Republic of the Philippines

Senate

Pasay City

COMMITTEE ON FOREIGN RELATIONS

O F F I C E O F T H E C H A I R P E R S O N

SEN. IMEE R. MARCOS

CHAIRPERSON'S REPORT

By the Chairperson of the Committee on Foreign Relations

Re: Inquiry, in aid of legislation, on the (1) clarification of the involvement and the roles of the International Criminal Court ("ICC"), the International Criminal Police Organization ("Interpol"), and the various government agencies in the arrest of Former President Rodrigo Roa Duterte ("FPRRD"); (2) Confirmation that measures were taken to ensure that the rights of FPRRD under domestic laws and relevant treaties were properly protected throughout the process; and (3) Such other matters that may aid the Committee in crafting necessary legislation on the coordination between Philippine authorities and international tribunals and law enforcement organizations.

Pursuant to Section 2 of the Rules of Procedure Governing Inquiries in Aid of Legislation, the Committee on Foreign Relations has conducted an inquiry, in aid of legislation, on the (1) clarification of the involvement and the roles of the ICC, the Interpol, and the various government agencies in the arrest of FPRRD; (2) Confirmation that measures were taken to ensure that the rights of FPRRD under domestic laws and relevant treaties were properly protected throughout the process;

and (3) Such other matters that may aid the Committee in crafting necessary legislation on the coordination between Philippine authorities and international tribunals and law enforcement organizations.

For purposes of this *Chairperson's Report*, matters raised during the public hearings on 20 March 2025, 03 April 2025, and 10 April 2025 and other information that came to the attention of the Committee thereafter are taken into consideration.

I.
The arrest and transport of Former President Rodrigo R. Duterte ("FPRRD") was politically-motivated

Summary of the Timeline.

From the time President Ferdinand "Bongbong" Marcos, Jr. ("PBBM") assumed office in mid-2022 until December 2023, the administration was more or less consistent that the ICC has no jurisdiction and that the administration "will not lift a finger"[1] to help the ICC. In an interview last November 2023, PBBM even stated that it will not be proper for foreigners to dictate who will be investigated by the proper authorities in our country.[2] This stance was reiterated not only through the media but also through official correspondence between PBBM and Vice President Sara Z. Duterte ("VP Sara") such as the letter dated 15 December 2023 where the former emphasized that the jurisdiction of the ICC was "very much in question."[3]

In January 2024, the plan of several members of the House of Representatives, led by Speaker Martin Romualdez, to conduct a State-sponsored People's Initiative ("PI") was exposed. This led to a series of Maisug Rallies backed by FPRRD in order to protest against the fake PI. The first Maisug Rally took place in Davao City on 28 January 2024 with other rallies taking place all over the Philippines in the months that

[1] Statement of PBBM on 23 January 2024.
[2] Statement of PBBM on 24 November 2023.
[3] A Copy of the Letter of PBBM to VP Sara dated 15 December 2023 is hereto attached as Annex "A".

followed. Significantly, it was through these rallies where FPRRD became much more vocal in criticizing the administration.

Meanwhile, less than a month after the first Maisug Rally, there was a slight but significant change in the statements of PBBM regarding ICC. In an interview on 20 February 2024, PBBM, while reiterating that the ICC has no jurisdiction, said that the Philippines is an "open country, we are not a closed country" and that the ICC has not done anything illegal so far.[4]

On 22 May 2024, the House Committee on Human Rights launched an investigation into the alleged extrajudicial killings ("EJKs") associated with the drug war of the administration of FPRRD. The Maisug Rallies continued during the summer with increasing intensity.

Then on 19 June 2024, VP Sara resigned as the Department of Education Secretary. A month later, a massive Maisug Peace Rally was held in Liwasang Bonifacio. In August 2024, the first Quadcom hearing took place, targeting the drug war of FPRRD's administration. By September 2024, political relations between the administration and the Dutertes had soured so much that in an interview on 22 September 2024, VP Sara said that she and PBBM are not friends and that they are not really talking. At around this time, both FPRRD and VP Sara have become increasingly vocal against the deficiencies and failures of the administration.

