) of Manila rendered verdict finding them guilty of the criminal charges.** The antecedents of the case are as follows:
  - The Criminal Investigation and Detection Group (CIDG) of the Philippine National Police (PNP) conducted a lawful operation on 7 February 2020 in Tacloban city which led to the arrest of the accused and the **confiscation of illegal firearms, explosives and PHP557,360.00 in cash.** These findings served as the basis for the Department of Justice (DOJ) to file charges of **illegal possession of firearms and explosives, as well as terrorism**

<sup>1</sup> The NAP-UPD is anchored on Ambisyon Natin 2040.

**financing.** Subsequently, the Anti-Money Laundering Council (AMLC) filed a civil forfeiture case, asserting that the seized funds were intended to support the activities of the CPP-NPA. The RTC of Manila ruled in favour of the AMLC in December 202 granting the Philippine Government the right to forfeit the funds.

- The Philippine Government underscores that the guilty verdict rendered by the RTC of Manila in the case of Frenchie Mae Cumpio and her co-accused is not an attack on press freedom but rather a **demonstration of the rule of law**. The law applies equally to all, regardless of profession or advocacy and upholding legal processes and working institutions of investigations are essential in maintaining democratic processes and order in society. The accused have the recourse to file counter-actions for redress of grievances.
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