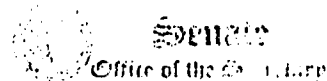


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



S E N A T E

'21 FEB 22 P4:26

COMMITTEE REPORT NO. 186

RECEIVED BY:

Submitted by the Committee on National Defense and Security, Peace, Unification and Reconciliation on FEB 22 2021.

Re: P.S. Res. No. 559

Recommending the adoption of the recommendations and their immediate implementation.

Sponsor: Senator Panfilo M. Lacson

MR. PRESIDENT:

The Committee on National Defense and Security, Peace, Unification and Reconciliation, to which was referred **P.S. Res. No. 559**, introduced by Senator Panfilo M. Lacson, entitled:

"RESOLUTION

DIRECTING THE SENATE COMMITTEE ON NATIONAL DEFENSE AND SECURITY, PEACE, UNIFICATION AND RECONCILIATION TO EXERCISE ITS OVERSIGHT AUTHORITY OVER THE DEFENSE SECTOR ON THE ISSUE OF RED-TAGGING/RED-BAITING OF CERTAIN CELEBRITIES, PERSONALITIES, INSTITUTIONS, AND ORGANIZATIONS, WITH THE END IN VIEW OF CRAFTING PROPER GUIDELINES THAT WILL PREVENT MISUNDERSTANDING BETWEEN THE PUBLIC AND THE MILITARY AND ENSURE THE PROTECTION OF THE CONSTITUTIONAL RIGHTS OF THE PEOPLE, THEREBY STRENGTHENING THE CONFIDENCE AND TRUST OF

OUR PEOPLE ON THE PROFESSIONALISM OF OUR MILITARY IN CONSONANCE WITH THE CONSTITUTIONAL EDICT THAT THE ARMED FORCES OF THE PHILIPPINES (AFP) IS THE PROTECTOR OF THE PEOPLE AND THE STATE AND THAT CIVILIAN AUTHORITY IS AT ALL TIMES SUPREME OVER THE MILITARY"

has considered them and has the honor to submit its report on its inquiry back to the Senate, recommending the adoption of the recommendations as contained in this Report and their immediate implementation.

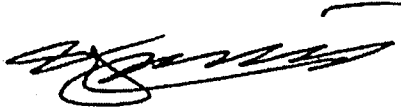
Respectfully Submitted:

CHAIRPERSON



SEN. PANFILO M. LACSON
*Committee on National Defense and Security,
Peace, Unification and Reconciliation*

VICE CHAIRPERSONS



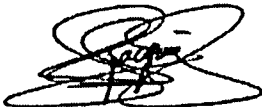
SEN. FRANCIS "TOL" N. TOLENTINO

SEN. GRACE POE



SEN. RONALD "BATO" DELA ROSA

SEN. CHRISTOPHER BONG GO



SEN. EMMANUEL "MANNY" D. PACQUIAO

SEN. RICHARD J. GORDON

MEMBERS



SEN. MANUEL "LITO" M. LAPID

SEN. JOEL VILLANUEVA

SEN. IMEE R. MARCOS

SEN. MARIA LOURDES NANCY S. BINAY



May amend/interpellate

SEN. SONNY ANGARA



SEN. RAMON BONG REVILLA JR.

SEN. WIN GATCHALIAN



SEN. CYNTHIA A. VILLAR

"With reservations will interpellate"



SEN. AQUILINO "KOKO" PIMENTEL III

SEN. FRANCIS N. PANGILINAN



SEN. RISA HONTIVEROS

SEN. LEILA M. DE LIMA

I sign w/ dissent. I dissent to the argument that red-tagging does not violate human rights just because there are existing laws that provide legal redress. I dissent because I maintain that the NTF-ELCAC / Gen. Antonio Parlade should be held fully accountable for their continuous red-tagging of schools, indigenous people, media groups & activists, among others. I concur w/ the observation of the UN that red-tagging has a "chilling effect on the legitimate work of human rights defenders" & has "infringed the space for debate, disagreement / for challenging state institutions & policies."

SEN. SONNY ANGARA

SEN. RAMON BONG REVILLA JR.



SEN. WIN GATCHALIAN

SEN. CYNTHIA A. VILLAR

SEN. AQUILINO "KOKO" PIMENTEL III

SEN. FRANCIS N. PANGILINAN

SEN. RISA HONTIVEROS

SEN. LEILA M. DE LIMA

EX-OFFICIO MEMBERS



SEN. RALPH G. RECTO
President Pro Tempore



SEN. JUAN MIGUEL F. ZUBIRI
Majority Leader

SEN. FRANKLIN M. DRILON
Minority Leader

HON. VICENTE C. SOTTO III
Senate President

"The constitutional right to freedom of expression belongs to all. But its exercise may be reasonably regulated. Those who chose public service embraced the public's interest with a priority higher than their own. Their oaths signify a commitment to public accountability."¹

- Associate Justice Marvic M.V.F. Leonen

¹ Concurring Opinion in the case of Davao City Water District vs. Aranjuez, G.R. No. 194192, 16 June 2015

PART I PRELIMINARY

History of Political Activism in the Philippines

Political activism in the Philippines has taken its course for more than a century. It stands as a crucial component of our democratic exercise, punctuated by the long tradition of Filipinos taking their grievances to the streets.

In 1903, one of the earliest recorded protests was staged by the first workers' union in the country, calling for an eight-hour working day and for the recognition of May 1 as a public holiday.²

In the decades that followed, a more dynamic philosophy of activism emerged, becoming the epitome of the grievances of the masses to the changing political currents and social conditions of the time. As historical accounts would show, the culture of activism would only strengthen amid attempts to suppress and stifle the voice of the people.

Under the American occupation, the campaign for independence is the centerpiece of street protests. The United States appeared ambivalent whether to retain the colony or grant independence to the country.³ The Americans promoted the Filipinization of the government, mass education, and public health policies in theory. In practice however, these policies were overshadowed by poorly-planned economic decisions which exacerbated poverty in the provinces and cities, stirring torrents of public discontent.

Drawing from the lessons of the past, we reckon that activism and protest are a reflection of Filipinos' exercise of their rights to peaceful dissent over matters that malign them as citizens. Some nonviolent campaigns, however, slipped into hostile encounters between activists and government sources.

² A History of the Philippine Political Protest, accessed at <https://www.officialgazette.gov.ph/edsa/the-ph-protest-appendix/> on 12 December 2020.

³ Doronila, Amando. 1995. "The State, Economic Transformation and Political Change in the Philippines." in Tapales, Prosperpina and Nestor Pilar. 1995. *Public Administration by the Year 2000: Looking Back Into the Future*. Quezon City: UP College of the Public Administration

Such was the case of the Sakdal Movement, a large popular base of supporters of Benigno Ramos, who demanded social reforms and absolute and immediate independence from America. In the face of constant suppression through police harassment, arrest, and denial of their right of free assembly, the Sakdalistas moved their cause to the streets. The otherwise peaceful assembly degenerated into an armed conflict and resulted in heavy casualties and the organic disbandment of workers' unions.⁴

Under the Japanese Occupation, demonstrations were stifled and broken up. Labor groups like the Kalipunang Pambansa ng mga Magbubukid sa Pilipinas (KPMP, National Association of Peasants in the Philippines) and the Aguman ding Maldang Taga-Obra (AMT, Union of Peasant Workers) were the first to crumble under the Japanese crackdown. Those who evaded arrest joined the larger Hukbong Bayan Laban sa Hapon movement (HUKBALAHAP; The Nation's Army Against the Japanese).⁵

The 1960s marked the resurgence of nationalism with the students as the key cornerstone of Philippine political protests. This historical turn of activism at the campuses was inspired by the ideas of Claro M. Recto, the great Filipino nationalist who had been branded, or tagged by the Americans as a '*communist*'. Among the issues trumpeted by the youth dissidents were the lowering of tuition fee hikes, improvement of educational facilities, and reform on terror teachers.⁶

At the beginning of the administration of President Ferdinand Marcos, the country witnessed a more vigorous brand of protests which would evolve in years as the Marcos regime transformed into a martial rule.

The masses, coalesced among different sectors primarily the youth and the working class, would strengthen in number and fervor through protests and demonstrations. Activism was at a fever pitch following the re-election of President Marcos in 1969 which was, as Lewis Gleeck Jr. writes, "*the most violent and fraudulent campaign the country had ever seen.*"⁷

⁴ Abinales, P. N., & Amoroso, D. J. (2017). *State and Society in the Philippines (State & Society in East Asia)* (Second ed.). Rowman & Littlefield Publishers.

⁵ Cecilia S. Ochoa, ed., *Siglo-Saka: A Century of Peasant Struggle and Contributions to Philippine Nationhood* (Quezon City: Philippine Peasant Institute, 1998)

⁶ Petronilo Bn. Daroy, "On the Eve of Dictatorship and Revolution," in *Dictatorship and Revolution: Roots of People's Power*, eds. Aurora Javate-de Dios, Petronilo Bn. Daroy, and Lorna Kalaw-Tirol (Metro Manila: Conspectus Foundation, 1988), 2-3.

⁷ Lewis E. Gleeck Jr., *The Third Philippine Republic, 1946-1972* (Quezon City: New Day Publishers, 1993)

The culture of activism, revitalized by reformists and radicals, came into its peak in 1970 in what was regarded as the First Quarter Storm.⁸ The bloody and violent demonstrations were the regular occurrences at the time.

Among the major demonstrations during the First Quarter Storm was the Battle of Mendiola which historian Petronilo Daroy had claimed to be the "*turning point in the political ferment of the seventies and the basis for Ang Bayan, the official publication of the Communist Party of the Philippines, to repeat its warning against fascism and to reiterate its appeal that only an armed struggle could dismantle a repressive government.*"

The Plaza Miranda Bombing in August 1971 was the prelude of the Martial Law rule under the Marcos regime. About ten thousand people had gathered that evening in downtown Manila's Plaza Miranda for a Liberal party rally when, before a national television audience, at least three fragmentation grenades were tossed toward the speaker's platform.⁹

Even in the face of the 21 September 1972 declaration of Martial Law, urban protest did not vanish entirely. The country's demonstrators might have been stilled under Martial Law, with the regime's unrelenting campaign to stifle free speech, much less audacious displays of opposition.¹⁰ But with Benigno Aquino's assassination, the teeming protestors took to the streets their public outrage.

The national march to EDSA was the "*exemplar of the evolution of the Philippine protest.*" It staged the parliament of streets with millions of people who stood against and fought for the peaceful overthrow of President Marcos.

The events of February 1986 altered the course of our nation's history in a manner unprecedented even to this day; it has been a showcase of the singular strength of the Filipino people that gained global approbation.

History tells us that in the face of repression and violence, the nation has always come together to promote positive social action. Activism, a constitutionally-protected right of the citizenry disillusioned and outraged by the state's inaction and abuse, has the power to transform our political grounds and social mores. Through peaceful dissent and demonstrations of the Filipino people, the nation will wrest itself back from the degradation of democracy and ills of the society.

⁸ "A History of the Philippine Political Protest," accessed at <https://www.officialgazette.gov.ph/edsa/the-ph-protest-appendix/> on 12 December 2020.

⁹ Jones, G. R. (1989). *Red Revolution: Inside The Philippine Guerrilla Movement* (1st ed.). Westview Press.

¹⁰ <https://www.officialgazette.gov.ph/edsa/the-ph-protest/>

Origins of the CPP-NPA

Founded in 1968, the Communist Party of the Philippines (CPP) seeks to overthrow the government and to establish a new democratic state led by the working class and devoid of the influence of the United States.¹¹ A year later, its armed wing, the New People's Army (NPA), was established. Together, they were referred to as the CPP-NPA founded by one Jose Maria Sison who led a Maoist-oriented youth faction within Partido Komunista ng Pilipinas (PKP) which was originally established in 1930.

The PKP was found to be participating in electoral boycotts and employing a guerilla army to fight Japanese colonialism, U.S. colonialism, and Filipino elites.¹² In 1957, RA 1700 banned the PKP and any of its successors. Despite the loss in the support by the PKP, Sison continued to argue for the movement. During the First Great Rectification Movement (1967), Sison proposed major changes within the PKP. However, this was turned down by the PKP leadership. On 26 December 1968, Sison established the CPP with his supporters. Sison, then, met with Bernabe Buscayno, alias Kumander Dante who led the communist-led uprising in the 1950s (Huk Rebellion), to set up the NPA on 29 March, 1969.

The CPP-NPA gained members during the First Quarter Storm, a period of civil unrest in the Philippines which took place during the first quarter of the year 1970. This included a series of demonstrations, protests, and marches against the administration of President Ferdinand Marcos.

In September 1972, the Marcos government blamed CPP-NPA for the attempted assassination against then Defense Minister Juan Ponce Enrile, later admitted by Enrile himself as stage-managed to justify the declaration of Martial Law.¹³

During the Martial Law, CPP-NPA activists living in Philippine cities fled to the organization's bases in the countryside, and some of the activists ultimately became fighters. Other student activists also left the cities and joined the CPP-NPA. During the time of martial law, they successfully established relationships with local leaders in the countryside.¹⁴

¹¹ "Mapping Militants Profile: Communist Party of the Philippines – New People's Army". *cisac.fsi.stanford.edu*, Stanford University, Stanford, California: Stanford University Freeman Spogli Institute for International Studies – Center for International Security and Cooperation (CISAC). Retrieved on 11 January 2020.

¹² *Id.*

¹³ Lim, Benito. "The Political Economy of Philippines-China Relations." Philippine APEC Study Center Network, Sept. 1999. Web.

¹⁴ Santos, Jr., Soliman M., and Paz Verdades M. Santos. *Primed and Purposeful: Armed Groups and Human Security Efforts in the Philippines*. Geneva: Small Arms Survey, April 2010. Print.

In 1973, a commission created by the CPP-NPA founded the National Democratic Front of the Philippines (NDF or NDFP). Attempting to unify and coordinate various leftist groups, the NDF served as an umbrella organization for the CPP-NPA and other mass revolutionary organizations. Media and academic sources have sometimes described the NDF as the CPP-NPA's political wing, since the CPP-NPA was still illegal under Republic Act No. 1700 or the Anti-Subversion Act of 1957. The CPP-NPA dominated and led the NDF, and the Philippine government, among others, has used the name "CPP-NPA-NDF" or "CNN" to refer to the larger entity formed through the cooperation of the CPP-NPA and the NDF.¹⁵

In 1976, the CPP-NPA lost the Chinese support after the Philippines established diplomatic relations with China on June 9, 1975. It was also in this same year that Buscayno, the first NPA commander, was captured. In the following year, Sison was also captured. As such, Rodolfo Salas served both as NPA's commander and chairman of CPP.¹⁶

In 1981, when martial law ended, the CPP-NPA was able to return to urban areas and form relationships with legal oppositional organizations. While Philippine forces were achieving victories against Muslim separatist rebels in the south, on which the government's efforts were focused, the CPP-NPA was conducting increasingly successful attacks against the government throughout the country.¹⁷

The Philippine army began its largest military offensive against the CPP-NPA in 1984, and CPP-NPA-related violence reached its height in 1985 with 1,282 military and police deaths, 1,362 civilian deaths, and 2,134 CPP-NPA deaths. The CPP-NPA conducted especially deadly campaigns in Mindanao using urban-based guerrilla tactics. However, rising paranoia about infiltration by the Philippine government agents led to massive purges within the group, especially in Mindanao, in which hundreds of members suspected of collaborating with the state were killed. Besides its militant activity, the CPP-NPA continued to build relationships in rural communities throughout the 1980s.¹⁸ The NPA worked alongside peasants by serving as guards against bandits.

During the 1986 elections, President Corazon Aquino, after winning against Marcos, ordered the release of political prisoners, including Sison and Buscayno. Only Sison returned to CPP-NPA-related activities. However, soon after his release, he went into self-exile in the Netherlands, from which he continued to play a leading role in the

¹⁵ Id.

¹⁶ "The new breed of Philippine communists: 1969-84." *The Christian Science Monitor*, 27 Sept. 1984. Web.

¹⁷ Stanford. "Mapping Militant Organizations" Web.Stanford 24 August 2015. Web

¹⁸ "The Communist Insurgency in the Philippines: Tactics and Talks." *International Crisis Group*, 14 Feb. 2011.

movement. He became chief political consultant to the NDF but denied continued involvement with the CPP-NPA. However, at around the same time, Rodolfo Salas was replaced as CPP chairman by Armando Liwanag, widely considered an alias for Sison.¹⁹

Sison's publication sparked the Second Great Rectification Movement, which divided the CPP-NPA into rejectionists (RJs) and re-affirmists (RAs); the former in disagreement and the latter in support of Sison's convictions. Rejectionists were forced out of the CPP-NPA due to their belief in at least some role for lawful protest or their disagreement with what they termed Sison's "Stalinism." Rejectionists established their own political parties or participated in other legal organizations promoting societal reform, such as trade unions or nongovernmental organizations. Some rejectionists engaged in local militant activity, but in general, rejectionist groups remained small and easily dismantled. On the other hand, the re-affirmists supported the principles espoused by Sison, and the CPP-NPA consequently returned its focus to the countryside.²⁰

Benito Tiamzon assumed as chairman of the CPP-NPA during the 1990s with Sison, under the alias Liwanag, continuing to influence the organization's strategic direction from the Netherlands. Under this leadership, the CPP-NPA regained its strength through the revival of rural, mass-based strategy. The Philippine military attributed this to the passage in 1992 of RA 7636 repealing RA 1700 which effectively allowed the CPP to become a legal political party. Despite this avowed rejection of legal rather than armed struggle, the CPP-NPA has engaged in peace talks with the Philippine government, usually through the NDF. Even after the 1992 repeal of RA 1700, the NDF has continued to represent the CPP-NPA in official talks with the government.²¹

The armed struggle of the CPP-NPA-NDF is considered as the longest running Communist insurgency in the world.²² The CPP-NPA-NDF is also designated or listed as a terrorist organization by the United States, the European Union, United Kingdom, Australia, Canada, and New Zealand.