At various dates in October 2024, ICC operatives came into the Philippines.[5] While the administration does not admit that the government assisted the ICC in its investigation, it is apparent that, at the very least, people in very high places within the administration aided the operatives. The ICC personnel were able to obtain various documents which could not have been easily obtained without the assistance of high-ranking government officials. Among these documents are financial records, autopsy

[4] Statement of PBBM on 20 February 2024.

[5] Redacted copies of the Passports and travel details/personal details of Maya Destura, William Rosato, Amir John Kassam, and Glenn Roderick Thomas Kala are hereto attached as Annexes "B-1", "B-2". "C-1", "C-2", "D-1", "D-2", "E-1" and "E-2".

reports, drug watchlists, CCTV footages, and Philippine National Police (PNP) documents.

On 04 November 2024, the Department of Justice ("DOJ") issued Department Order No. 778[6] which created a task force to investigate the EJKs during FPRRD's administration.

In the meantime, the Quadcom hearings continued with much fanfare. On 11 November 2024, FPRRD attended the Quadcom hearing. Then, just two (2) days after, Executive Secretary Lucas Bersamin said that local authorities would consider cooperating with the Interpol if the ICC seeks the intervention of the international anti-crime body.

On 20 November 2024, the Chief of Staff of the Office of the Vice President was cited in contempt by the House Committee on Good Government and Public Accountability which was conducting hearings on the alleged misuse of confidential funds. This was followed by the filing of several impeachment complaints against VP Sara in early December 2024.

Political tensions between the administration and the Dutertes rose even further after the Second Bicameral Conference on the 2025 General Appropriations Act ("2025 GAA"). Various irregularities in the enactment procedure of the 2025 GAA, as well as inexplicable changes in many of the items therein, were exposed. This led to a privilege speech by Senator Imee R. Marcos on 18 December 2024. Various pro-FPRRD personalities also protested these irregularities in the budget, some of whom eventually filed cases before the Supreme Court.[7]

On 13 January 2025, the Iglesia ni Christo staged a large Peace Rally in Manila to oppose the impeachment of VP Sara. While talks of impeachment toned down in

[6] A copy of DOJ Department Order No. 778 is hereto as Annex "F".
[7] On January 28, 2025, former Executive Secretary Vic Rodriguez and Davao 3rd District Representative Isidro Ungab, among others, filed with the Supreme Court a Petition to declare the 2025 GAA as unconstitutional.

the days leading to and after the peace rally, the administration once more made public its changing stance when it comes to the ICC with the Secretary of Justice saying on 24 January 2025 that the Marcos administration will sit down with the ICC and discuss certain areas of cooperation in the ICC's investigation on the EJKs which took place during the previous administration. It was also around this time that "Oplan Tugis" or "Operation Pursuit" was concocted by the PNP and other government agencies.

On 05 February 2025, just before both chambers went on a session break, the impeachment of VP Sara was approved by the House of Representatives. Five (5) days thereafter, the ICC Prosecutor applied for an arrest warrant against FPRRD.

The ICC eventually issued a warrant for the arrest of FPRRD on 07 March 2025. The PNP then started mobilizing its personnel shortly after[8] and before the diffusion notice was received by the Philippine Center for Transnational Crime at 3:04 am on 11 March 2025.[9] PNP Major General Nicolas Torre III, accompanied by Prosecutor General Fadullon and Special Envoy for Transnational Crime Markus Lacanilao, then effected the arrest of FPRRD after the latter and his party arrived at NAIA.

In a document by the political party Lakas-Christian Muslim Democrats ("Lakas-CMD") dated 22 April 2025 and entitled "Mid-Election Final Campaign Sprint Action Plan"[10], it was revealed that the Administration has been operationalizing what is labeled in the document as "Oplan Horus". The plan is designed to "maintain the Alyansa's advantage post midterm election" and involves, among others, "ICC arrest plan" where various government agencies and the "Congress" worked with Sen. Trillanes "for the ICC investigation" to "obtain arrest warrant for Duterte". The plan also details how the Administration will move forward by speeding up the impeachment of VP Sara using "For Later Release" projects to obtain the required

[8] The PNP Memo dated 10 March 2025 shows that at the very latest, the PNP was already preparing to arrest PRRD the day before the warrant of arrest was even transmitted to the Philippines. A copy of the PNP Memorandum from the PNP Directorate for Operations and a copy of the Memorandum of the PNP Regional Police Office 13 are herein attached as Annexes "G" and "H", respectively.
[9] A copy of the Diffusion Notice is hereto attached as Annex "I".
[10] A copy of the Mid-Election Final Campaign Sprint Action Plan is hereto attached as Annex "J".

number of votes in the Senate; pulling down the "booming ratings of Duts candidates due to Duterte's arrest"; and disqualifying key candidates.

Likewise, on 22 April 2025, the Department of Foreign Affairs ("DFA") wrote the Sangguniang Panglungsod of Davao City, stating that since the Philippines is no longer a State Party to the Rome Statute, government instrumentalities, including the DFA, no longer have any legal personality to make representations before the ICC.[11]

Finally, on 26 April 2025, the Senate Committee on Foreign Relations received information that Malacañang has launched an information operations to divert the attention of the people from the arrest and transport of FPRRD to the issues in the West Philippine Sea and on the alleged Chinese disinformation campaign. Based on such information, the Administration has a communication plan which begins with the long overdue Senate hearing on the undersea drones found by Filipino fishermen off the Philippine coast several months ago. The Administration will also link alleged Chinese disinformation campaign with the rise of pro-Duterte sentiments to make it appear that the sympathy of the people for Duterte is caused by Chinese disinformation.

Political events correlated closely with the events leading to the arrest of FPRRD.

A close look at the statements of the President and key administration officials reveals changes in the stance of the administration on cooperation with the ICC and its jurisdiction. When these statements, as well as the incidents pertaining to the arrest of FPRRD, are juxtaposed with the political events that took place during the relevant times, it becomes apparent that the cooperation of the administration with the ICC and the Interpol was politically motivated.

[11] A copy of the letter of the DFA dated 22 April 2025 is herein attached as Annex "K".

Indeed, the timeline shows a clear pattern where major political incidents precede significant statements and actions of the administration relative to the ICC. For instance, shortly after FPRRD began being vocal in his criticisms against the PI, PBBM responded by saying that the Philippines is "an open country" and that the government will only do something about the ICC if it does something illegal.[12]

In another instance, after FPRRD attended the Quadcom hearing on 11 November 2024 and put to shame several pro-Administration Congressmen, the Administration responded two (2) days later thru Executive Secretary Bersamin's statement that local authorities would consider cooperating with the Interpol if the ICC seeks intervention of the international anti-crime body.[13]

Yet another example of the pattern was manifest in January 2025. After the pro-administration Congressmen were forced to tone down the narrative to impeach VP Sara because of the massive Peace Rally by the INC on 13 January 2025, the Administration responded by concocting "Oplan Tugis" or "Operation Pursuit" followed by the statement of the Secretary of Justice that the Marcos administration is open to sitting down with the ICC to discuss certain areas of cooperation.

Perhaps most glaring of this pattern was when the ICC Prosecutor applied for an arrest warrant against FPRRD within just five (5) days after the lower House impeached VP Sara on 05 February 2025.

The arrest and turn-over of FPRRD was part of a whole-of-government effort by the Administration to bring down the Dutertes.

[12] Statement of PBBM on 20 February 2024.
[13] Statement of ES Bersamin on 23 November 2024.

Lest it be overlooked, the arrest of FPRRD by the Administration and his turn-over to the ICC was just one of several mechanisms still currently being employed to destroy the political power and clout of the Duterte family.