¹⁹ Santos, Jr., Soliman M., and Paz Verdades M. Santos. *Primed and Purposeful: Armed Groups and Human Security Efforts in the Philippines*. Geneva: Small Arms Survey, April 2010. Print.

²⁰ Abinales, P.N. *The Revolution Falters: The Left in Philippine Politics After 1986*. Ithaca: Cornell Southeast Asia Program Publications, 2003. Print.

²¹ "The Communist Insurgency in the Philippines: Tactics and Talks." International Crisis Group, 14 Feb. 2011. Web.

²² Mydans, Seth. "Communist Revolt Is Alive, and Active, in the Philippines." *The New York Times*, 26 Mar. 2003. Web. 11 Aug. 2015.

Since 1975, there have been 14,992 military and police forces killed in action in various anti-NPA operations. From 2010 to the present, there have been 5,000 deaths from the security sector, 90% of which were attributed to the CPP-NPA.²³

For decades, the Philippine administrations have made attempts to hold peace negotiations with the organization to end the armed conflict yet no peace settlement has been reached as of this day.

Peace Talks

Peace talks between the Philippine government and the NDF have been intermittent and inconclusive since the 1986 Aquino administration. Moreover, the history of internal debate and division on tactics, between the 'old' leadership²⁴ based in Utrecht and the Philippine-based CPP-NPA leaders, have been blamed for delaying negotiations and for spoiling the resumption of peace talks in August 2009.²⁵

1. *Exploratory Period (1988-1992)*²⁶

In 1991, NDF declared a unilateral ceasefire to encourage the Senate to reject a new treaty extending the presence of US military bases in the country. The Senate rejected the treaty. However, 4 days later, NDF ended the unilateral ceasefire after President Aquino withdrew the notice of termination already served on the US to lose the military bases. From August 1992 to June 1995, the government and the NDF entered into preliminary talks. Formal peace negotiations ensued thereafter and in 1998, they reached a joint agreement in support of the socio-economic projects of private development organizations and institutes.

2. *Suspension of Formal Talks and Termination of Peace Negotiations (1998-2001)*²⁷

In January 1999, the European Parliament passed a resolution congratulating the Philippines and NDF for their success in producing the Comprehensive Agreement to Respect Human Rights and International

²³ TSN, 3 November 2021, p. 155

²⁴ Buan, Lian. "Año: Communism should be illegal". Rappler. August 13, 2019. Web. <https://www.rappler.com/nation/ano-says-communism-should-be-illegal>

²⁵ Bell, C., & Farahnoosh, H. (2015). *Chronology of Peace Process and Peace Agreements between the Philippines and the National Democratic Front (PSRP Briefing Paper No. 3)*. Edinburgh: Global Justice Academy, University of Edinburgh

²⁶ Id.

²⁷ Id.

Humanitarian Law (CARHRIHL). However, a month later, the NPA captured AFP officers in Mindanao and Bicol resulting in the declaration made by President Estrada which unilaterally suspended the peace talks. In April, NDF released the four officers for humanitarian considerations and as an act of goodwill. However, on 27 May 1999, the Philippine Senate ratified the VFA granting the US military forces access in the country. Two days later the NDFP announced the Recognition of De-facto Termination of peace negotiations. During President Estrada campaign, Vice President Gloria Macapagal-Arroyo declared that if she assumes the presidency, she would "reverse the all-out-war policy of the Estrada government and resume peace negotiations with the National Democratic Front of the Philippines (NDFP) and the Moro Islamic Liberation Front (MILF)". Shortly after assuming office, President Macapagal-Arroyo reconstitutes the GRP negotiating panels for talks with the NDFP and MILF.

3. Peace Negotiations under Arroyo and Aquino Administrations

In 2004, the Arroyo Administration, who supported the NDF for the removal of President Estrada, pursued closer ties with the U.S. and responded to the government's request to add CPP-NPA in the terrorist list. This resulted in the end of the peace talks.

When Benigno Aquino III assumed the presidency that year, the government again attempted talks with the CPP-NPA. However, a ceasefire broken by the CPP-NPA, continued fighting, and alleged human rights violations by both sides have hindered the talks. The CPP-NPA has continued to conduct attacks and clash with Philippine forces, and the parties have been unable to agree on conditions for the resumption of negotiations.²⁸

4. Peace Talks under the Duterte Administration

The government held peace talks with the NDF from 2016 to 2017 in Oslo, Norway. It was early in President Duterte's term and at the time, he was determined to negotiate an end to the insurgency. He invited communist leaders into Malacañang, and appointed several of them to Cabinet positions.²⁹

²⁸ Santos, Jr., Soliman M., and Paz Verdades M. Santos. *Primed and Purposeful: Armed Groups and Human Security Efforts in the Philippines*. Geneva: Small Arms Survey, April 2010. Print.

²⁹ Gotinga, J. Duterte wants CPP-NPA peace talks in PH-Ésperon. December 2020. Web. <https://www.rappler.com/nation/esperon-says-duterte-wants-cpp-npa-peace-talks-philippines>

The negotiations broke down when President Duterte accused the communists of violating a ceasefire. A gun attack on a police car that resulted in the death of a 4-month old child in Bukidnon drove the President to formally terminate peace talks in November 2017.

In December 2018, he ordered the creation of the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC) to hold localized peace talks between the local government units and individual NPA fronts.

On 5 December 2019, President Rodrigo Duterte sent Labor Secretary Silvestre Bello III to talk to exiled communist party founder and leader Jose Maria Sison in the Netherlands as a "*last card*" to end the decades-long insurgency. The following day, National Security Adviser Hermogenes Esperon Jr. announced that President Duterte is serious about starting another round of peace talks with communist rebels. However, it must be done in the Philippines and accompanied by a ceasefire.³⁰

In April 2020, President Duterte turned down any possibility of pursuing peace talks with the Left following reports of soldiers who were killed in a recent clash with NPA rebels and an alleged ambush that killed two soldiers assisting in the distribution of social welfare subsidies in Aurora province.³¹

While the peace negotiations with the CPP-NPA-NDF was officially terminated in November 2017 upon the issuance of Proclamation No. 360³², the government institutionalized a whole-of-nation approach to the peace process. Notwithstanding the said termination, backchannel efforts were still pursued by the Government of the Republic of the Philippines (GRP) Panel to discuss President Duterte's requirements for the peace talks to resume: (1) that there will be no coalition government; (2) that collection of the so-called revolutionary tax shall be stopped; (3) that the venue of the talks will be local; and (4) that there will be a ceasefire

³⁰ Id.

³¹ Tomacruz, S. Duterte rejects peace talks with CPP-NPA: 'No more talks to talk about'. Web. <https://www.rappler.com/nation/duterte-rejects-peace-talks-cpp-npa-april-2020>

³² Proclamation No. 360, s. 2017, "Declaring the Termination of Peace Negotiations with the National Democratic Front-Communist Party of the Philippines-The New People's Army

agreement in which armed NPA members are encamped in designated areas.³³

The peace negotiations at the national level failed because of the reported acts of violence and hostilities committed by the CPP-NPA-NDF. As a result, President Duterte declared the CPP-NPA as an entity designated and/or identified as a terrorist organization through Proclamation No. 374³⁴ issued in December 2017.

Factual Antecedents leading to the filing of SRN 559

1. On 21 October 2020, Southern Luzon Command (SoLCom) Chief and NTF-ELCAC Spokesperson Lt. Gen. Antonio Parlade posted the following message on the NTF-ELCAC Facebook page:

*"Let us not red-tag Liza Soberano. It's not fair to her. She is merely supporting advocacy for women's rights. She has to be protected in the exercise of her rights. Is she an NPA? No, of course not. Not yet. So let's help educate her and the other celebrity targets of Malayang Kilusan ng Bagong Kababaihan (MAKIBAKA), the Underground Mass Organization hiding under **Gabriela Women's Party**. So, **Rep. Arlene Brosas and Gabriela**, shame on you if you haven't informed your recruits about your hidden violent agenda. Liza Soberano, there's still a chance to abdicate that [Gabriela Youth] group, if you don't, you will suffer the same fate as Josephine Anne Lapira, former Deputy Secretary General of Gabriela Youth of UP, Manila and defender of women's rights, even against sexual predators amongst her comrades in the NPA unit she joined which is dearly stated in her handwritten letter addressed to a certain @EMIL. It's a pity she learned about nonsense things like nabbing a firearm, exploitation while already inside the underground. It was too late, she is [sic] dead. The choice is yours Liza. And so with you **Catriona**. Don't follow the path **Ka Ella Colmenares** (Locsin) took in the underground and NPA Quezon. I am sure **Angel Locsin and Neri Colmenares** will not tell you this (emphasis supplied)."*

³³ Philippine Development Plan 2017-2022, National Economic Development Authority, accessed at chrome-extension://ieepebpjnkhaiioojkepfnioldjmjjihl/data/pdf.js/web/viewer.html?file=http%3A%2F%2Fpdp.neda.gov.ph%2Fwp-content%2Fuploads%2F2019%2F11%2FDraft-Write-up-PDP-Chapter-17.pdf on 10 January 2021.

³⁴ Proclamation No. 374, S. 2017, "Declaring the Communist Party of the Philippines (CPP) - New People's Army (NPA) as a Designation/Identified Terrorist Organization Under Republic Act No. 10168

2. The said Facebook post resulted in a public outcry over Lt. Gen. Parlade's seeming red-tagging of the mentioned celebrities. The incident was followed by a warning from the Chief Executive, through Defense Secretary Delfin Lorenzana, for both the police and military authorities to be very careful in red-tagging and not to publicize the names of suspected communists.
3. With the end goal of determining whether or not there are legal gaps that need to be addressed in relation to the alleged red-tagging of celebrities, personalities, institutions, and organizations, Senate Resolution No. 559³⁵ was filed.
4. The resolution was referred to the Senate Committee on National Defense and Security, Peace, Unification and Reconciliation which has oversight powers³⁶ over the defense sector. It conducted three public hearings on November 3, November 24, and December 1, 2020. The material facts gathered therein are discussed below.

³⁵ Resolution directing the Senate Committee on National Defense and Security, Peace, Unification and Reconciliation to exercise its oversight authority over the defense sector on the issue of red-tagging/red-baiting of certain celebrities, personalities, institutions, and organizations, with the end in view of crafting proper guidelines that will prevent misunderstanding between the public and the military and ensuring the protection of the constitutional rights of the people, thereby strengthening the confidence and trust of our people on the professionalism of our military in consonance with the constitutional edict that the Armed Forces of the Philippines (AFP) is the protector of the people and the state and that civilian authority is at all times supreme over the military.

³⁶ Broadly defined, the power of oversight embraces all activities undertaken by Congress to enhance its understanding of and influence over the *implementation* of legislation it has enacted. Clearly, oversight concerns *post-enactment* measures undertaken by Congress: (a) to monitor bureaucratic compliance with program objectives, (b) to determine whether agencies are properly administered, (c) to eliminate executive waste and dishonesty, (d) to prevent executive usurpation of legislative authority, and (d) to assess executive conformity with the congressional perception of public interest.

xxx

In particular, congressional oversight must be confined to the following:

- (1) scrutiny based primarily on Congress' power of appropriation and the budget hearings conducted in connection with it, its power to ask heads of departments to appear before and be heard by either of its Houses on any matter pertaining to their departments and its power of confirmation and
- (2) investigation and monitoring of the implementation of laws pursuant to the power of Congress to conduct inquiries in aid of legislation. (ABAKADA GURO Vs Purisima, G.R. No. 166715, August 14, 2008)

PART II
TESTIMONIES FROM THE SECURITY SECTOR
& FORMER REBEL RETURNEES

The NTF-ELCAC

1. According to National Security Adviser and NTF-ELCAC Vice-Chair Secretary Hermogenes C. Esperon Jr., the NTF-ELCAC is composed of twelve (12) clusters both from various government agencies and the private sectors. It aims to harmonize, synchronize and integrate the implementation of the programs and projects in the local levels to attain inclusive and sustainable peace.
2. The NTF-ELCAC strategic framework is composed of two tracks: the first track is the political, economic, and socio-cultural track that will address the primary issues and root causes of insurgency; the second is the peace engagement, law enforcement, and military track that is responsible in enticing the rebels to surrender, delegitimizing the insurgents, and conducting sustained military operations.
3. The 12 ELCAC clusters consist of the Local Government Empowerment; Basic Services; Poverty Reduction, Livelihood and Employment; Infrastructure and Resource Management; Sectoral Unification, Capacity-Building, Empowerment and Mobilization; International Engagement; Legal Cooperation; Situational Awareness and Knowledge Management; Strategic Communications; Local Peace Engagement; EClip/Amnesty Program, and; Peace, Law Enforcement and Development Support.
4. The following development projects pursuant to the mandate of the NTF-ELCAC were highlighted:
 - a. The handing over of more than 300 housing units to the indigenous peoples at a Manobo tribe based in Kapalong, Davao del Norte.
 - b. The strengthening of DSWD-led social programs such as the Pantawid Pamilyang Pilipino Program, conditional cash transfers, senior citizens' pension, among others.
 - c. The adoption of DepEd's Last Mile Schools Program intended to provide new classrooms for communities in conflict-affected and geographically isolated and disadvantaged areas.

- d. The launching of "*Bayanihan* sa School Program" for the establishment of schools buildings to accommodate former students of the CPP-affiliated *Salugpungan*³⁷ schools known to being used as recruitment and training grounds for child combatants.³⁸
- e. Various livelihood training aimed at preparing thousands of Filipinos for employment

Denial of Red-tagging as Policy of the Security Sector

The alleged incidents of red-tagging have emerged from the unrelenting public information drive waged by the NTF-ELCAC against organizations and personalities purportedly involved with the CPP-NPA-NDF. Former Bayan Muna Representative Teodoro Casiño even said, "*ito (red-tagging) ho mismo ang ginagawa ngayon ng NTF-ELCAC, sa pamumuno ng kanyang vice chairman na si General Esperon na siyang AFP Chief of Staff noong nag-imbetiga si Professor Alston. Pero mas matindi po ngayon, hindi na lang komunista ang tawag sa amin, terorista na.*"

1. According to Lt Gen. Parlade, all statements and releases of the NTF-ELCAC are vetted. All official statements are referred to the Strategic Communications cluster and the legal cooperation cluster for comments. With respect to the AFP, all public statements to be released are first referred to their communications group.
2. Sec. Esperon refutes the attribution of the NTF-ELCAC's programs to red-tagging. He asserts that the program is a development-centered undertaking focusing on initiatives geared towards the efficient delivery of housing, education, social protection, health and basic utilities services to our people.
3. Sec. Año made a categorical statement that the government, particularly the DND together with the PNP and AFP, are all for peace, and red-tagging is not part of their agenda nor is it their policy.
4. Based on a 1987 video recording in the possession of the security sector³⁹, Sec. Año said that it was CPP leader Mr. Sison who 'red-tagged' left-leaning organizations such as Anakbayan, Bayan Muna, GABRIELA, Kilusang Mayo

³⁷ As of June 2020, NTF-ELCAC was able to close down 75 of the identified 97 communist-breeding institutions

³⁸ TSN, 3 November 2020, p. 29

³⁹ Video taken during a meeting at the International Center, CIC in Brussels, Belgium on March 4, 1987.

Uno, and all the front organizations as major component organizations of the NDF.⁴⁰ The said contents of the video will be discussed in detail in the proceeding sections of this report.

5. The NTF-ELCAC takes pride in its alleged dissemination of truth. It insists that it takes on the State's duty of *parens patriae* by warning or reminding citizens, especially the youth, to be careful in dealing with or joining front organizations of the CPP-NPA-NDF. To them, the only means of doing so is by letting the people know who their members are to prevent exploitation and recruitment.

The Structure of the Communist Terrorist Group of the Philippines: The Three Powerful Arms of the Revolution

1. Collectively known as the Communist Terrorist Group (CTG) of the Philippines, it is a single entity that has determinedly defined that the CPP, NPA, and NDF are three distinct organizations. The CPP has two main branches -- the NPA and the NDF.
2. The CTG adopts the so-called three powerful arms of the communist terrorist revolution framework. It uses three weapons:
 - a. The party, represented by the CPP, which provides the direction and political leadership of the group;
 - b. The army, represented by the NPA, which serves as the military arm of the communist movement. It generally assists the party in creating an atmosphere of instability by using violent means or waging war to overthrow the government; and,
 - c. The united front, represented by NDF, which is an umbrella organization consisting of several above-ground and underground mass organizations that appear to represent various sectors such as peasants, workers, health workers, teachers, artists, journalists, and other professionals.
3. In one of the presentations submitted by the security sector to the Committee, Mr. Sison was caught on video saying, "***There are three processes by which the Philippine revolution is advanced. These***

⁴⁰ TSN, 3 November 2021, p.10

include the building of the Communist Party of the Philippines, the building of the New People's Army and the building of the National Democratic Front. He then acknowledged that the Communist Party is *"supposed to be the standard bearer of the working class which is the class that is the most progressive, productive and political force in the Philippines."*

4. Mr. Sison further said that the party alone could not win the revolution all by itself. *"At any rate, even while there are the **forces of armed revolution**, there are the **legal democratic forces** in the Philippines. The biggest is Bagong Alyansang Makabayan or BAYAN, in short... Its biggest component organizations are Kilusang Mayo Uno which is the labor center, the Pambansang Magbubukid, which is the --or the Kilusang Magbubukid ng Pilipinas or KMP, GABRIELA, the women's alliance, League of Filipino Students, Alliance of Concerned Teachers, KADENA and so on."*
5. Insofar as our security sector is concerned, it was Mr. Sison who red-tagged the identified organizations and party-lists. The united front efforts of the CTG is generally the root cause of the red-tagging issue as it is in these united front efforts that they put into use their dual tactics. In fact, they mobilize various CTG affiliated left-leaning organizations and establishments and create alliances with other anti-government groups and unsuspecting advocacy groups.
6. In another video presentation, Fr. Luis Jalandoni said that *"peace negotiations are another form of legal struggle which is possible **to be used by the revolutionary forces in order to advance the revolutionary armed struggle and the revolutionary mass movement.** This other form of legal struggle, the peace negotiations, does not replace the revolutionary armed struggle nor the revolutionary mass movement. In fact, it should advance, it should support this revolutionary mass movement which is a more important struggle than the peace negotiations."*

The Alleged Legal Fronts of the CTG: Echelon of Alliances

1. The National United Front is continuously being built by the CTG through the so-called *"echelon of alliances"* which has four levels: basic alliance, progressive alliance, patriotic alliance, and broad united front.
 - a. *First level alliance:* the basic alliance of the masses workers, laborers, farmers, and peasants which provides the manpower to the CPP. They consider the peasantry as the backbone of their revolution.