The very first clear attempt to bring down the Dutertes was the PI which would have served as a prelude to revise the political provisions in the Constitution in order to prevent the Dutertes from regaining the presidency in 2028. When the PI failed, the Administration scrambled to destroy the Duterte name and to remove the family's patriarch, FPRRD, from the country.

As early as May 2024, the House of Representatives, through the Committee on Human Rights, was already attacking the Dutertes by its attempt to link EJKs to FPRRD. This political attack against the Dutertes, disguised as an investigation in aid of legislation, not only persisted but was eventually expanded in August 2024 with the formation of the Quadcom.

The target of the Quadcom was obviously FPRRD. However, even if the Quadcom were to be successful a weakening FPRRD, VP Sara would still very much be a threat to the plans of the Administration for the presidency in 2028. Thus, investigations were also conducted by the lower House against VP Sara. Eventually, impeachment complaints were filed against her.

Meanwhile, working in a more surreptitious manner, executive agencies began attacking the Dutertes by first silently assisting the ICC to gather the documents and other pieces of so-called evidence from various government offices. Eventually, the DOJ also launched its own investigation into the EJKs on 04 November 2024.

All of these culminated in the arrest of FPRRD and his hasty turn-over to the Hague and in the impeachment of VP Sara by the House of Representatives.

From the above-mentioned circumstances, it cannot be denied that the arrest and turn-over of FPRRD to the ICC was most certainly politically-motivated.

Considering the withdrawal of the Philippines from the Rome Statute in March 2018 and its effectivity in March 2019, the country has no legal obligation to immediately turn-over a national to the ICC. The Administration's deliberate cooperation with the ICC was not a legal action with some political consequence. Rather, it was a political maneuver coated with some tenuous legal color designed to cripple the Duterte clan in the 2028 elections.

Any doubt that the arrest and turn-over of FPRRD to the ICC was politically-motivated was put to rest by the document entitled "Mid-Election Final Campaign Sprint Action Plan" ("Action Plan") by the Administration-aligned Lakas-CMD. Dated 22 April 2025, the Action Plan described in detail the accomplishments of "Oplan Horus", an operation launched sometime in April 2024, and was designed to bring down the Dutertes.

In the portion of the Action Plan entitled "How to Attack", various government agencies, including the Philippine National Police ("PNP"), and the House of Representatives worked with former Senator Antonio Trillanes in helping the ICC Prosecutor obtain an ICC warrant for the arrest of FPRRD. The Action Plan also provides that the necessary votes to impeach of VP Sara in the House of Representatives were obtained through the use of "soft" projects such as AICS, AKAP, and TUPAD.

In the portion of the Action Plan entitled "Following Strategies and Moves", it is indicated that the impeachment of VP Sara should be sped up and that the necessary votes in the Senate would be obtained using "For Later Release" projects as rewards. It is also indicated therein that domestic investigations conducted by the House of Representatives, the Department of Justice, the National Bureau of Investigation, the Commission on Audit, and the Anti-Money Laundering Council on the drug war and on the confidential funds shall be carried forward. The plan also indicated that "Dut's assets" shall be frozen.

II.

The Philippines had no legal obligation to arrest FPRRD and turn him over to the ICC.

To be clear, what was received by the Philippine Center for Transnational Crime ("PCTC") was a Diffusion Notice and not a Red Notice. Unlike a Red Notice which goes through a verification by the Interpol Secretariat before Interpol will decide to transmit the same, a Diffusion Notice is not at all verified.[14] This verification is of prime importance in the case of FPRRD since under Article 3 the Interpol Constitution, the Interpol is prohibited from undertaking any intervention or activities of a political, military, religious, or racial character. As discussed, the arrest and turn-over of FPRRD was a political maneuver by his political enemies.

Furthermore, neither a Diffusion Notice nor even a Red Notice is a warrant of arrest. This much has been admitted by the Executive Director of the PCTC.[15] No State is legally obliged to arrest a person, much less turn him over to a foreign jurisdiction, merely on the basis of a Red Notice or Diffusion Notice.

Therefore, the Administration's assertion that while the Philippines does not recognize the jurisdiction of the ICC, the country must nonetheless comply with its obligations under Interpol is quite illogical. After all, if the ICC has no jurisdiction in the Philippines, then it necessarily follows that all of its coercive processes, especially arrest warrants, do not have any legal effect in the country. Also, since a Red Notice or Diffusion cannot, by itself, be the basis for arresting a person, then what was the source of the legal obligation for the administration to arrest FPRRD? Nothing.

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[14] The Transcript of Stenographic Notes (TSN) of the hearing of the Senate Committee on Foreign Relations held on 20 March 2025 (hereafter "First Hearing TSN") is herein attached as Annex "L"; First Hearing TSN at 88, 90, and 92.

[15] The Transcript of Stenographic Notes (TSN) of the hearing of the Senate Committee on Foreign Relations held on 10 April 2025 (hereafter "Third Hearing TSN") is herein attached as Annex "M"; Third Hearing TSN at 13.

The repeated reliance by Secretary Jesus Crispin Remulla ("SOJ Remulla") on Section 17 of Republic Act (RA) No. 9851 only serves to underscore the lack of basis in the arrest and turn-over of FPRRD. For reference, Section 17 of RA No. 9851 provides that:

> **Section 17.** *Jurisdiction.*- The State shall exercise jurisdiction over persons, whether military or civilian, suspected or accused of a crime defined and penalized in this Act, regardless of where the crime is committed, provided, any one of the following conditions is met:
>
> (a) The accused is a Filipino citizen;
>
> (b) The accused, regardless of citizenship or residence, is present in the Philippines; or
>
> (c) The accused has committed the said crime against a Filipino citizen.
>
> In the interest of justice, the relevant Philippine authorities may dispense with the investigation or prosecution of a crime punishable under this Act if another court or international tribunal is already conducting the investigation or undertaking the prosecution of such crime. **Instead, the authorities may surrender or extradite suspected or accused persons in the Philippines to the appropriate international court, if any, or to another State pursuant to the applicable extradition laws and treaties.**
>
> No criminal proceedings shall be initiated against foreign nationals suspected or accused of having committed the crimes defined and penalized in this Act if they have been tried by a competent court outside the Philippines in respect of the same offense and acquitted, or having been convicted, already served their sentence

A plain reading of Section 17 of RA No. 9851 readily reveals that surrender can only be effected if there is an applicable treaty. The Administration's problem is that

it has already repudiated the Rome Statute not only by the withdrawal therefrom of the previous administration but also through its own repeated and emphatic statements that the ICC has no jurisdiction. During the hearing, even SOJ Remulla said that the ICC has no jurisdiction and that the provisions of the Rome Statute do not apply.

> **THE CHAIRPERSON**: So, to clarify, the statement means that the president was not recognizing the jurisdiction of the ICC over the crimes allegedly committed by the former president. Is that correct?
>
> **MR. J.C. Remulla: We do not recognize the jurisdiction of the ICC over the country.** What we recognize is the jurisdiction of the ICC over individuals who may have violated International Humanitarian Law by committing murder and other heinous crimes.[16]
>
> xxxx
>
> **THE CHAIRPERSON**: Thank you very much, Usec.
>
> Okay. And then, in January of 2024, the president then said—let me say this for the hundredth time. I think we have seen that clip before. Can we bring it back? Yes, for the hundredth time, "I do not recognize the jurisdiction of the ICC. The Philippine government will not lift a finger to help any investigation that the ICC conducts."
>
> So, at the risk of really belaboring the point, may I confirm, is the DOJ at least as of early last year, was of the stance that ICC had no jurisdiction, and the Philippines would not lift a finger, in the words of the president?

[16] TSN of the First Hearing at 33.