- b. *Second level alliance*: the progressive alliance of the toiling masses and the urban middle class form the bulk of the united front. They are the ones responsible for shaping public opinion of propaganda. Most of the *red-tagging* outcries come from this alliance.
 - c. *Third level alliance*: the patriotic alliance and the progressive forces on the national bourgeoisie are used to weaken the political system. This is where, according to the witnesses, the Makabayan bloc and the CPP proxies actively undermine the government using their clout of power.
 - d. *Fourth level alliance*: the broad united front, patriotic front, and sections of the reactionary classes are the ones aligned against the core reactionaries of the government. This alliance is only temporary and can be dissolved by the CPP. They are tasked to force alliances with groups such as opposition political parties to generate numbers and support.
2. The security sector was emphatic in insisting that the Makabayan bloc of the House of Representatives and various groups under its umbrella coalitions have linkage to the CTG. They claim that their participation and roles in communist terrorism are well-documented. Their conclusions are based on testimonies of former rebels and its disenchanting front organizations, along with details of observed patterns of cooperation with each other.
3. According to Mr. Jeffrey Celiz, the CPP, through the Makabayan bloc, has long operated in the legal spectrum by taking advantage of the party-list system in Congress. He said that while they are working with the bureaucratic institutions of the government, they never detached themselves from the CPP.
4. Mr. Celiz likewise said that although the Makabayan bloc fronts itself as a legitimate organization in Congress, they could not and will never openly denounce the violent armed struggle embraced by the CPP. This is why despite the repeated calls for the Makabayan bloc to denounce the CPP-NPA atrocities, they never once heeded the call. Such refusal to denounce the violent acts of the NPA was also observed by this Committee in its second public hearing.
5. When the Chairperson directly asked the former and incumbent members of the House of Representatives present during the hearing whether they are ready to denounce and disown the NPA who wages armed struggle against

the government, kills soldiers, and extorts from businesses, Mr. Casiño responded, "**Mr. Chairman, definitely, we will not consider them as enemies.**" He further added, "*They are engaged in rebellion, Mr. Chair. They are conducting or committing an illegal act but we do not judge them to be enemies.*"⁴¹

Communist infiltration of various sector

1. The CPP puts emphasis on building united fronts to pursue its objective of overthrowing the government. For them, the infiltration of various sectoral groups and the conduct of education propaganda in the urban centers complement its thrust in the countryside.
2. The government sector, like the youth, are lucrative sources of recruits to support its united front activities.
3. According to former rebel Mr. Noel Legaspi, it is the policy of the CPP to strengthen its legal national democratic movement particularly the "*white area orientation*" assigned in the urban area. To win the revolution, they were made to believe that they should get the support of the labor, youth or student, and marginalized sectors.
4. We note that Mr. Legaspi clarified that not all members of these legal fronts (associations and party-lists) are aware of the underground agenda of their leadership and fellow members. Their legitimate concerns are merely being used to strengthen the public disdain towards the government.⁴²
5. In brief, various sectors are allegedly infiltrated by the CPP through the following means:

- a. *Recruitment in the government sector*

NICA Chief Monteagudo cited the statement made by Mr. Sison during the Pinoy Weekly Interview for the 20th anniversary of COURAGE: "*Mahalaga ang papel na ginagampanan at dapat gampanan ng mga kawani ng pamahalaan. Sila ang nag-uugnay sa mayayaman upang tutulan ang mga patakaran, opisyal at kilos ng gobyerno*".

⁴¹ TSN, 24 November 2020, p.171-172

⁴² TSN. 03 November.2020, p.182

The infiltration of the government is being undertaken by the Alliance of Health Workers (AHW), the Alliance of Concerned Teachers (ACT), the *Makabayang Kawaning Pilipino*, and the Confederation for Unity Recognition and Advancement of Government Employees (COURAGE). COURAGE claims to have a total of 200 unions, associations, federations, and regional formations affiliated with the mass base of around 300,000 workers from the national government agencies, local government units, state colleges and universities, and government-owned and controlled corporations.

b. *Recruitment in the teachers sector*

The CTG sees the teachers as people who can deliver revolutionary propaganda to students. They see the potential of teachers to shape the mindset of future generations and thereby advance their ideals.

The teacher sector is infiltrated in the following ways: (1) *ideological infiltration*, which refers to the the creation of discontentment by means of propaganda, agitating teachers to push for reforms, and induce revolutionary ideas, and (2) *physical infiltration* by serving as faculty, school workers, or administration to exploit the school publications and other forms of influencing the student body through academic instruction.

The legal organizations in charge of the infiltration of the teacher sector are the Alliance of Concerned Teachers (ACT), the National Federation of Teachers and Employees' Union and Congress of Teachers and Educators for Nationalism and Democracy (CONTEND).

c. *Recruitment in the womens' sector*

The CTG does not define women as a gender, but looks into their role as a class in advancing their rights in society. They infiltrate this sector by tapping into issues such as poverty, discrimination, patriarchy, and violence against women, among others. These issues are capitalized and used as motivation to embrace communism as a way of life to abolish the same.

d. *Recruitment in the youth sector*

Among the biggest challenges of the security sector is the radicalization of the youth. For the CPP, recruitment of children is a priority for them to easily replenish their ranks.⁴³

In the five-year program of the CPP, the central committee directed its lower organs to recruit children less than 15 years of age. This resulted in an increasing number of child combatants. These children, as early as the ages of 8 to 10 years, are already being trained to bear arms.

Mr. Celiz explained that the CPP targets the recruitment of the youth because they have more capacity for ideological formation and organizing. According to him, it takes 5 to 10 years to develop the ideologies of peasants and workers, while it only takes 2-3 years to develop the youth into *cadres*.

What is appalling is that children are indoctrinated to hate their families, brainwashed to question parental authority, and are made to believe that they are not of their parents, but are rather children of the revolution.

Among the groups that undertake recruitment of the youth and students, as alleged by the security sector based on the testimonies of the witnesses they presented, include the League of Filipino Students, Anakbayan, Kabataan Party List, College Editors' Guild of the Philippines, Student Christian Movement of the Philippines, and National Union of Students of the Philippines. These groups operate under the CPP underground organization called *Kabataang Makabayan* (KM).

Witness Narratives: Circumstances of their Recruitment

1. To support the security sector's resolve to educate the Filipino family towards the dangers of these front organizations to our youth, they presented former rebel returnees and shared their personal accounts on the circumstances of their recruitment. It appears that most of them were preyed upon when they were still students, except for "*Ka Shane*" who was an out-of-school youth at the time of her recruitment.

⁴³ In his book entitled *The Philippine Society and Revolution*, Mr. Sison said, "*The majority of the party cadres and regular NPA members are as a matter of course from the youth. The mobilization of the youth ensures the continuous flow of successors in the revolutionary movement.*" He emphasized that if the youth will not be organized, the CPP and its goals will slowly diminish as its leaders grow old.

2. Mr. Jeffrey "*Ka Eric*" Celiz, was recruited by the College Editors' Guild of the Philippines (CEGP) while he was just a student. He was later invited to join a meeting of the *Kabataang Makabayan* (KM). From there he found his way to becoming regional secretary of the CEGP and later promoted to a higher position of command in the NPA.
3. Ms. Lady Desiree "*Ka Shane*" Miranda was an out-of-school youth and recruited by a certain Gerald Salonga from Anakbayan when she was just fourteen years old. She said that her recruiters persuaded her by capitalizing on her legal right to education. She initially went through lectures and orientations on topics such as class society structure, imperialism, feudalism. She also revealed that she was sexually abused while she was with the rebel movement.
4. Mr. Noel "*Ka Noel*" Legaspi was recruited by the League of Filipino Students (LFS) in 1990 while he was a student of the Mindanao State University. His recruiters capitalized on academic issues such as lack of books and poorly maintained school facilities. He was recruited two years later by the KM. He became a full-time organizer for the student sector in General Santos City and South Cotabato from 1996 to 1998. Thereafter, he decided to be part of the NPA and became a member of the organization for 26 years.
5. Ms. Joy James "*Ka Amihar*" Saguino was recruited by the LFS while studying at the University of the Philippines Iloilo City Campus in 2007. To lure students into joining, the LFS capitalized on the students' anger on the first year implementation of the UP tuition fee increase and the Socialized Tuition Fee and Assistance Program (STFAP). Three months into his membership, he was made to join an orientation only to be later on recruited by the KM. Aside from becoming a spokesperson for the LFS in UP Iloilo Campus, he was also part of the National Union of Students of the Philippines (NUSP). One year later, he became a member of the guerilla front of the NPA. He later on became a regional spokesperson and regional chairman of Anakbayan.
6. Mr. Rey Christian Sabado was recruited in August 2014 by the *Sandigan ng Mag-aaral para sa Sambayanan* while he was a student of the Polytechnic University of the Philippines. Two months later, he joined the KM. He later became a member of Anakbayan, Kabataan Party List, NPA and CPP.

In 2019, he was apprehended and caught by the 20th Infantry Battalion in Las Navas Northern Samar. According to him, he was treated properly and

humanely while in custody contrary to the claims of Kabataan Party-list, CEGP, Anakbayan and LFS that he was tortured.

The recruitment process

1. According to the testimonies⁴⁴ of the witnesses presented by the security sector, the recruitment process of the CTG are as follows:
 - a. Recruiters approach a potential prey and bring up legitimate social issues and/or cause-driven advocacies for the welfare of our countrymen. This is often coursed through regular discussion groups.
 - b. They convince recruits to join legal leftist organizations, including party-list groups, but hide their agenda of boosting their membership.
 - c. Capitalizing on the recruit's idealism, orientations and discussions on certain issues are conducted to gain their sympathy and support. During these discussions, they are being convinced to air their grievances, take action and participate in public mobilizations and rallies to voice out their sentiments and frustrations towards the government.
 - d. The recruitment process also has a theoretical level of indoctrination. Here, potential recruits for radicalization are selected and urged to attend special lectures. They are made to undergo Pambansang Demokratikong Paaralan (PADEPA) courses or the "general mass course set". The PADEPA is being run by the CPP with the goal of making the recruits to embrace the communist ideology. Other courses are as follows:
 1. *Espesyal na Kursong Masa* (ESKUM) - discusses the sectoral organization focusing on peasants, youth, women, workers, and indigenous people.
 2. *Maikling Kurso sa Lipunan at Rebolusyong Pilipino* (MKLRP) - tackles agitation and introduction to revolution.

⁴⁴ TSN, 03 November 2020 pg 151, 187, 190

3. *Araling Aktibista* (ARAK) - encourages the development of commitment to the party and leadership.
- e. After learning about the ideologies of the CPP, recruits are then made to undergo basic mass immersion. They are brought to guerilla zones for exposure and to concretize what they learned in the PADEPA. The ultimate goal is to strengthen the recruit's resolve and fully embrace the armed revolution.

Exposure to the guerilla zones lasts for three to five days while immersion lasts for one month. While undergoing basic mass immersion, the recruits are required to take additional courses on:

1. Basic Party Course or Batayang Kursong Pampartido (BKP) and lectures on the CPP Constitution which are prerequisites to taking their first oath as a *candidate party member*. The course includes lectures on the Marxist, Leninist, and Maoist insights on the revolutions in Europe, Russia, China, etc.
 2. Intermediate Party Course and a refresher of the CPP Constitution is a prerequisite to taking the second oath as *full-time party member*.
 3. Advanced Party Course or Abanteng Kursong Pangpartido (AKP) is for those groomed for higher positions to heighten their knowledge about the party.
- f. Upon completion of the said courses, the new party members are given two options: (1) stay in the NPA unit where they were immersed, serve as political guide and eventually become a *cadre*; or (2) go back to the white areas and serve as recruiter, organizer, and member of a party that constitutes the core of the CPP front organization.

In his testimony before the hearing, Mr. Celiz claimed that only recruits proceed to the BKP, IKP and AKP courses. The BKP, as the start of the theoretical ideological journey of the CPP, has around 10 courses about Marxism, dialectical materialism and historical materialism that run for 10 courses. Meanwhile the IKP course is for cadres which discussions are farther from the basics of socialism and communism (i.e. China in a state of modern revisionism and not communism; death of Stalin signals end of communism in Soviet Union). Compared to universities,

BKP refers to the college degree course, IKP is the masteral course while ABP is the doctoral course of CPP. It takes years to undergo these courses.⁴⁵

Reported deaths of known student activists who later turned out as NPA members.

1. In relation to the alleged red-tagging of actress Liza Soberano in a social media post by Lt. Gen. Parlade, he clarified that his intention was to protect her from the GABRIELA women's party. His statement was premised on the recent deaths of GABRIELA Youth members who are known activists but ended up being killed while wielding arms. He insisted that the government is committed to inform the people of the truth and expose the terrorist group. They want to raise awareness on the unfortunate fate that befell the following student activists⁴⁶:
 - i. *Josephine Anne Lapira* from Marikina City was an aspiring doctor who took up BS Biochemistry at the University of the Philippines Manila Campus. She was a Gabriela Youth member and was killed during an encounter between the NPA and military forces in Nasugbu, Batangas on November 28, 2017. She was only 22 years old when she died.
 - ii. *John Carlo Alberto* from Tanza, Cavite was a Veterinary Medicine student at the University of the Philippines Los Banos Campus. He was an Anakbayan Youth member and later on killed during an encounter between the NPA and military forces in Luisiana, Laguna on February 14, 2019. He was only 21 years old when he died.
 - iii. *Malvin Christian Cruz* from Onton, Iloilo was an AB Statistics student at the University of the Philippines Visayas Miag-ao Campus. He was a member of the League of Filipino Students and was killed during an encounter between the NPA and military forces in Miag-ao, Iloilo on June 29, 2020. He was only 21 years old when he died.
 - iv. *Kemberly Jul Luna* from Tubod, Surigao del Norte was an AB English student at the Mindanao State University - Iligan Institute of Technology. She was a member of the League of Filipino Students. She

⁴⁵ TSN, 3 November 2020, p. 151

⁴⁶ The Committee previously sent a written request to the University of the Philippines and Mindanao State University to confirm the security sector's allegation that the killed young activists were enrolled in their institutions. As of writing this report, we have not yet received any response.

died during an encounter between the NPA and military forces in Concepcion Bukidnon on December 15, 2009. She was only 21 years old when she died.

- v. *Rendell Ryan Edpan Cagula* from Bago Gallera, Davao City was a BS Anthropology student at the University of the Philippines Mindanao Campus. He was a member of the League of Filipino Students and Kabataan Party List. He was killed during an encounter between the NPA and military forces in Maasim, Saranggani Province on November 4, 2014. He was only 23 years old when he died.
- vi. *Justine Ella Vargas* from Taytay, Palawan was a member of GABRIELA. She was killed during an encounter between the NPA and military forces in Magsaysay, Occidental Mindoro on September 14, 2020.
- vii. *Rona Jane Manalo* from Sariaya, Quezon was a graduate of the University of the Philippines Los Banos. She headed the Samahan ng Kabataan Para sa Bayan (SAKBAYAN) in the College of Forestry and Natural Resources and GABRIELA Youth UPLB. She was also identified as former Secretary General of the GABRIELA Southern Tagalog. She was killed during an encounter between the NPA and military forces in Brooke's Point Palawan on September 3, 2020. She was 30 years old when she died.

2. No less than the CPP-NPA-NDF, in several official statements posted on their official website, acknowledged Lapira,⁴⁷ Cruz,⁴⁸ Alberto,⁴⁹ Vargas,⁵⁰ and Manalo⁵¹ as members of their revolutionary front and were all honored after their deaths.

In a statement posted online last November 30, 2020, it was stated:

"Sa ika-56 na anibersaryo ng pagkakatatag ng KM ay nagbibigay-pugay ang KM sa mga kabataang inialay ang kanilang buhay, panahon, at lakas para sa pagsusulong ng rebolusyon. Walang anumang malisyosong propaganda ng

⁴⁷ <https://cpp.ph/statements/mabuhay-si-ka-pla-huwarang-kabataan-at-pulang-mandirigma-kabataan-tularan-si-ka-pla-isulong-ang-digmang-bayan/>

⁴⁸ <https://cpp.ph/statements/npa-binlgwasan-ang-kriminal-at-teroristang-afp-at-pnp-ng-rehimeng-duterte/>

⁴⁹ <https://cpp.ph/2019/02/21/npa-bukidnon-seizes-6-firearms/>

⁵⁰ <https://cpp.ph/statements/pagbayarin-ang-rehimeng-duterte-sa-kanyang-kriminal-na-kapabayaang-sa-pandemya-sakuna-at-mga-batayang-karapatan-ng-mamamayan/>

⁵¹ <https://cpp.ph/statements/pinakamataas-na-pagpupugay-para-kay-rona-jane-ka-ren-manalo-mabuting-anak-ng-bayan-at-martir-ng-sambayanan/>

*estado ang makapagkukwestyon sa kawastuhan ng pagsuporta ng kabataan sa armadong paglaban para sa lupa, sahod, trabaho, edukasyon, at karapatan. Walang anumang pangyuyurak ang babahid sa buhay na inialay nina Jo Lapira, Pamela Peralta, Justine Vargas, Zyra Ligad, Jevilyn Cullamat, Jay ar Mercado, Andrea Rosal, **at ng libo-libo pang kabataang tumangan ng armas** upang pabagsakin ang paghahari ng mga panginoong maylupa at malalaking komprador⁵² (emphasis supplied).*

3. As a disclaimer, in an effort to verify the statements made by the security sector pertaining to the list of student activists who were later killed during encounters between members of the CPP-NPA and government elements, this Committee deemed it necessary to request, through official communication, DND Secretary Delfin Lorenzana, NICA Director General Alex Monteagudo, and AFP Chief Lt. Gen. Cirilito Sobejana for officials records that would validate the assertions of the security sector. This Committee also sent letters to the following schools in order to either authenticate or invalidate the statements made by the security sector:

- i. University of the Philippines Los Baños
- ii. University of the Philippines Manila
- iii. University of the Philippines Visayas
- iv. University of the Philippines Mindanao
- v. Mindanao State University
- vi. West Visayas State University

On 11 February 2021, Chancellor Sukarno Tanggol of the Mindanao State University verified through an official document that Ms. Kemberly Jul Lancin Luna was their student under the program of Bachelor of Arts in English from 1st semester of Academic Year 2005-2006 to summer term of Academic Year 2007-2008.

As of 14 February 2021, we have yet to receive any statements or response from the DND Secretary, AFP Chief, and the other above-mentioned schools.

⁵² <https://cpp.ph/statements/pagbayarin-ang-rehimeng-duterte-sa-kanyang-kriminal-na-kapabayaang-sa-pandemya-sakuna-at-mga-batayang-karapatan-ng-mamamayan/>

PART III
THE MAKABAYAN BLOC: TESTIMONIES AND SUBMISSIONS

The Committee would like to acknowledge the cooperation of the incumbent and former members of the Makabayan bloc of the House of Representatives, namely: Carlos Isagani Zarate of Bayan Muna Partylist, Eufemia Cullamat of Bayan Muna Partylist, Sarah Jane Elago of Kabataan Partylist, former Congressmen Teodoro Casiño of Bayan Muna Partylist, Antonio Tinio of ACT Party list, and Neri Javier Colmenares of Bayan Muna Partylist.

Legitimacy of their Organizations

1. It was argued by Rep. Zarate that since 2001, when Bayan Muna Partylist won the elections, there have been four party-lists under the Koalisyong Makabayan with six representatives. According to him, they have been active in pushing for meaningful laws and reforms. It was also raised that their group belongs to the Top 10 with most legislative proposals in the House of Representatives.⁵³
2. There have been a number of pronouncements made by NTF-ELCAC, specifically by Usec. Badoy and General Parlade, wherein they stated that Mr. Teddy Casiño as well as other members of the Makabayan bloc are members of the armed group CPP-NPA. The bloc denied the same and argued that they are merely activists.
3. They highlighted the fact that cases trumped-up against several representatives from the Makabayan bloc were thrown out by the DOJ and the courts.⁵⁴
4. On 15 October 2019, the case⁵⁵ filed against them by Ms. Relissa Lucena for kidnapping and failure to return a minor punishable under Art. 270 of the Revised Penal Code and Sections 4(c), 24(ii) and (iii) of the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity was dismissed by the Department of Justice for lack of probable cause.
5. The said DOJ Resolution signed by Assistant Prosecutors Garcia and Antay, as approved by Senior Deputy State Prosecutor Fadullon and Prosecutor General

⁵³ TSN, 24 November 2020, pp.10-11

⁵⁴ See In The Matter Of The Petition for Writ Of Amparo and Writ of Habeas Corpus In Favor of Alicia Jasper S. Lucena, G.R. No. 252120, September 15, 2020; see also <https://newsinfo.inquirer.net/1352715/doj-drops-kidnapping-trafficking-raps-vs-anakbayan-militant-solons>

⁵⁵ NPS Docket No. XVI-INV-19I-0037

Malcontento, said that the allegations that Anakbayan recruits minors to become members of the CPP-NPA-NDF remained unsupported by any evidence.

Red-tagging

6. *Red-tagging* is defined as hate speech that labels, links, and vilifies persons and groups to the CPP-NPA-NDF by publicly implicating or misrepresenting that they are engaged in illegal acts and omissions against the State because they are critical of government and takes positions on issues that are disfavored by the government. It is a mere tactic used by the government to silence critics and stifle dissent.
7. *Red-tagging* cannot be compared to the exercise of the right to freedom of expression guaranteed by the Constitution to ordinary citizens. In vilifying critics who are also taxpayers themselves, public funds and resources are being used to do so. Further, this practice allows state actors, particularly our security forces, to have a free pass by using "good faith" or the presumption of regularity as an excuse. Expressions of criticism against the government by the people is an exercise of their constitutional rights, while *red-tagging* is the trampling of the people's constitutional rights.
8. The sweeping claims in the guise of "warnings" by state actors are aimed to dissuade activism and critical thinking even in educational institutions. These are also attacks on the academic freedom of colleges/universities accused of being recruitment grounds for the NPA, putting into question their academic policies.
9. Red-tagging is aimed at discouraging public participation and discourse. It sends a chilling effect on people who wish to speak out on issues. Furthermore, it violates a person's right to due process and the right to be informed of the crimes allegedly committed. In red-tagging, the government attributes their guilt by association with the accusers playing the role of judge, jury and executioner. As such, it has a chilling effect on our people that kills democratic participation and healthy debate on issues of public concern.
10. Red-tagging is a form of witch-hunt. Such practice replaces civilian court proceedings with military style psy-ops. The security sector's determination of communist support and terrorist support is made without clear standards, admissible evidence, and beyond the bounds of what is contained in the law.

Video recording of Mr. Sison allegedly tagging several organizations

11. In the 1987 video of Mr. Sison, he referred to Bagong Alyansang Makabayan, Kilusang Magbubukid ng Pilipinas, GABRIELA, League of Filipino Students, and Alliance of Concerned Teachers, among others, as integral part of the Communist Party of the Philippines.⁵⁶
12. There is no such thing as self-inflicted red-tagging in the same manner that there is no such thing as self-inflicted extra-judicial killing. The alleged self-tagging is bereft of logic and is quite far from the facts.
13. Other than the question of the video's authenticity and integrity, a straightforward reading of Mr. Sison's pronouncement showed that he was only making a distinction between "*forces of the armed revolution*" as against "*legal democratic forces*" and proceeds to enumerate the same. To conclude that this is proof that the latter are front organizations set up and controlled by the CPP is a baseless leap of conclusion and purely wishful thinking on the part of the NTF-ELCAC.
14. The categorization of these groups as "*legal democratic forces*" is not equivalent to *red-tagging* or labelling as communist fronts. These organizations participate in our democratic life, advancing the dreams and aspirations of the poor and the marginalized sector through democratic and unarmed means. By calling them "*legal democratic fronts*", Sison makes the clear distinction that BAYAN, and all the other organizations mentioned, are not armed groups and are not part of the armed struggle.

Peace talks as means to end armed conflict and not red-tagging

15. The underlying issue in the practice of red-tagging and terrorist-labelling is the existence of armed conflict in our country which has existed for five (5) decades, outlived several regimes, multiple counter-insurgency *oplans*, and mobile government deadlines.
16. They are of the view that taking up arms is not terrorism. It was justified by claiming that the right to rebel against an oppressive government is accepted internationally, in the same way as the right to secede and the right to self-determination are also recognized. Nations were born through armed conflict

⁵⁶ TSN, 24 November 2020, pp.112-114

and none of these were considered "*legal*" at the time. It would only be later on that history would judge the correctness of such actions.

17. The armed struggle is not a legal or moral issue but rather a political and historical issue. It exists because of certain social conditions such as widespread poverty and injustice. Even past administrations recognized that the roots of the armed conflict are poverty, injustice, and other social ills. Such facts were even recognized by the security sector and the government itself.
18. It would be better for the government to address the above mentioned conditions rather than making a sweeping condemnation of armed struggle without context, engaging in *red-tagging*, or intensifying militarization. The condemnation of armed struggle alone will only lead to the outright denial of the roots of the armed conflict and will shut the doors to a possible political settlement.
19. The government has tried the militarist approach for five (5) decades already but obviously failed. Working for peace costs less in terms of government resources and human lives. The best way to deal with the armed conflict is to address its roots.
20. The government should pursue peace talks with the NDFP to address the roots of the armed conflict. Prior to its termination, the peace talks were so close to forging an interim peace agreement that would achieve important gains for the people in terms of socio-economic reforms. It would be a major step in addressing the social basis of the armed conflict. The interim peace agreement would also lead to a coordinated ceasefire between the two conflicting parties.
21. Before the peace talks were scrapped, several sections of the agreement on agrarian reform, rural development, and national industrialization were already initialed. There were optimistic projections for the ceremonial signing of agreements to be done in the Philippines.
22. By the end of 2019, ceasefires were carried out by the parties as confidence-building measures in the peace talks. There were also separate ceasefire declarations at the start of the COVID-19 pandemic to allow both parties to attend to the health needs of the people.
23. Several personalities, whose names were not mentioned, in the cabinet opposed the resumption of peace talks while military operations continued and skirmishes happened during the pandemic. These individuals in the cabinet, together with the NTF-ELCAC are determined to see that the peace talks would

fail. For with the peace talks in place, the NTF-ELCAC will be useless. If peace is achieved in the negotiating table, is there still a need for the NTF-ELCAC and its P19 billion budget?

24. The abolition of the NTF-ELCAC and the reconstitution of the GRP peace panel is recommended. Likewise, EO 70 and other similar issuances must be revoked in order to pick up where the negotiations left off i.e., pushing forward with minimum agreement for socio-economic reforms, the release of all political prisoners, and the interim peace agreement that would result in a coordinated ceasefire. These measures, in their opinion, are doable and far more beneficial than the militarist, *red-tagging* approach and terrorist-labeling that the NTF-ELCAC wishes to pursue.

Progressive group's challenges to the security sector

25. The Makabayan bloc vehemently refuted the NTF-ELCAC's claim that the latter is merely revealing the former's linkages with the CTG. In fact, they reject the use of the phrase 'truth tagging'. These are vicious lies publicly hurled to silence those they perceive to be critics and dissenters of the government. An example is the "*Red October Plot*" intended to oust President Duterte which allegedly involved politicians, media practitioners, lawyers, athletes, the Vice President, the Liberal Party and Magdalo led by former Senator Antonio Trillanes IV and Congressman Gary Alejano.
26. The Committee's inquiry on the issue of red-tagging should provide a platform for the public to know whether or not the allegations and accusations of the security sector against them have any basis. To them, there appears to be none. Without evidence, the many people who have been red-tagged have one common denominator—they were perceived by President Duterte or the security sector as troublemakers (or "destabilizers" during the time of former President Gloria Arroyo).
27. The Makabayan bloc asserts that *when challenged by their victims to file criminal cases in court, present their evidence so that the red-tagged victims can rebut them, and for a court could verify whether these "evidence" are competent, credible, and admissible, these officials claim that they prefer "public forums" and debates, where these officials can make baseless allegations without the responsibility to present competent, credible, and admissible evidence.*⁵⁷

⁵⁷ TSN, 01 December 2020, p. 215.

28. The public debates between certain members of the AFP and PNP and the victims of their red-tagging have been going on for some years now. Those in the security sector were previously challenged to stop their red-tagging activities and should they insist, to go to court, and file criminal cases against those they have red-tagged with committing various crimes under Philippine laws such as rebellion, graft and corruption for channeling funds to the NPA, murder, and espousing the violent overthrow of the government.
29. The security sector prefers public open-ended debates and confrontations because unlike the courts, they can make unfounded allegations without the responsibility of presenting credible, competent, and admissible evidence in these "public debates". Worse, once their allegations are proven wrong, they just adjust their stories and their "evidence" to fit the new story, something they obviously cannot do in courts.
30. The evidence presented by the security sector as "*jumping*"—all the narratives were laid out in detail at times, but at the end is a *jump of conclusion and leaps of analysis* that ends in "*therefore they are CPP members and CPP fronts*" without presenting any credible, competent, and admissible evidence.
31. The testimonies of Jeffrey "*Ka Eric*" Celiz and other surrenderees pertain only to the principles, plans, and actions of the CPP-NPA, and their direct participation in their areas of assignment.
32. The testimony of Celiz on his personal knowledge of the involvement and support to the CPP-NPA of a UN Special Rapporteur and personalities such as the late Jaime Cardinal Sin, Lino Brocka, Augusto Buenaventura, Sister Mary Joy Mananzan, among others, appeared incredulous. Moreover, the seeming changes in his narrative from time to time was observed.
33. Apart from Celiz, whose credibility is strongly questioned, none of these witnesses testified to have any personal knowledge of the crimes allegedly committed by Reps. Zarate, Gaite, Elago, Cullamat, Brosas, Castro as well as former Reps. Colmenares, Ocampo and Casiño, and all other victims of *red-tagging*.
34. With respect to witness Ms. Miranda⁵⁸ who claimed to have personal knowledge of an "underground CPP meeting" and have personally met with Rep. Elago

⁵⁸ TSN, 3 November 2020, p.233

during the election campaign, their testimonies were vague, lacked credibility, and silent as to the commission of any crime.

35. Their leap of conclusion is merely based on the fact that since the witnesses are allegedly former members of the CPP-NPA, they automatically have personal knowledge that all the Makabayan representatives, as well as many other leaders and members of different activist organizations, and the opposition, were and are members of the CPP-NPA, and all the red-tagged national organizations are CPP fronts.
36. Three questions in relation to their being red-tagged were also raised in their submissions:
 - a. Is it not possible that the administration or certain leaders of the administration, including the AFP and the PNP, want to disable the opposition to stifle the barrage of criticism that has caused so much anger in many previous presidential speeches?
 - b. Is it not possible that these administration officials wanted to put a stop to those personalities and organizations that continuously oppose the policies from the Executive Branch, whether it's the pro-China policy, Charter Change, the COVID response policies, terror law, death penalty law, Revolutionary Government, Tokhang and the anti-drug campaign, and many other executive policies, just to assure smooth sailing of future executive actions or policy initiatives?; and
 - c. Is it not also possible that the administration wants to disable the opposition, to ensure its victory in the 2022 presidential elections? After all, the administration presidential candidates are not faring well in surveys and Philippine electoral history shows that the Filipino people never voted for the candidate of the incumbent president in the elections. They may have considered the Makabayan and Bayan groups as a very good initial target, probably believing that they are the most vulnerable among the opposition, having been subject to years of red-tagging and repressive actions. The *left* has very active and dedicated campaigners and a national electoral machinery, which will definitely campaign very hard against the presidential candidate of President Duterte and could also be of considerable help to the opposition presidential candidate.

37. The security sector has long been challenged by the victims of red-tagging to file criminal cases in court. That way, they can rebut the allegations against them in a proper forum wherein the credibility and admissibility of evidence presented against them will be tested. However, the security forces prefer to avail of "public forums" and debates wherein they can make baseless allegations.
38. They urge this Committee to recommend that the practice of red-tagging be stopped as activities stemming thereto are a waste of public funds. Instead, they should be advised to use the available resources of the government in filing the appropriate cases in our courts granting the security sector's seeming confidence in their evidence.

Red-tagging leads to extrajudicial executions

39. Former Rep. Casiño presented the findings of the United Nations' special rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston. It concluded that the first cause of the extrajudicial killings has been variously described as vilification, labeling or guilt by association. It involves the characterization of most groups on the left of the political spectrum as front organizations for armed groups whose aim is to destroy democracy. The result is that a wide range of groups, including human rights advocates, labor union organizers, journalists, teachers' unions, women's groups, indigenous organizations, religious groups, student groups, agrarian reform advocates and others are classified as enemies of the state that are accordingly considered to be legitimate targets.
40. The second cause is the extent to which aspects of the government's counterinsurgency strategy encourage or facilitate the extrajudicial killings of activists and other enemies in certain circumstances.
41. Further, human rights groups have documented at least 328 activists and ordinary civilians killed in counterinsurgency operations. 2,596 have been illegally arrested and 973 detained.
42. Furthermore, Ms. Palabay also raised that red-tagging puts people's lives, liberties, and security on the line.

Highlights of the arguments presented by the Makabayan bloc

43. The allegations made by the security sector and their witnesses are all based on purported evidence that are not credible, competent, or admissible, i.e.
 - a. unauthenticated documents of the CPP supposedly captured from CPP-NPA officers or surrenderees which the government admits, suffer from irregularities and legal infirmities;
 - b. testimonies of witnesses who have no personal knowledge of the allegations against red-tagged individuals and organizations; and,
 - c. baseless personal opinions, conclusions, and leaps of logic that strain the mind and violate due process right.
44. Red-tagging is part of a deliberate and systematic effort to vilify and demonize activists, political dissenters, and critics, thereby putting their lives and security in danger and aimed at stifling dissent.
45. Red-tagging is an integral part of the government's "*whole-of-nation*" approach to the armed conflict, where even unarmed members of open, legal organizations are considered combatants or rebel conspirators.
46. Red-tagging closes the door to peace negotiations and the peaceful resolution of the armed conflict.
47. The practice of *red-tagging* especially by the NTF-ELCAC and top officials of the AFP and PNP should stop for being violative of human rights and humanitarian law, posing a clear and present danger to its victims, and hindering peace negotiations to address the roots of the armed conflict.
48. Guilt by association coupled with incredible conclusory assumptions, even without proof of commission of any crime, lays the predicate for further attacks such as public vilification, trumped up charges, and worst, extra-judicial killings.