MR. J.C. REMULLA: The ICC does not have jurisdiction over the Philippines, Your Honor. And we did not lift a finger to help them at all.[17]

SOJ Remulla tried to find a substitute for the Rome Statute since he admitted that such treaty does not apply:

THE CHAIRPERSON. I'm a little bit perplexed, given that you are part of the executive. The president has said, as he said for the hundredth time, that we are not under the ICC. Why is the SOJ now saying that we are nevertheless, somehow, in some miraculous way, under the rubric of the International Humanitarian Law still under its jurisdiction?

MR. J.C. REMULLA. Your Honor, it is not the Philippines that is under the jurisdiction. It is the individuals who are charged by the ICC which is under the jurisdiction. There is a distinction.

THE CHAIRPERSON. Please explain.

MR. J.C. REMULLA. As non-members of the ICC and as a state, the ICC has no jurisdiction over us as a country. But over the individuals who may have committed crimes that violate International Humanitarian Law, that is a universal value being held by the whole world today, that people cannot cross borders and hide behind boundaries so that they can run away from the law. International Humanitarian Law is something adopted. The principles are adopted by more than 150 countries throughout the world, Your Honor.

[17] Id., at 40.

THE CHAIRPERSON. Are you of the position, therefore, that International Humanitarian Law, as you said, is customary law? Is that the consideration?

MR. J.C. REMULLA. It is already customary law now. As we speak, it has become customary law throughout the world.

THE CHAIRPERSON. Are you aware that procedural and admin

matters do not form part of customary law? Surely, the secretary is well aware that procedural and administrative matters will still have to comply with the laws of the land.

MR. J.C. REMULLA. Of course, madam. This goes without saying.[18]

Unfortunately, invoking international customary law did not solve SOJ Remulla's predicament. Substantive provisions may form part of customary law, however, processes and administrative or procedural matters, such as for instance, the issuance or enforcement of arrest warrants, do not form part of customary law. This much was admitted by SOJ Remulla.[19] Besides, Section 17 of RA No. 9851 makes reference to "extradition laws and treaties", not to international customary laws.

Even *assuming arguendo* that the Philippine Government was somehow obliged to arrest FPRRD, there was no obligation to turn him over to the custody of the ICC at the time he was transported to the Hague. Under the terms of the Diffusion Notice, it was understood that the ICC would seek the extradition of FPRRD upon arrest:

"Locate and arrest **with a view to extradition: Assurances are given that extradition will be sought upon arrest** of the person,

[18] Id., at 29 to 30.
[19] Id., at 30.

in conformity with national laws and/or applicable bilateral and multilateral treaties."

"Provisional arrest: This request is to be treated as a formal request for provisional arrest, in conformity with national laws and/or the applicable bilateral and multilateral treaties."

The Diffusion Notice appears to be under Article 92 of the Rome Statute, which requires "provisional arrest" and not under Article 91, which is a request for "arrest and surrender". Under Article 92 of the Rome Statute, a provisional arrest is followed by a request for surrender.

There is no indication that the ICC even requested for the surrender or the extradition of FPRRD after his provisional arrest. Notwithstanding this absence of a request for surrender, the Administration hastily forced FPRRD to get into the chartered plane and flew him out of the country, only eleven (11) hours after he was arrested.

III.

The Administration violated multiple laws when it arrested FPRRD and turned him over to the ICC.

To emphasize, the arrest and turn-over of FPRRD under Section 17 of RA No. 9851 would have been legally feasible only if the Rome Statute was still applicable. As discussed, the Administration is of the view that the Rome Statute is no longer applicable, thus there is no legal basis for the arrest of FPRRD.

Arbitrary Detention

Under Article 124 of the Revised Code, the felony of Arbitrary Detention arises whenever a public officer or employee detains a person without legal grounds:

ART. 124. *Arbitrary detention*.—Any public officer or employee who, without legal grounds, detains a person, shall suffer:

1. The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period, if the detention has not exceeded three days;
2. The penalty of *prision correccional* in its medium and maximum periods, if the detention has continued more than three but not more than fifteen days;
3. The penalty of *prision mayor*, if the detention has continued for more than fifteen days but not more than six months; and
4. That of *reclusion temporal*, if the detention shall have exceeded six months.