PART IV DISCUSSION

1. The history of red-tagging goes back to as early as the 1950s in the United States of America. Citizens were told that anybody could be Communists. Teachers, journalists, and labor organizers are among the groups suspected of being infiltrated by the Communists in their quest for domination. Because of the perceived danger of being tagged as among the "Reds",⁵⁹ the number of anti-government or leftist groups significantly diminished. In fact, these became one of the dark ages for free speech and civil liberties. There was even a time when the United States Supreme Court restricted the freedom of speech of those tagged as communists because their utterances and actions presented a clear and present danger to the government.⁶⁰
2. Supreme Court Associate Justice Marvic Leonen, in his dissenting opinion in the case of *Zarate vs. Aquino*,⁶¹ cited a 2011 journal that defined red-tagging/red-baiting as "*the act of labelling, branding, naming and accusing individuals and/or organizations of being left-leaning, subversives, communists or terrorists (used as) a strategy... by State agents, particularly law enforcement.*" He further said "*that for decades, red-tagging — labelling individuals and groups as communists or terrorists — has been a persistent and powerful threat to civil society and freedom of expression.*"
3. Justice Leonen also described victims of red-tagging as "*stereotyped or caricatured by the military as communist groups, making them easy targets of government military or paramilitary units.*" Red-tagging creates "*a chilling effect on dissent among similar-minded individuals,*" as they are vulnerable to attacks.⁶²
4. However, as the definition is in a dissenting opinion and not founded on any law or decision of the Supreme Court, it is not part of the legal system of the Philippines.⁶³

⁵⁹ Communism is associated with the color red because of allegiance to the red Soviet flag and since then was used in relation to the international communist conspiracy. The public alarm caused by the communist threat is known as the Red Scare or Red Menace.

⁶⁰ *Dennis vs. United States*

⁶¹ G.R. No. 220028, November 10, 2015

⁶² *Id.*

⁶³ Article 8 of the Civil Code

5. Art. 3, Sec. 4 of the Bill of Rights provides, "*No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances*", while Sec. 8 of the same Article states that, "*The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged.*"

6. Moreover, Article XIII, Sec. 15 of the Constitution provides, "*The State shall respect the role of independent people's organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means,*" while Sec. 16 of the same article states that, "*The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms.*"

7. The freedom of speech is the lifeblood of democracy.⁶⁴ Free speech, together with the right to organize and form associations, peacefully assemble and petition the government for redress of grievances, are fundamental personal rights of the people recognized and guaranteed by the constitutions of democratic countries.⁶⁵ It paves the way for open debates, discussion of varying views and interests, and provides a middle ground in coming up with policy decisions.⁶⁶ It is more than the right to approve existing political beliefs or economic arrangements, to lend support to official measures, and to take refuge in the existing climate of opinion on any matter of public consequence. When atrophied, the right becomes meaningless. **The right belongs as well—if not more—to those who question, who do not conform, who differ.**⁶⁷ To paraphrase Justice Holmes in *US vs Schwimmer*⁶⁸, it is freedom for the thought that we hate, no less than for the thought that agrees with us.

8. Notwithstanding the protections of the said freedoms under the Constitution, it is a settled principle growing out of the nature of well-ordered civil societies that the exercise of those rights is not absolute for it may be so regulated that it shall not be injurious to the equal enjoyment of others having equal rights, nor injurious to the rights of the community or society.⁶⁹

⁶⁴ <https://freedomhouse.org/issues/freedom-expression>

⁶⁵ *Bayan v. Ermita*, G.R. No. 169838, 25 April 2006 *citing* *Primicias v. Fugoso*, 80 Phil. 71 (1948), available at <http://sc.judiciary.gov.ph/jurisprudence/2006/april2006/G.R.%20No.%20169838.htm>

⁶⁶ <https://freedomhouse.org/issues/freedom-expression>

⁶⁷ *Chavez vs. Gonzales*, GR No. 168338, February 15, 2008.

⁶⁸ *Chavez vs Gonzales*, *citing* *U.S. v. Schwimmer*, 279 US 644, 655 (1929).

⁶⁹ *Id.* *citing* *Primicias v. Fugoso*, 80 Phil. 71 (1948).

9. The power to limit the exercise of constitutional rights such as the freedom of expression and assembly is termed the sovereign "*police power*". It is the power to prescribe laws or regulations, to promote the health, morals, peace, education, good order or safety, and general welfare of the people. This power is exercised by the government particularly the legislative branch through the enactment of laws regulating constitutional and civil rights.⁷⁰
10. In *People vs Ferrer*⁷¹ that ruled on the constitutionality of the Anti-Subversion Act⁷², the Supreme Court stated that: "*In the Philippines the character of the Communist Party has been the object of continuing scrutiny by this Court. In 1932 we found the Communist Party of the Philippines to be an illegal association. In 1969 we again found that the objective of the Party was the 'overthrow of the Philippine Government by armed struggle and to establish in the Philippines a communist form of government similar to that of Soviet Russia and Red China.'* More recently, in *Lansang vs. Garcia*, we noted the growth of the Communist Party of the Philippines and the organization of Communist fronts among youth organizations such as the *Kabataang Makabayan (KM)* and the emergence of the *New People's Army*. After meticulously reviewing the evidence, we said: "*We entertain, therefore, no doubts about the existence of a sizeable group of men who have publicly risen in arms to overthrow the government and have thus been and still are engaged in rebellion against the Government of the Philippines.*"
11. The constitutional guarantee of freedom of expression means that "*the government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.*" The inhibition of speech should be upheld only if the expression falls within one of the few unprotected categories dealt with in *Chaplinsky v. New Hampshire*, thus:

"There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or 'fighting' words - those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. [S]uch utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality."⁷³

⁷⁰ Id. citing *Primicias v. Fugoso*, 80 Phil. 71 (1948).

⁷¹ G.R. Nos. L-32613-14 December 27, 1972

⁷² Repealed by Republic Act No. 7636, September 24, 1992

⁷³ *SWS vs COMELEC*, G. R. No. 147571, May 5, 2001

12. From a reading of the Preamble of the Constitution of the CPP, it introduced itself as, *"The Communist Party of the Philippines is the revolutionary party of the working class in the Philippines and is the leading force of the Philippine revolution and the Filipino people."* Article IX thereof reveals the party's relationship with the New People's Army. Section 3 states, ***"The New People's Army shall be the main weapon of the Party in the seizure and consolidation of political power. It wields the basic alliance of the working class and the peasantry. In the countryside, it shall create conditions for establishing the people's democratic state by waging armed struggle, facilitating agrarian revolution and helping build organs of political power and revolutionary mass organizations."*** Section 5 further states, ***"The New People's Army shall develop several forms of armed forces: guerilla units, regular mobile forces and regular forces as the people's militia, self-defense units based on mass organizations and armed city partisans. It shall be a force for fighting, politico-military training, propaganda, cultural work and production."***
13. The European Union (EU), through Council Decision 2011/70/CFSP dated 11 January 2011, designated the CPP-NPA as a terrorist organization. The CPP-NPA is also listed as a terrorist organization by the United States, the United Kingdom, Australia, Canada and New Zealand.⁷⁴
14. The communist NPA was the most active terrorist organization in the country. It was responsible for over 35 percent of deaths and 38 percent of terror-related incidents in 2019, at 98 and 132 respectively.⁷⁵
15. On 21 February 2018, the National Prosecution Service (NPS) of the Department of Justice (DOJ) filed a petition to proscribe the CPP-NPA with Branch 13 of the Regional Trial Court of Manila (Case No. R-MNL-18-00925-CV). Notwithstanding the repeal of the Human Security Act, the proscription case still remains by virtue of the saving clause in RA 11479.
16. By virtue of its authority granted by RA 11479, after a finding of probable cause that the CPP-NPA committed or conspired to commit terrorist acts defined and penalized under Sec. 4 of the law, the Anti-Terrorism Council issued ATC Resolution No. 12 (2020) designating the CPP-NPA as a terrorist organization, association or group of persons last 09 December 2020.

⁷⁴ Kabagani, L. (2020, October 28). Groups hold candle-lighting vigil vs. CPP-NPA atrocities. Retrieved October 31, 2020, from <https://www.pna.gov.ph/articles/1119956>

⁷⁵ Institute for Economics & Peace. Global Terrorism Index 2020: Measuring the Impact of Terrorism, Sydney, November 2020. Available from: <http://visionofhumanity.org/reports> (accessed 9 February 2021).

Appreciation of the testimonies of resource persons - Senate not bound by the technical rules of evidence

17. The Senate's power to conduct inquiries in aid of legislation is founded on Article VI, Section 21 of the Constitution. Expounding on said authority, the Supreme Court, in *Senate of the Philippines vs. Ermita*,⁷⁶ said that "*the power of inquiry – with process to enforce it – is an essential and appropriate auxiliary to the legislative function. A legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change; and where the legislative body does not itself possess the requisite information – which is not infrequently true – recourse must be had to others who do possess it.*"⁷⁷ The issue on the alleged red-tagging by our security forces is a valid subject of inquiry because "*The power of inquiry, the Court therein ruled, is co-extensive with the power to legislate. The matters which may be a proper subject of legislation and those which may be a proper subject of investigation are one. It follows that the operation of government, being a legitimate subject for legislation, is a proper subject for investigation.*"⁷⁸
18. As a rule in the conduct of inquiries in aid of legislation, the technical rules of evidence applicable to judicial proceedings which do not affect substantive rights need not be observed by the Committee.⁷⁹ As part of due process, this Committee has made sure that the Makabayan bloc was given adequate opportunity to contribute to the discussion and counter the allegations against them. The Makabayan bloc had the equal opportunity to be heard and present testimonies of their respective resource persons, and offer written documents to support their position.
19. This Committee would like to emphasize that all committees of the Senate, in the exercise of its power to conduct inquiries in aid of legislation, have accepted and appreciated testimonial evidence from resource persons appearing before it. Should it be proven prior to the termination of the hearings that the testimonies offered are misleading or fabricated, the committee can

⁷⁶ G.R. No. 169777, April 20, 2006.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ Article VI Section 21 of the 1987 Constitution reads, "The Senate or the House of Representatives or any of its respective committees may conduct inquiries in aid of legislation in accordance with its duly published rules of procedure. The rights of persons appearing in or affected by such inquiries shall be respected."

The Senate, in the exercise of its power to conduct inquiries in aid of legislation, must conduct public hearings in accordance with its duly published rules of proceedings while observing the rights of the parties appearing. Section 10 of Resolution No. 5 otherwise known as the Rules of Procedure Governing Inquiries In Aid of Legislation states that "*technical rules of evidence applicable to judicial proceedings which do not affect substantive rights need not be observed by the Committee.*"

cite erring resource person/s in contempt.⁸⁰ Another remedy available is the filing of a criminal action for perjury⁸¹ since all resource persons are required to take an oath and swear on the truthfulness of their testimonies before they are made to participate and/or answer the queries of the members of the committee/s.

20. The testimonies of the alleged former rebel returnees are considered by this Committee because they are allegedly based on their personal knowledge on how the CPP operates. Further, their accounts revolve around the circumstances of their recruitment, what they know about, and how they participated in both the legal and revolutionary fronts of the CPP.
21. Another reason to accept the testimonies of the alleged former rebel returnees is the fact that they are offered and vouched by no less than our security sector. It is our position that we must accord them the presumption of regularity in the performance of their duties, particularly in validating the testimonies of each witness before presenting them before this Committee.
22. The Committee does not intend to encroach on the power of the judiciary to determine the guilt or innocence of any of the resource persons in our hearings. With that said, we encourage the security sector to file the proper cases in our courts to finally settle the issue. We should not lose focus on the fact that the public hearings were conducted to look into the alleged issue of

⁸⁰ Senate Resolution No. 145 (Feb. 6, 2013) - "SEC. 18. Contempt. - (a) The Chairman with the concurrence of at least one (1) member of the Committee, may punish or, cite in contempt any witness before the Committee who disobeys any order of the Committee or refuses to be sworn or to testify or to answer a proper question by the Committee or any of its members, or testifying, testifies falsely or evasively, or who unduly refuses to appear or bring before the Committee certain documents and/or object evidence required by the Committee notwithstanding the issuance of the appropriate subpoena therefor. A majority of all the members of the Committee may, however, reverse or modify the aforesaid order of contempt within seven (7) days.

"A contempt of the Committee shall be deemed a contempt of the Senate. Such witness may be ordered by the Committee to be detained in such place as it may designate under the custody of the Sergeant-at-Arms until he/she agrees to produce the required documents, or to be sworn or to testify, or otherwise purge himself/herself of that contempt.

"b) A report of the detention of any person for contempt shall be submitted by the Sergeant-at-Arms to the Committee and the Senate."

⁸¹ ARTICLE 183. False Testimony in Other Cases and Perjury in Solemn Affirmation. — The penalty of arresto mayor in its maximum period to prisión correccional in its minimum period shall be imposed upon any person who, knowingly making untruthful statements and not being included in the provisions of the next preceding articles, shall testify under oath, or make an affidavit, upon any material matter before a competent person authorized to administer an oath in cases in which the law so requires.

Any person who, in case of a solemn affirmation made in lieu of an oath, shall commit any of the falsehoods mentioned in this and the three preceding articles of this section, shall suffer the respective penalties provided therein.

ARTICLE 184. Offering False Testimony in Evidence. — Any person who shall knowingly offer in evidence a false witness or testimony in any judicial or official proceeding, shall be punished as guilty of false testimony and shall suffer the respective penalties provided in this section.

red-tagging and determine whether there are gaps in our existing laws that are needed to be filled through legislation⁸² to address this issue that has caused division among our people.

Dual revolutionary tactic: blurring the lines between social activism and rebellion/terrorism

23. The massive information campaign by the NTF-ELCAC was undertaken to reveal to the public how the CPP managed to blur the lines between social activism as protected by the Constitution and criminal acts such as rebellion and terrorism.
24. The CPP has adopted a *dual revolutionary tactic* that makes use of armed struggle (through the NPA) and legal struggle (through the NDF) in order to undermine sitting administrations. This duplicity has been the key of the CPP in managing to sustain its operations for more than five decades.
25. Even in previous administrations, the legal struggle has weaponized both alleged and proven violations of human rights by state agents **to shield their own criminal acts** such as rape, recruitment of minors to take up arms, pre-meditated ambush of government forces, rebellion, destruction of property, harassment and extortion of "revolutionary taxes" that blocks infrastructure development of the countryside, etc.
26. In weaponizing human rights, the CPP has effectively vilified each government and has drawn attention to its alleged systemic violations of human rights. It can be observed that we never had a sitting president whose ouster was never called for by the communist group.
27. There is nothing wrong with expressing dissent on government policies or being vigilant in ensuring that human rights are upheld because Philippine democracy lies in dissent, discussion, and deliberation. What needs to be addressed is how to distinguish individuals or groups who genuinely exercise their Constitutionally-protected freedoms from those who abet and support the use of violence and other unlawful means to destabilize and overthrow the government. Even Justice Fernando in his dissent in *People vs Ferrer*, acknowledged that: *"The line is to be drawn, however, where the words*

⁸² In the case of *Bengzon Jr. vs. The Senate Blue Ribbon Committee*, G.R. No. 89914, November 20, 1991, citing the case of *John T. Watkins vs. United States*, 354 US 178, the Supreme Court recognized the purpose of the power of Congress to conduct inquiries in aid of legislation. It said, "Nor is the Congress a law enforcement or trial agency. These are functions of the executive and judicial departments of government. No inquiry is an end in itself; it must be related to and in furtherance of a legitimate task of Congress."

*amount to an incitement to commit the crime of sedition or rebellion. The state has been reached, to follow the formulation of Cardozo, where thought merges into action.*⁸³

28. The CPP's carefully crafted structure, particularly the creation of legal fronts, has proven to be very effective because they were able to: (1) undermine and discredit every sitting administration; (2) draw attention away and turn the public against government's legitimate efforts to hold the CPP accountable for the killings, rebellion, and acts of terrorism committed; and (3) abolish mechanisms that may possibly damage the CPP's interests.

Duty of the security sector to raise awareness

29. The Constitution recognizes the role of the AFP as the protector of the people and the State.⁸⁴ It is undeniable that the State, through the security sector, has the duty to raise public awareness on the *dual revolutionary tactic* of the CPP that has long eroded democracy and weaponized the notion of human rights. In a democratic society like ours, the free exchange of information is necessary, and can be possible only if the people are provided the proper information on matters that affect them.⁸⁵ At the heart of democracy is every advocate's right to make known what the people need to know.⁸⁶
30. Among the most urgent concerns of the security sector is the seeming increase of child recruitment and deaths of young Filipinos in military and NPA encounters. In order to prevent recruitment of minors, various avenues were taken for public awareness on (1) the reasons why the CPP prey on the youth, and (2) why minors are more vulnerable to be recruited; and, (3) how minors are approached and invited into joining their front organizations or the rebel movement.
31. In an article entitled, "*Pagbayarin ang rehimeng Duterte sa kanyang kriminal na kapabayaan sa pandemya, sakuna, at mga batayang karapatan ng mamamayan!*"⁸⁷ in the CPP website, it showed how legitimate social issues are

⁸³ "There shall be no compromise of the freedom to think one's thoughts and speak them, except at those extreme borders where thought merges into action." as quoted in *Gonzales vs Comelec*, G.R. No. G.R. No. L-27833, April 18, 1969; see *Cardozo, Mr. Justice Holmes*, 44 *Harv. Law Rev.* 682, 688 (1931). Also: "Neither has the fundamental case of the clear and present-danger rule — that is, the traditional distinction between thought and action — been successfully challenged." *Shapiro Freedom of Speech*, 71 (1966).

⁸⁴ Article II Section 3, 1987 Constitution

⁸⁵ *Serenio vs CTRM of NEDA*, G.R. No. 175210, February 1, 2016

⁸⁶ See Barry Sullivan, *FOIA and the First Amendment: Representative Democracy and the People's Elusive "Right to Know"*, 72 *MD. L. REV.* 1, 9 (2012). "[P]eople's 'right to know' serves two separate democratic values: governmental accountability and citizen participation." as cited in *Diocese of Bacolod vs. COMELEC*, G.R. No. 205728, January 21, 2015

⁸⁷ <https://cpp.ph/statements/pagbayarin-ang-rehimeng-duterte-sa-kanyang-kriminal-na-kapabayaan-sa-pandemya-sakuna-at-mga-batayang-karapatan-ng-mamamayan/>

being used to lure in possible recruits, particularly the youth, in the armed movement of the CPP. It said:

"Dapat itransporma ang galit ng mamamayan at pagkasabik sa pagbabago tungo sa materyal na pwersang magtutulak ng mga panawagan ng bayan. Kabilang na rito ang pagpapataksik kay Duterte at higit sa lahat, pagsanib ng kabataan sa armadong pakikibaka sa kanayunan.

Nananawagan ang KM sa lahat ng mga kabataan na maging handa sa buhay at kamatayang pakikipaglaban sa tiraniya ng rehimen.⁸⁸

32. According to Child Soldiers International, recruitment of the youth has become so prevalent because they are easier to manipulate and do not have a developed sense of danger.⁸⁹ In joining militant groups at a young age, these recruits do not have a full understanding of the repercussions of going on board with the rebels, and/or the corresponding dangers involved.⁹⁰

Undue propaganda undermining the anti-insurgency efforts of the government

33. While the AFP is the protector of the people and the State, naming individuals and groups as part of the armed struggle waged by the CPP is inconsistent with and not part of this whole-of-nation approach to counter insurgency.
34. The many pronouncements of Lt. Gen. Parlade, verbal and written online, have paved a warpath against personalities, entities, and organizations who are critical of the government.
35. Early on, Lt. Gen. Antonio Parlade precipitated the issue of red-tagging with his appeal to public personalities Liza Soberano and Catriona Gray to abdicate the activist women's group GABRIELA which he believed would lure them into joining the NPA.
36. His subsequent claims on media also dragged the Anti-Terrorism Act to undue public ire, undermining the merits and intent of the Law. Naming former Bayan Muna Rep. Colmenares, as well as members of the Makabayan bloc in the

⁸⁸ Id.

⁸⁹ Child Soldiers International, 2016a; Dudenhofer, 2016; Their World, 2016

⁹⁰ Id.

House of Representatives, as "card-bearing" members of the CPP, he claimed that these personalities are under surveillance using the Anti-Terrorism Act as its legal cover. No case has been filed against these personalities relative to violations of the said law as of date.

37. Prior to the oral arguments on the Petitions filed against the Anti-Terrorism Act, Lt. Gen. Parlade made an apparent intimidating Facebook post against the petitioners, which in part states: "*The Day of Judgment is upon you and the Filipino people, who have suffered enough from the malignant hands of the CPP NPA NDF of which you are part of, sit in judgment. **Very soon, blood debts will be settled.** The long arm of the law will catch up on you, and your supporters*" (emphasis supplied).⁹¹
38. Lt. Gen. Parlade brushed off the backlash of his statements and said that they will provide evidence for such claims. However, he admitted that they could not yet file cases, zeroing in on members of the University of the Philippines (UP) community who have been allegedly helping to prepare for "*some activities in the undergrounds like anniversaries of NPA.*" He averred that they could not file cases because they still have to go through the "*proper process*" and that "*many of these (school officials) are sympathetic with these underground organizations.*"⁹²
39. Most recently, he called out reporter Tetch Torres-Tupas of Inquirer for "*aiding the terrorist by spreading lies*" and being a "*propagandist*" relative to her article on 02 February 2021 about the two Aeta men who were the first to be accused of violating the Anti-Terrorism Act. At the time when Supreme Court is hearing 37 petitions against the Anti-Terrorism Act, particularly on the issue involving '*overbreadth doctrine*' among others, such remarks from Gen. Parlade were uncalled for and unnecessary.
40. In his article published by the The Manila Times dated 12 February 2021, Gen. Parlade once again made contentious statements in saying: "*Human nature being what it is, we exert mighty hard effort at trying to camouflage our selfish personal agenda on issues by invoking such legal protection as civil rights, human rights, freedom of speech and assembly. Journalists are ever quick to cite freedom of the press to justify all sorts of press attacks against the government, in effect advancing the cause of state enemies wittingly or unwittingly.*" He even added: "*It does not require thinking of great depth to see that whosoever wishes the demolition of the anti-terror law must be a friend, if*

⁹¹ Antonio Parlade (2021 January 16). <https://www.facebook.com/antonio.parladejr>. Retrieved on 9 February 2021

⁹² <https://newsinfo.inquirer.net/1386972/top-ph-military-official-claims-violations-of-anti-terror-law-going-on-in-up>

not actually a supporter or member, of the communist and terror groups which the law intends to inter once and for all — and for all time."⁹³

41. Coming from a high-ranking military official, whose statements may be misconstrued as the policy not only of the NTF-ELCAC but also that of the Armed Forces of the Philippines (AFP), the aforementioned contentious pronouncements are mere propaganda effort which is inconsequential — if not counterproductive — to the cause of the anti-insurgency program. Both Sec. Esperon and Sec. Año were emphatic in saying that red-tagging is not a policy of the State.
42. In fact, such unnecessary media visibility is not part of the whole-of-the-nation approach in countering terrorism. It draws attention away from the actual progress of localized peace talks and undermines the Anti-Terrorism Act. If at all, it can be likened to counter-narratives to violent extremist messaging. The difference, however, is that actual individuals and groups are named as members of the CPP. If not rectified, these reckless and negligent propaganda wars waged by the NTF-ELCAC, particularly by Lt Gen. Parlade, will lead to further polarization.
43. Without substantiated claims before the courts, these public statements may be construed as "*threat*" rather than an information drive to warn off the public against CPP-NPA-NDF. Publicity should not precede legal course of action.
44. Gudani vs. Senga⁹⁴ declares that "*The necessity of upholding the ability to restrain speech becomes even more imperative if the soldier desires to speak freely on political matters. The Constitution requires that "[t]he armed forces shall be insulated from partisan politics," and that "[n]o member of the military shall engage directly or indirectly in any partisan political activity, except to vote." Certainly, no constitutional provision or military indoctrination will eliminate a soldier's ability to form a personal political opinion, yet it is vital that such opinions be kept out of the public eye. For one, political belief is a potential source of discord among people, and a military torn by political strife is incapable of fulfilling its constitutional function as protectors of the people and of the State. Xxx*"

⁹³ Antonio Parlade (12 February 2021). "To catch a commie and friends by their mouths". The Manila Times. Retrieved on 14 February 2021.

⁹⁴ GR No. 170165, August 15, 2006.

45. In his concurring opinion in *Davao City Water District v. Aranjuez*,⁹⁵ Justice Leonen opined that: "*The strictest limitation applies to those in the military and the police. They maintain peace and prevent crime. Those in the military are subject to Commonwealth Act No. 408 known as the Articles of War. Article 96 provides that "[a]ny officer, member of the Nurse Corps, cadet, flying cadet, or probationary second lieutenant, who is convicted of conduct unbecoming an officer and a gentleman shall be dismissed from the service.*"
46. During the hearing on 1 December 2020, the Chairperson of the Committee challenged the security sector to go to court if they already have enough evidence to secure a conviction or at least get past the probable cause level. National Security Adviser Esperon responded convincingly that they will indeed go to the courts. As of date, however, no cases have been filed against personalities and entities whose names were incriminated by careless pronouncements made by these government officials.

Legal Remedies

1. A democratic government's primary responsibility is the protection of its citizen's constitutional rights. At present, various legal and institutional mechanisms are in place for the State to protect constitutional rights and civil liberties.
2. In light of the alleged red-tagging incidents, the Committee sought to determine if the individuals or groups wrongfully identified to be associated with the communist terrorists group have no legal recourse which must be remedied by Congress through the exercise of its legislative functions.
3. The statements released by Lt. Gen Parlade, according to the Makabayan bloc publicly implicated them as part of the CPP-NPA-NDF. According to them, his statements were **based solely on the fact that they are critical of the government and their positions on various issues are disfavored by the government.** However, the resource persons from the security sector never attributed Lt. Gen. Parlade's controversial pronouncements solely on the basis of the Makabayan bloc's dissent or critical views against the government, but rather on their **alleged association** with the CPP-NPA-NDF as testified to by their witnesses.

⁹⁵ G.R. No. 194192, 16 June 2015

4. If the statements, verbal or written, of Lt. Gen. Parlade or any of the officials from the NTF-ELCAC, appear to be false and maliciously made which result to cause dishonor, the victims could file a criminal case for **libel**,⁹⁶ **slander**,⁹⁷ or **cyber-libel**,⁹⁸ as the case may be.
5. Former Bayan Muna Rep. Casiño presented the findings in a report by⁹⁹ Mr. Philip Alston of the United Nations which identifies vilification, labeling or guilt by association as the first cause of extrajudicial killings in the country. Such identification of groups, including human rights advocates, labor union organizers, journalists, teachers' unions, women's groups, indigenous organizations, religious groups, student groups, agrarian reform advocates made them legitimate targets of illegal detention, arrests, and even extrajudicial killings.
6. The Committee notes that the above report mentioned by former Rep. Casiño was presented before the United Nations General Assembly in 2008. It explored the problems and institutional arrangements present **during the administration of former President Gloria Macapagal Arroyo** that may have caused the alleged human rights violations contained at the time. Noteworthy, was the statement in the report that "*Senior Government officials in and out of the military believe that many civil society organizations are fronts for the CPP and that the CPP controls these groups to instrumentalize popular grievances in the service of revolutionary struggle, forge anti-Government alliances, and recruit new party members. While greatly overstated, these views are not entirely baseless. It is the self-professed policy of the CPP to engage in united front politics for the purpose of promoting its views among those who are dissatisfied with the status quo but would be disinclined to join the CPP.*"
7. Former Rep. Casiño also alleged that human rights groups have documented that hundreds of activists and civilians were detained and killed while thousands were illegally arrested. But based on The Philippine Human Rights Situationer,¹⁰⁰ "*...while ceaselessly peddling allegations of gross human rights violations in the Philippines in open sources and before the international community, CPP-NPA-NDF elements have been **unable** to substantiate and*

⁹⁶ Libel is a crime defined in Article 353 of the Revised Penal Code. Libel is a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.

⁹⁷ Slander is similarly defined as libel. The only difference is that the imputation is verbally made in slander while the imputation in libel is made through writing, printing, lithography, radio and other similar means.

⁹⁸ Section 4(c)(4) of the Cybercrime Prevention Act of 2012 punishes the crime of cyber libel. It covers libelous acts as defined in Art. 355 of the Revised Penal Code that are committed through a computer system or any other similar means which may be devised in the future.

⁹⁹ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions

¹⁰⁰ <https://www.officialgazette.gov.ph/downloads/2020/06jun/20200609-PH-Human-Rights-Situationer.pdf>

provide more specific information on allegations often involving numbers in alarming scale (e.g. 700 extra-judicial killings during the Arroyo administration, 30,000 extra judicial killings and 400 killings of human rights defenders during the Duterte administration) (emphasis supplied)."

8. Since the Alston report made almost 13 years ago, several cases¹⁰¹ of alleged violation of constitutional rights resulting from the alleged red-tagging by state agents have been filed and dismissed by our courts.
9. Assuming that the speculations that red-tagging results to threats, illegal detentions and arrests, there are legal remedies available such as the filing of a criminal cases for acts defined and punished under the **Revised Penal Code** such as grave threats,¹⁰² arbitrary detention,¹⁰³ delay in the delivery of detained persons to the proper judicial authorities,¹⁰⁴ among others.
10. As for speculations that the state forces would invoke ***The Anti-Terrorism Act***¹⁰⁵ to effect multiple violations of human rights, the law itself provides sufficient protection by imposing criminal liabilities to a public officer who conducts surveillance without judicial warrant,¹⁰⁶ fails to notify both the court and the Commission on Human Rights of any the warrantless arrest sanctioned by the law,¹⁰⁷ violates the rights of a detainee,¹⁰⁸ tortures the detainee,¹⁰⁹ maliciously examines bank accounts of suspected terrorists,¹¹⁰ and fabricates evidence,¹¹¹ among others.
11. To address the Makabayan bloc's blanket assertion that red-tagging violates human rights, we refer to the ***Philippine Act on Crimes Against International Humanitarian Law, Genocide and Other Crimes Against Humanity*** (RA 9851). When it was enacted in 2009, it was said to be a breakthrough in the enforcement of International Humanitarian Law and human rights. The law defines and punished the most serious crimes of concern to the international community such as war crimes, genocide, and other crimes against humanity.

¹⁰¹ Bayan Muna Party-List vs. Aquino, (G.R. No. 220028), Francis Saez vs. Gloria Macapagal Arroyo (G.R. No. 183533), Ladaga vs. Mapagu (G.R. No. 189689)

¹⁰² Article 282

¹⁰³ Article 124

¹⁰⁴ Article 125

¹⁰⁵ RA 11479

¹⁰⁶ Section 24, ATA

¹⁰⁷ Section 29

¹⁰⁸ Section 31

¹⁰⁹ Section 33

¹¹⁰ Section 37

¹¹¹ Section 43

12. Individuals or groups alleged to have been persecuted through red-tagging could seek recourse under RA 9851, Section 6(h)¹¹² as it criminalizes any acts of persecution committed against an identifiable group on political grounds. This is relative to the adopted principle of distinction which restricts targets of attacks to military objectives in order to protect civilians.
13. On 04 December 2020, KARAPATAN filed criminal and administrative charges against the high ranking officials of the NTF-ELCAC and former PCOO Undersecretary Mocha Uson for alleged violation of Sec. 6(h) of the law. In their complaints, they alleged "*persistent, relentless and malicious red-tagging and vilification*"¹¹³ as the basis of the case.
14. Also, RA 9851 covers other speculated violations of human rights that may result from red-tagging such as willful killing,¹¹⁴ imprisonment or severe violation of physical liberty,¹¹⁵ torture,¹¹⁶ and enforced disappearances¹¹⁷ as they also fall under crimes against humanity.
15. Under Section 10 of RA 9851,¹¹⁸ command responsibility is a form of criminal complicity in crimes against international humanitarian law, genocide and other crimes and is punishable under the law.¹¹⁹ Here, superiors are also responsible for criminal acts committed by their subordinates if proven to know or should have known the commission of any of the acts punishable by the law and failed to either prevent or report the same to the authorities for proper action.
16. Claiming that the alleged association of the individuals, organizations and the Makabayan bloc to the CPP-NPA-NDF tarnished their reputations and resulted in discrimination, they can seek recourse by filing a complaint for violation of the

¹¹² Section 6. *Other Crimes Against Humanity*. - For the purpose of this act, "other crimes against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

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(h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, sexual orientation or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime defined in this Act;

¹¹³ <https://cnnphilippines.com/news/2020/12/4/Karapatan-complaint-NTF-ELCAC.html>

¹¹⁴ Sec. 6(a)

¹¹⁵ Sec. 6(e)

¹¹⁶ Sec. 6(f)

¹¹⁷ Sec. 6(l)

¹¹⁸ Section 10. *Responsibility of Superiors*. - In addition to other grounds of criminal responsibility for crimes defined and penalized under this Act, a superior shall be criminally responsible as a principal for such crimes committed by subordinates under his/her effective command and control, or effective authority and control as the case may be, as a result of his/her failure to properly exercise control over such subordinates, where:

(a) That superior either knew or, owing to the circumstances at the time, should have known that the subordinates were committing or about to commit such crimes;

(b) That superior failed to take all necessary and reasonable measures within his/her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

¹¹⁹ Boac vs. Cadapan, G.R. Nos. 184461-62, May 31, 2011.

Anti-Graft and Corrupt Practices Act (RA 3019). Subscribing to the principle that public office is a public trust, Congress deemed it to consider as corrupt practice any act of government officials or employees that causes undue injury, in the discharge of official functions, to any person or entity through manifest partiality, evident bad faith or gross inexcusable negligence.¹²⁰

17. The aforementioned remedy was recently availed of by Bayan Muna Rep. Zarate when he filed a Complaint against Lt. Gen. Parlade. He alleged that, "*In Parlade's public pronouncements, he has shown to have acted with manifest partiality, evident bad faith, and inexcusable negligence. By his public pronouncements, he definitely caused my person and Bayan Muna undue injury during the campaign and election period.*"¹²¹
18. If it can be established that alleged red-tagging by government officials and/or employees constitutes grave misconduct, administrative charges under the ***Code of Conduct and Ethical Standards for Public Officials and Employees*** (RA 6713) and the **Revised Rules on Administrative Cases in the Civil Service** (RRACCS) may likewise be filed.
19. On 16 July 2020, Kabataan Rep. Elago, together with other leaders from various progressive youth groups filed an administrative complaint for violation of RA 6713 with the Office of the Ombudsman against ex-officio members of the NTF-ELCAC, Lt Gen. Parlade, Usec. Badoy, Dir. Gen. Monteagudo, Sec. Lorenzana, Sec. Año, and NSA Adviser Esperon. They alleged that the respondents committed grave misconduct when they repeatedly claimed that she is a communist rebel and that Kabataan is a front organization of the CPP.
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20. Civil actions, particularly indemnification for the damages caused under Articles 19,¹²³ 21,¹²⁴ and 32¹²⁵ of the Civil Code may likewise be availed.

¹²⁰ Section 3. *Corrupt practices of public officers.* In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:
xxx (e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

¹²¹ <https://www.rappler.com/nation/carlos-zarate-complaint-antonio-parlade-ombudsman>

¹²² <https://www.gmanetwork.com/news/news/nation/767095/elago-sues-ntf-elcac-officials-for-grave-misconduct-malfeasance-over-red-tagging/story/>

¹²³ Article 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

¹²⁴ Article 21. Any person who wilfully causes loss or injury to another in manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.

¹²⁵ Article 32. Any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the following rights and liberties of another person shall be liable to the latter for damages:

21. The Judiciary also offers recourse to persons whose constitutional rights, particularly the right to liberty, has been violated by state agents. These are the writ of *habeas corpus*, the writ of amparo, and the writ of habeas data.
22. The writ of *habeas corpus* is a known judicial remedy that safeguards the right against arbitrary state action. *Habeas corpus* is a latin word translated as "we command that you have the body," that can be used as recourse for persons unlawfully detained. It covers all cases of illegal detention by which any person is deprived of his liberty, or by which rightful custody of any person is withheld from the person entitled thereto.¹²⁶ Justice Caguioa in *Abellana v. Paredes*¹²⁷ defined the Writ of Habeas Corpus as "a speedy and effectual remedy to relieve persons from unlawful restraint. It secures to a prisoner the right to have the cause of his detention examined and determined by a court of justice and to have it ascertained whether he is held under lawful authority." He further added that "concomitantly, if a person's liberty is restrained by some legal process, the writ of habeas corpus is unavailing. The writ cannot be used to directly assail a judgment rendered by a competent court or tribunal which, having duly acquired jurisdiction, was not ousted of this jurisdiction through some irregularity in the course of the proceedings."
23. When custody is denied by respondents in a petition for the issuance of the writ *habeas corpus*, the court could order further investigation to separately conducted by the PNP, NBI and the CHR. The Supreme Court, in the case of *Martinez vs. Mendoza*,¹²⁸ said, "When respondents deny custody of an alleged detained person, petitioners have the duty of establishing the fact of detention by competent and convincing evidence; otherwise the writ of habeas corpus cannot be issued. Nonetheless, when the disappearance of a person is indubitable, the law enforcement authorities are duty-bound to investigate it with due diligence and to locate the missing person. When the wrongdoing is attributable to the police agencies and/or their agents, the aggrieved may secure the assistance of the People's Law Enforcement Board or the Commission on Human Rights."

xxx

(2) Freedom of speech

xxx

(4) Freedom from arbitrary or illegal detention;

Xxx

(12) The right to become a member of associations or societies for purposes not contrary to law,

(13) The right to take part in a peaceable assembly to petition the Government for redress of grievances;

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¹²⁶ Rules of Court, Rule 102 Sec. 1

¹²⁷ G.R. No. 232006, July 10, 2019

¹²⁸ GR No. 153795, Aug 17, 2006

24. Out of frustration, the Supreme Court lamented on the inadequacy and limitations of the writ of *habeas corpus*.¹²⁹ It has, for many times, failed to provide sufficient defenses to a person's right to liberty. In case a military or police officer is named respondent in a petition for habeas corpus, a blanket denial that the detainee is in custody merits the dismissal of the case due for lack of merit.
25. The administration of former Pres. Macapagal Arroyo was distinctly criticized for acts allegedly suppressing the opposition. It was said that the military was responsible for forced disappearances and killings of dissenters and journalists. According to Justice Lucas Bersamin, the Supreme Court "does not have the means and the facilities to conduct an investigation of the whereabouts and fate of the *desaparecidos*."¹³⁰
26. To address the inefficacy of the writ of *habeas corpus*, the Supreme Court, in the exercise of its judicial rule making power,¹³¹ promulgated the writ of *amparo*¹³². While the writ of *habeas corpus* is designed to enforce the right to liberty of a person, the writ of *amparo* was promulgated to protect other fundamental human rights guaranteed by the Constitution that are beyond the scope of the writ of *habeas corpus*.¹³³ It is a remedy available to any person whose right to life, liberty or security is violated or threatened by an unlawful act or omission by a public official or employee or by a private individual or entity.¹³⁴
27. The writ of *amparo* was promulgated around the time when the Human Security Act of 2007 was passed into law. The writ was celebrated by activists and those critical of the Arroyo administration. It was described as a powerful protection of its citizens against possible human rights violations.¹³⁵
28. Under Section 14 of the Rules,¹³⁶ upon filing of the petition or at any time before final judgment is rendered, the court, justice or judge may grant any of

¹²⁹ In the Matter of the Petition for Habeas Corpus of Leopoldo Ancheta vs. Major General Palparan, CA-GR SP No. 95656, the Court said, "*It is always heartrending to see agony and anguish in the eyes of a person whose loved one has disappeared without a trace. And who can remain unaffected, having to listen to the stifled sobs of a soul torn to pieces by loss and desperation. We do understand the plight of the petitioner, and commiserate with her. Sadly for now, that is all this Court can do.*"

¹³⁰ Available Judicial Remedies In Cases of Extrajudicial Killings and Enforced Disappearances.

¹³¹ Sec. 5, Article VII, 1987 Constitution vests upon the Supreme Court the power to promulgate rules concerning the protection and enforcement of constitutional rights.

¹³² A.M. No. 07-09-12-SC

¹³³ Gamboa, Creative Rule-Making In Response to Deficiencies of Existing Remedies, UST Law Review

¹³⁴ Rule 1 of The Rule on the Writ of Amparo

¹³⁵ Commentary of former Supreme Court spokesperson Ismael Khan Jr. published in the Philippine Daily Inquirer last July 17, 2007.

¹³⁶ The Rule on the Writ of Amparo

the following interim reliefs: (1) temporary protection order; (2) inspection order; (3) production order; and (4) witness protection order.

29. When the respondents in a petition for writ of *amparo* is a public official or employee, he cannot invoke the presumption of regularity in the performance of duty to evade responsibility.¹³⁷ Accountability may attach to respondents who are imputed with knowledge relating to the enforced disappearance and who carry the burden of disclosure; or *those who carry, but have failed to discharge, the burden of extraordinary diligence in the investigation* of the enforced disappearance. The duty to investigate must be undertaken in a serious manner and not as a mere formality preordained to be ineffective.¹³⁸
30. No less than former Rep. Colmenares, while he was Secretary-General of the National Union of People's Lawyers (NUPL) and spokesperson for the Counsels for the Defense of Liberties (CODAL), said that "*the writ of amparo promises to provide better legal remedies against human rights violations. It is a legal remedy that "could pierce the veil of impunity" surrounding the perpetrators of enforced disappearances and extrajudicial killings.*"¹³⁹
31. On the other hand, the writ of *habeas data* is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting or storing of data or information regarding the person, family, home and correspondence of the aggrieved party.¹⁴⁰ It is an independent and summary remedy designed to protect the image, privacy, honor, information, and freedom of information of an individual, and to provide a forum to enforce one's right to the truth and to informational privacy.¹⁴¹ It seeks to protect a person's right to control information regarding oneself, particularly in instances in which such information is being collected through unlawful means in order to achieve unlawful ends.¹⁴²

¹³⁷ Section 17. Burden of Proof and Standard of Diligence Required. -The parties shall establish their claims by substantial evidence. The respondent who is a private individual or entity must prove that ordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty. The respondent who is a public official or employee must prove that extraordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty. Xxx The respondent public official or employee cannot invoke the presumption that official duty has been regularly performed to evade the responsibility or liability.

¹³⁸ In the Matter of the Petition for the Writ of Amparo and Habeas Data in favor of Noriel Rodriguez, G.R. No. 191805, 193160, April 16, 2013.

¹³⁹ Gamboa, Creative Rule-Making in Response to Deficiencies of Existing Remedies, UST Law Review

¹⁴⁰ Section 1 - Rule on the Writ of Habeas Data

¹⁴¹ *Vivares v. St. Theresa's College*, G.R. No. 202666, September 29, 2014, 737 SCRA 92, 106.

¹⁴² *Gamboa v. Chan*, G.R. No. 193636, July 24, 2012, 677 SCRA 385, 400.

32. The Court, in several instances, has granted petitions for the issuance of the writ of *amparo*. The first person to benefit from the writ of *amparo* is Rowil Muñasque, organizer of Bayan Muna in Mindanao. He was allegedly abducted by soldiers on the same day the writ of *amparo* was first promulgated. He walked out a free man from the Pagadian City RTC on November 7, 2007 after his family's petition was granted.¹⁴³ In *Bautista vs. Dannug-Salucon*,¹⁴⁴ the Supreme Court affirmed the decision of the Court of Appeals that Atty. Dannug-Salucon of the NUPL presented substantial evidence sufficient to justify the issuance of the writ of *amparo* and writ of *habeas data*.
33. The Committee takes note of the ruling in the case of *Bayan Muna Party-List vs. Aquino*,¹⁴⁵ wherein petitions for the issuance of the writ of *amparo* and *habeas data* were filed based on assertions that the petitioners¹⁴⁶ were wrongly tagged by the military and the police as "*communist front organizations*." Likewise, the inclusion of their names and photographs in the "*lists*" allegedly indicated that they were subjected to State surveillance. With instances of harassment, fabrication of criminal cases and insinuations of linkages to the NPA, they concluded that their inclusion in the "*lists*" are threats to life, liberty and property warranting the protection of the writ of *amparo*.¹⁴⁷
34. The Supreme Court denied the Petition¹⁴⁸ of Bayan Muna for its failure to provide substantial evidence¹⁴⁹ to prove its claims of actual threats resulting from the alleged wrongful tagging. The Court said: "*The writ of amparo is an extraordinary remedy as it is available not only for violations of life, liberty, and security, but also against threatened violations. However, not all threats are protected by the Amparo Rule. Only actual threats, as may be established from all the facts and circumstances of the case, can qualify as a violation that may be addressed under the Rule on the Writ of Amparo.*"
35. The Committee highlights the pronouncement of the court in the same case that *mere membership in such organizations do not equate to actual threats*¹⁵⁰ and that *death of a member without corroborative evidence*

¹⁴³ <https://news.abs-cbn.com/nation/02/13/09/sc-justice-azcuna-who-penned-vfa-decision-retires-today>

¹⁴⁴ G.R. No. 221862, January 23, 2018

¹⁴⁵ G.R. No. 220028, dated November 10, 2015

¹⁴⁶ The Petition for a Writ of Amparo and for a Writ of Habeas Data were filed by the petitioners which include Bayan Muna Party-List Rep Carlos Isagani Zarate, Gabriela Women's Party Rep. Emerenciana De Jesus, and former Anakpawis Party-List Rep. Rafael Mariano, among many others.

¹⁴⁷ Id.

¹⁴⁸ Bayan Muna Party-List et al. vs. Aquino, G.R. No. 220028, dated November 10, 2015.

¹⁴⁹ Sec. 17 Burden of Proof and Standard of Diligence Required. - The parties shall establish their claims by substantial evidence. xxx

¹⁵⁰ "*As for his membership in the Bayan Muna Party-list, we reiterate our pronouncement that mere membership in such an organization cannot be considered as an actual threat as to justify the issuance of a writ of amparo.*"

that it was on the account of membership in an organization allegedly red-tagged is not an actual threat which will warrant the issuance of a writ of amparo.¹⁵¹

¹⁵¹ *"Again, we emphasize that mere membership in said organization is not an actual threat that entitles one to a writ of amparo. Moreover, the fact of death of one of KARAPATAN's workers, without corroborative evidence that his death was on account of his membership in KARAPATAN, is not an actual threat that will pass the test of substantial evidence."*

PART V CONCLUSION

Having known as the longest-running insurgency in Asia, the communist rebellion in the Philippines is still among the main threats to our national security. Over the years, the armed conflict has managed to hamper the country's vision in attaining peace and order towards meaningful and sustainable development.

Executive Order No. 70, s. 2018, adopting the whole-of-nation approach against insurgency through the creation of the NTF-ELCAC, is effective and provides a better alternative to the unsustainable and intermittent peace talks which the CPP-NPA-NDF has taken advantage of over the years.

NTF-ELCAC, as a development-centered initiative, promotes welfare programs such as delivery of housing, education, social protection, health and basic services to our people. It refocuses the government policy to armed conflicts not only as a military concern but primarily, a manifestation of broad and deep-rooted societal ills.

Red-tagging is not among the pre-conceived policies sought to be implemented under EO 70. Public statements of some of the NTF-ELCAC officials, particularly its Spokesperson, Lt. Gen. Parlade, counter the whole-of-nation policy against communist armed insurgency. This undue public propaganda also undermines the social development efforts of the peace framework and results in discord among our people.

This Committee highlights that free speech, together with the right to organize and form associations, peacefully assemble and petition the government for redress of grievances, are fundamental personal rights guaranteed by the Constitution. Nevertheless, it is a settled principle that the exercise of those rights is not absolute for it may be so regulated if it will be injurious to the equal enjoyment of others having equal rights, or injurious to the rights of the community or society. This Committee recognizes the duty of the NTF-ELCAC to raise awareness against the CPP-NPA, considering the increase of child recruitment and deaths of young Filipinos in military and NPA encounters. However, this should not be construed to be a justification for any arbitrary actions against the freedom of expression which is protected under Section 4, Article III of the 1987 Constitution.

While Makabayan bloc's testimonies and counterarguments are recognized, the Committee takes exception to the progressive groups' allegation that red-tagging is among the consequences of the passage of the Anti-Terrorism Act, as unconvincing, as red-tagging or red-baiting is in no way related to the recently passed law. After

all, the law is clear that it does not penalize advocacy, exercise of the right to organize, and other forms of legitimate dissent.¹⁵² Furthermore, the issue on the constitutionality of the ATA is already before the SC and should not be tackled before any other venue. While the statements of Lt Gen. Parlade as claimed are personal to him and should be dealt with accordingly in the cases already filed by the progressive groups.

Nonetheless, it bears emphasis that "*personal opinions*" do not absolve Gen. Parlade from his lack of sense of responsibility and negligence in issuing contentious statements to the media and his Facebook account. Donning his military uniform in his media appearances and bearing the title of a Spokesperson, his public pronouncements could never be disassociated from his position as the official Spokesperson of NTF-ELCAC and a high-ranking official of the AFP.

This unnecessary public propaganda proves to be counterproductive and damaging to the organizational integrity of both the NTF-ELCAC and the AFP. Without substantiated claims filed before the courts of law, these unfounded pronouncements will only be rendered malicious.

It is the very reason why restraint and prudence in speech are imperative among members of the armed forces pursuant to the Constitutional mandate that "*no member of the military should engage, directly or indirectly, in any partisan political activity, except to vote.*"¹⁵³ As in *Gudani vs. Senga*, "*a military torn by political strife is incapable of fulfilling its constitutional function as protectors of the people and of the State.*"¹⁵⁴

In the course of the public hearings conducted by the Committee, representatives from the progressive groups claimed the threats to their safety and security resulting from the government's red-tagging or terrorist-tagging by citing cases of extrajudicial, summary, or arbitrary executions of their members in the past. However, it must be pointed out that the allegations, as of the moment, remain as such in the absence of substantial evidence that the alleged deaths were on the account of membership.

Furthermore, the allegations stated by the progressive groups that the testimonies propounded by the security sector should be dismissed as they are hearsay testimonies and have no supporting object evidence cannot hold true in hearings

¹⁵² Section 4. Terrorism. "*xxx terrorism as defined in this Section shall not include advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights, which not intended to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety.*"

¹⁵³ Constitution, Art. XVI, Sec. 5(3).

¹⁵⁴ GR No. 170165, August 15, 2006.

held before this Committee. As stated above, the Senate is not bound by the strict rules on evidence. In addition to these, the witnesses are made to undergo an oath to ensure that the testimony elicited are made under the penalty of perjury.

This Committee considers the possible damages brought about by the massive information campaigns of the security sector to the progressive groups. At present, various legal and institutional mechanisms are in place for the State to protect constitutional rights and civil liberties, which can be availed by the leaders and members of the progressive groups, as they have done in the past.

Nevertheless, there is no need to pass a law that penalizes red-tagging because recourse is already provided under the Revised Penal Code, Civil Code, special laws, and other judicial remedies. In fact, some of these remedies were already availed by the progressive groups in relation to the statements made by Lt. Gen. Parlade.

PART VI RECOMMENDATIONS

After a consideration of the documents submitted and the testimonies of our resource persons in the three hearings conducted by this Committee, our recommendations are as follows:

1. Legal remedies, as exhaustively discussed in this Committee Report, are sufficient and available for personalities or groups that have been the subject of the so called "red-tagging", and which some of them have already availed as evidenced by the cases filed in the Ombudsman. Being merely a concept without a definite meaning set within the bounds of the law on the one hand, and the presence of adequate legal remedies available to the aggrieved party on the other, this Committee is of the view that criminalizing "red-tagging" is no longer necessary since those who were or may be at the receiving end of red-tagging may avail of the legal remedies under existing laws if the alleged red-tagging violated their constitutional rights.

2. Progressive groups whose young members were killed during NPA encounters should be able to address the issue other than general denials of their non-involvement with the CPP-NPA-NDF. These groups should come clean and ensure that their organizations are not being used by the CPP-NPA-NDF in the recruitment of armed combatants as alleged by the witnesses presented by the security sector.

The Committee enjoins the members of the Makabayan bloc from the House of Representatives to openly and strongly denounce the CPP-NPA-NDF for its actual acts of aggression against the duly constituted government and against the people to disassociate themselves from the armed struggle.

As elected representatives of the marginalized sectors, it is incumbent upon them to advocate the interest of their respective sectors in the parliament within the bounds of the law. Their leadership should exemplify among their members and constituents the pursuit of change by ways of peace including legal protests and related mass actions.

3. It was observed that, while the progressive groups were quick to condemn the human rights violations of the AFP and the PNP, they refused to do the same when asked by the Committee to denounce and disown the CPP-NPA-NDF who wage armed struggle. This Committee recognizes that they have no legal responsibility, as freedom of expression includes the right not to speak.

However, it is the position of the Committee that, as government officials who have taken their oath to uphold and defend the Constitution, they have at the very least the moral obligation to condemn the atrocities perpetrated by the CPP-NPA-NDF. After all, United Nations Security Council Resolution No. 1566 explicitly states the condemnation in the strongest terms all acts of terrorism irrespective of their motivation, whenever and by whomsoever committed, as one of the most serious threats to peace and security.

They should publicly reproach the CPP-NPA-NDF with the same tenacity they devote in calling out the government for its shortcomings in various issues facing our nation and demanding reforms on almost every aspect of governance.

4. Since life, liberty, and property are at stake, the mandate of being the protector of the State carries with it the sacred responsibility of making sure that every action of the security sector is founded on strong information. It is thus recommended that the security sector should give greater attention to the strengthening of its intelligence gathering and analysis capability to ensure that every information used is indeed verified and actionable.
5. The security sector should exercise caution in making public pronouncements as these carry with it a semblance of authority from the State. The authorities should refrain from publicly vilifying, labelling and imputing guilt by association to the communist groups, various institutions and progressive organizations based on false or unverified information. To illustrate, this Committee finds the recent blunder of the military in their Facebook post publishing the list of students who allegedly joined the NPA (died or captured) as unacceptable.¹⁵⁵ The recklessness in making such inaccurate and inconsistent public pronouncements causes not only damage to the reputation of those identified, but also weakens the credibility of the government in safeguarding the security of the State. To earn the trust and confidence of the people, they must prove the legitimacy of their means used in gathering information and the credibility of their evidence.
6. The security sector should also reassess their communication and information dissemination strategies in consideration of the resulting increase in polarization between the government and the people. Instead of focusing on individuals and groups, they should channel their resources in raising public

¹⁵⁵ Lalu, G.P. (2021)AFP's Civil-Military Office apologizes for list of UP alumni who 'joined' NPA.
<https://newsinfo.inquirer.net/1387739/afps-civil-military-office-apologizes-for-list-of-up-alumni-who-joined-npa#ixzz6mE6KpIE>

awareness at local and national level on the measures undertaken in implementing this whole-of-nation approach to end counterinsurgency.

The updates and accomplishments of the localized peace talks should be in the foreground to counter vilification campaigns targeting the genuine purpose of EO 70 while earning the support of the public towards lasting peace. They should exhaust all means to further the "*Balik Loob*" program and to make it known to rebels that the government sees them more as victims of ideology than enemies to convince them to cooperate as possible state witnesses in the filing of cases against the central figures of the movement and/or reintegrate themselves back to their families and society.

Emphasis should also be given to the socio-economic development component of this whole-of-nation approach particularly efforts to secure territories that remain vulnerable or under the control of the NPA, restore inclusive and sustainable peace, revitalize economic activity and bring much needed services to the remote, underdeveloped and conflict-affected areas. This will also address the public concerns regarding transparency in the handling of funds and answer lingering questions as to why the budget for the program had to cost billions of pesos.

7. As a matter of policy, we should prevent the potential conflict between the policies of NTF-ELCAC and the mandate of the security sector by engaging a spokesperson who does not hold concurrent mandates in the security forces. This should be a prerequisite for a Spokesperson in the faithful performance of his official duty.

The primordial role of the Spokesperson of the NTF-ELCAC is to maintain and promote organizational integrity. In doing so, he must ensure that conflict situations will not arise between our national anti-insurgency policy and our military's institutional confidentiality and intelligence-gathering.

With Lt. Gen. Parlade holding concurrent roles as the military commander of the AFP Southern Luzon Command and Spokesperson of the NTF-ELCAC, there is confusion over his accountability and answerability. This becomes most pronounced in the recent case when Parlade accused Inquirer.net reporter Tetch Torres-Tupas of being a "*propagandist*" and implying that she was "*aiding terrorists*". Defense Secretary Lorenzana mentioned that he would order the AFP to investigate the possible mistakes of Lt. Gen. Parlade. Meanwhile, AFP Chief-of-Staff Cirilito Sobejana insinuated that his hands are tied in dealing with Lt. Gen. Parlade by saying, "*on top of his being the commander of the Southern Luzon Command, he is also the spokesperson of*

the NTF-ELCAC xxx And if you would look at the structure, the Armed Forces is just a component of the NTF-ELCAC". Sobejana said that in investigating Lt. Gen. Parlade, they would coordinate with the NTF-ELCAC, "Alamin kung 'yung bang sinasabi ni General Parlade sa public ay with the blessing of the said committee."

The said case presents a conflict of interest prejudicial to the military sector's established chain of command and prescribed disciplinary powers. More so, Lt. Gen. Parlade, donning military uniform in his interviews and other public representations, obviously stands for the Armed Forces of the Philippines even at his capacity as the Spokesperson of NTF-ELCAC. Hence, his pronouncements are inevitably and instinctively attributable to the military sector.

The AFP and the NTF-ELCAC are two distinct and separate government entities. As clearly expressed under EO 70 creating the NTF-ELCAC, there is a need to reframe and refocus the "*whole of nation*" approach of the government to achieving inclusive and sustainable peace by recognizing that the armed conflicts are *not only* military and security concerns but are symptomatic of broader social, economic, and historical problems. More than a security policy, the NTF-ELCAC is a development-centered program. The public pronouncements of Lt. Gen. Parlade as an impassioned member of the defense sector are heavily disposed to the sensitivities and sentiments of the military. This tends to unduly draw the public attention only to the law enforcement and military component of the NTF-ELCAC's strategic framework. More so, with the apparent confusion on which government entity — NTF-ELCAC or AFP — were the public statements of Lt. Gen. Parlade attributable to, it appears that the policies of the State are not complementary and harmonized, hence evidently undermining our "*whole-of-nation*" approach toward sustainable peace.

A clear policy by the AFP leadership must be made on how to deal with the accountability of a member of the chain of command who speaks on behalf of an entity outside the command structure of the military organization.

PART VII EPILOGUE

Our long course of political activism is embedded in our unique history as a nation. It stands as a crucial component of our democratic exercise, punctuated by the long tradition of Filipinos taking their grievances to the parliament of streets, even to the peak of peacefully overthrowing a dictatorial regime.

Political activism is most pronounced in our case where social inequity, corruption, unemployment, poverty and other accompanying economic distress are real and pressing. To this end, reforms across all facets of governance have been the clarion call of the political opposition, activist organizations, and advocate groups which are posed to take the contrarian position from the government.

Hence, legitimate social action for redress of grievances should be protected by state actors, as ultimately guaranteed by the Constitution. To stifle dissent, speech, and free will would undermine the very legitimacy of our democracy in which our identity as a nation stands ground.

Notwithstanding, the said freedoms we enjoy should not infringe on the rights of others and should not be injurious to the welfare of the community or society. We recognize the sovereign police power to regulate these constitutional and civil rights and fundamentally, to promote the general welfare of the people.

The Communist Party of the Philippines with its armed wing, the New People's Army and its political wing, the National Democratic Front, have waged its cause to the extent gravely detrimental to the well-being of our society, and posed a great threat to our national security. Five decades into engaging in insurgency against the government, the CPP-NPA-NDF has earned the reputation of being the country's deadliest terror group.

The CPP-NPA-NDF is also responsible for committing grave violations affecting children in situations of armed conflict and listed as a terrorist organization by the United States, European Union, the United Kingdom, Australia, Canada and New Zealand.

This form of association no longer demands the protection of freedom granted by the Constitution.

Inarguably and as it should be, their actions should not be abetted, condoned, or rationalized by any parties, especially those who share contrarian views of the government. The members of the Makabayan Bloc from the House of

Representatives should publicly repudiate the CPP-NPA-NDF for its actual acts of aggression. It is incumbent upon them to advocate the interest of their respective sectors in the parliament within the bounds of the law.

To disassociate themselves from the violent recourse in pursuit of their advocacies, the progressive groups whose young members were killed during NPA encounters should be able to address the issue upfront with strong rebuke of the violent armed struggle.

As elected representatives of a duly constituted government and as Filipino people who have moral obligations to their fellow countrymen, they should work in unison with the government in condemning in the strongest terms the atrocities perpetrated by the CPP-NPA-NDF. The people expect no less; else, they would be remiss in their mandates as public servants in pursuit of reforms by way of peace.

On another note, propaganda war against the CPP-NPA-NDF waged by the NTF-ELCAC officials has taken more traction in the media than the program itself. The publicity stratagem or purported "*dissemination of truth*" of the government calling out personalities, entities and organizations as "*card-bearing members*", supporters of underground movements, and legal front of the CPP-NPA-NDF is said to be hinged on the State's duty of *parens patriae* which seeks to warn or remind citizens, especially the youth, to be careful with front organizations of the CPP-NPA-NDF.

These series of public statements had been admonished as "*red-tagging*." Broadly defined, groups subjected to red-tagging are "*stereotyped or caricatured by the military as communist groups, making them easy targets of government military or paramilitary units*." Red-baiting makes those so identified as vulnerable to attacks, and generates a chilling effect on dissent among similar-minded individuals.¹⁵⁶

Without substantiated claims before the courts of law, the said public statements appear to be threatening, incriminatory, and even libelous in nature. Coming from government officials which statements may be misconstrued as the policy of the whole NTF-ELCAC, the aforementioned contentious pronouncements are mere propaganda efforts which will be rendered inconsequential — if not counterproductive — to the cause of the program.

Arbitrary reference to the term "terrorism" and the implementation of the Anti-Terrorism Law also run counter to the merits and intent of the Law. Lt. Gen.

¹⁵⁶ J. Leonen Dissenting Opinion in *Zarate vs Aquino*

Parlade's take in his recent Manila Times¹⁵⁷ column saying that, "*whosoever wishes the demolition of the anti-terror law must be a friend, if not actually a supporter or member, of the communist and terror groups xxx*" draws attention away from the actual progress of peace talks and undermines the Anti-Terrorism Law.

Hence, in our pursuit to counter terrorism as perpetrated by the CPP-NPA-NDF, among others, prudence, due diligence, and self-restraint should be foremost in the minds of the security sector in implementing their assigned task, as the burden of proof lies in their midst.

State actors should exemplify accountability and respect for due process in making public pronouncements. Legal course of action shall take precedence before any propaganda that may be defamatory to one's person.

While "*red-tagging*" is a broad concept yet to be defined within our judicial system and hence could not be criminalized, there are adequate and effective legal remedies available to the supposed aggrieved parties. These laws, which are exhaustively discussed herein have been availed by parties in the recent past and which our courts have decided upon.

The NTF-ELCAC, a key program of this administration to fight insurgency, should be a departure from the intermittent, inconclusive, and unsustainable peace talks with the CPP-NPA-NDF, among other insurgent groups.

The program, as a development-centered initiative, should be the thrust of the fervor and commitment of the administration against insurgency. With its welfare programs such as delivery of housing, education, social protection, health and basic services to our people, we can address the crux of insurgency in the country, that is, social inequality and extreme poverty.

Lastly, in spite of some isolated blunders, the Committee believes that the "whole-of-nation" approach spearheaded by the NTF-ELCAC, thus far, could be the most effective anti-insurgency program as evidenced by the continuous and consistent reduction of the influence and strength of the CPP-NPA-NDF.

¹⁵⁷ Parlade, A. (12 February 2021). "To Catch a commie and friends by their mouths". Manila Times. <https://www.manilatimes.net/2021/02/12/opinion/columnists/to-catch-a-commie-and-friends-by-their-mouths/839808/> accessed on 12 February 2021.

EIGHTEENTH CONGRESS OF THE REPUBLIC }
OF THE PHILIPPINES }
Second Regular Session }



SENATE
P.S. Res. No. 559

20 OCT 28 A10:35

Introduced by SENATOR PANFILO M. LACSON

RESOLUTION

DIRECTING THE SENATE COMMITTEE ON NATIONAL DEFENSE AND SECURITY, PEACE, UNIFICATION AND RECONCILIATION TO EXERCISE ITS OVERSIGHT AUTHORITY OVER THE DEFENSE SECTOR ON THE ISSUE OF RED-TAGGING/RED-BAITING OF CERTAIN CELEBRITIES, PERSONALITIES, INSTITUTIONS, AND ORGANIZATIONS, WITH THE END IN VIEW OF CRAFTING PROPER GUIDELINES THAT WILL PREVENT MISUNDERSTANDING BETWEEN THE PUBLIC AND THE MILITARY AND ENSURE THE PROTECTION OF THE CONSTITUTIONAL RIGHTS OF THE PEOPLE, THEREBY STRENGTHENING THE CONFIDENCE AND TRUST OF OUR PEOPLE ON THE PROFESSIONALISM OF OUR MILITARY IN CONSONANCE WITH THE CONSTITUTIONAL EDICT THAT THE ARMED FORCES OF THE PHILIPPINES (AFP) IS THE PROTECTOR OF THE PEOPLE AND THE STATE AND THAT CIVILIAN AUTHORITY IS AT ALL TIMES SUPREME OVER THE MILITARY

WHEREAS, Article II Section 3 of the 1987 Constitution states that "civilian authority is at all times supreme over the military. The Armed Forces of the Philippines is the protector of the people and the State. Its goal is to secure the sovereignty of the State and the integrity of the national territory.";

WHEREAS, due to the many atrocities committed by the National People's Army (NPA), the armed component of the Communist Party of the Philippines (CPP), which resulted in the countless number of deaths, both civilian and military, and damage to property amounting to millions of pesos, on December 5, 2017, President Rodrigo Roa Duterte issued Proclamation No. 374 declaring the CPP-NPA as a designated terrorist organization under Republic Act No. 10168, otherwise known as the Terrorist Financing Prevention and Suppression Act of 2012;

WHEREAS, in addition to this, in a recent report, the Philippines ranks ninth (9th) in the *Global Terrorist Index of 2019* with its terrorist activities dominated by the

communist New People's Army. It was reported to be responsible for over 36% of deaths and 39% of terror-related incidents, at 107 and 179, respectively. It was further reported that the NPA has engaged in an insurgency against the government for five decades and has been known as the Philippines' deadliest terror group which has killed 2,387 individuals since 1970;

WHEREAS, in response thereto, Congress passed and the President signed Republic Act No. 11479, otherwise known as The Anti-Terrorism Act of 2020, which defines and criminalizes the crime of terrorism including that of recruitment and membership in a terrorist organization duly declared, i.e. proscribed, as such by the Court of Appeals;

WHEREAS, on October 13, 2020, actress Liza Soberano participated in an online activity of the group Gabriela Youth, entitled "*Mga Tinig ni Nene: Reclaiming Our Voices on the International Day of the Girl Child Live*", wherein she talked about being threatened online with rape;

WHEREAS, on October 21, 2020, Lieutenant General Antonio Parlade Jr., posted the following message on the National Task Force to End Local Communist Armed Conflict Facebook Page, "*Let us not red-tag Liza Soberano. It's not fair to her. She is merely supporting advocacy for women's rights. She has to be protected in the exercise of her rights. Is she an NPA? No, of course not. Not yet. So let's help educate her and the other celebrity targets of Malayang Kilusan ng Bagong Kababaihan (MAKIBAKA), the Underground Mass Organization hiding under Gabriela Women's Party. So, Rep. Arlene Brosas and Gabriela, shame on you if you haven't informed your recruits about your hidden violent agenda. Liza Soberano, there's still a chance to abdicate that [Gabriela Youth] group. If you don't, you will suffer the same fate as Josephine Anne Lapira, former Deputy Secretary General of Gabriela Youth of UP, Manila and defender of women's rights, even against sexual predators amongst her comrades in the NPA unit she joined which is clearly stated in her handwritten letter addressed to a certain @EMIL. It's a pity she learned about nonsense things like nabbing a firearm, exploitation while already inside the underground. It was too late, she is [sic] dead. The choice is yours Liza. And so with you Catriona. Don't follow the path Ka Ella Colmenares (Locsin) took in the underground and NPA Quezon. I am sure Angel Locsin and Neri Colmenares will not tell you this.*";

WHEREAS, this controversial message resulted in a public outcry over Lt. Gen. Parlade's seeming "red-tagging" of the celebrity and of other public figures such as fellow actress Angel Locsin and beauty queen Catriona Gray who are also vocal about airing their advocacies and supporting several human rights groups;

WHEREAS, Supreme Court Associate Justice Marvic Leonen, in his dissenting opinion in the case of Zarate vs. Aquino III, cited a 2011 journal that defined red-tagging/red-baiting as "*the act of labelling, branding, naming and accusing individuals and/or organizations of being left-leaning, subversives,*

communists or terrorists (used as) a strategy... by State agents, particularly law enforcement agencies and the military, against those perceived to be 'threats' or 'enemies of the state'. He further said that for decades, red-tagging — labelling individuals and groups as communists or terrorists — has been a persistent and powerful threat to civil society and freedom of expression;

WHEREAS, two months ago, General Gilbert Gapay was also embroiled in a controversy when he suggested that the Anti-Terrorism Act of 2020 should regulate social media resulting in an admonition from Defense Secretary Delfin Lorenzana, who according to reports, told Gen. Gapay the oft-repeated statement, "*Less talk, less mistake*";

WHEREAS, Lt. Gen. Parlade is recognized as an outstanding officer of the Philippine Army who for decades fought against insurgents, secessionists, and terrorists in defense of our people and country, and has accordingly received various recognitions to this end. Be that as it may, it cannot be further emphasized that Lt. Gen. Parlade, and all our men and women in uniform, should exercise prudence and self-discipline in making public pronouncements that may be misconstrued as the policy of the State;

WHEREAS, with the passage of The Anti-Terrorism Act of 2020, our military and police personnel are equipped with the necessary and proper tools to prevent and combat terrorism but are likewise mandated to protect the public from any abuse that may be done in relation to the implementation of the law;

WHEREAS, according to Presidential Spokesperson Harry Roque, "the President has spoken through Secretary Lorenzana when he warned both police and military authorities to be very careful in red-tagging," and that the Defense Chief even suggested not to publicize the names of suspected communists;

WHEREAS, State agents, particularly, law enforcement agents and the military, should be mindful and conscious in making public statements which directly or indirectly imply membership to insurgents or armed terrorist groups prior to a declaration, i.e., proscription of such group/s, by the Court of Appeals after due process has been accorded to all parties involved with sufficient proof presented to establish membership therein, lest they be accused of violating the constitutional rights of the person involved;

NOW THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, to direct the Senate Committee on National Defense and Security, Peace, Unification and Reconciliation to exercise its oversight authority over the defense sector on the issue of red-tagging/red-baiting of certain celebrities, personalities, institutions, and

organizations, with the end in view of crafting proper guidelines that will prevent misunderstanding between the public and the military and ensuring the protection of the constitutional rights of the people, thereby strengthening the confidence and trust of our people on the professionalism of our military in consonance with the constitutional edict that the Armed Forces of the Philippines (AFP) is the protector of the people and the state and that civilian authority is at all times supreme over the military.

Adopted,


PANFILO M. LACSON
Senator