   The commission of a crime, or violent insanity or any other ailment requiring the compulsory confinement of the patient in a hospital, shall be considered legal grounds for the detention of any person.

Violations of RA No. 3019 and Usurpation of Judicial Functions

Moreover, regardless of whether or not there was an applicable treaty sanctioning the arrest of FPRRD, the Administration should have secured a warrant of arrest issued by a Philippine court. There is nothing in RA No. 9851 that exempts the Government from the arrest warrant requirement under the Constitution. Article 17 of RA No. 9851 only mentions the term surrender but does not explicitly, or even impliedly, sanctions a warrantless arrest thereunder.

It is a hornbook doctrine that statutes must be read together with the Constitution. Section 2 of Article III of the 1987 Constitution provides that:

Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be

> inviolable, and **no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce**, and particularly describing the place to be searched and the persons or things to be seized.[20]

The "judge" mentioned in Section 2, Article III of the Constitution must necessarily be a Philippine judge since under Section 1, Article VIII of the Constitution, judicial power is only vested in the Supreme Court and in such lower courts created by law:

> **Section 1.** The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

An international tribunal is clearly not "such lower courts as may be established by law". Thus, regardless of whether the ICC has jurisdiction over the crimes alleged to have been committed by FPRRD, arrest warrants issued by such tribunal is not the one envisaged in Section 2, Article III of the Constitution. This stance is consistent with extradition proceedings where arrest warrants issued by foreign courts are not enforced by itself. Rather, a petition is first filed with the Philippine court so that the such local court may then order the arrest of the person sought to be extradited.[21]

Another factor which militates against the outright enforceability of any foreign warrant of arrest, especially the arrest warrant issued by the ICC, is that Section 2, Article III of the Constitution specifies that the arrest warrant must be issued only after a finding of **probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce.**

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[20] Emphasis supplied.
[21] See Section 5, 6, and 20 of P.D. 1069.

It must be noted that there is no mention, or even a claim, that the ICC warrant of arrest was issued after the ICC judges personally examined the complainants and the witnesses or that the threshold of probable cause was reached before such warrant was issued.

Thus, to be valid in the Philippines, an arrest warrant must be issued by a judge of a Philippine court. Therefore, the ICC arrest warrant, by itself, cannot be the basis for the arrest of FPRRD in the country.

Concededly, there are instances where an arrest is valid even without an arrest warrant issued by the court. One such example is an administrative arrest effected by executive agencies. Thus, an arrest made pursuant to a Summary Deportation Order issued by Bureau of Immigration was upheld by the Supreme Court in 2023 in the case of *Board of Commissioners of the Bureau of Immigration and the Jail Warden, Bureau of Immigration Detention Center vs. Yuan Wenle.*[22]

However, owing to its potential for abuse, the Court in *Yuan Wenle* laid down strict guidelines for administrative arrest warrants, and by logical extension, administrative arrests themselves, to be valid, thus:

1. The danger, harm, or evil sought to be prevented by the warrant must be imminent and must be greater than the damage or injury to be sustained by the one who shall be temporarily deprived of a right to liberty or property.

2. The warrant's resultant deprivation of a right or legitimate claim of entitlement must be temporary or provisional, aimed only at suppressing imminent danger, harm, or evil and such deprivation's permanency must be strictly subjected to procedural due process requirements.

[22] G.R. No. 242957, February 28, 2023.

3. **The issuing administrative authority must be empowered by law to perform specific implementing acts pursuant to well-defined regulatory purposes.**

4. The issuing administrative authority must be necessarily authorized by law to pass upon and make final pronouncements on conflicting rights and obligations of contending parties, as well as to issue warrants or orders that are incidental to or reasonably necessary for the performance of the executive or administrative duty entrusted to it.

5. The issuance of an administrative warrant must be **based on tangible proof of probable cause** and must state a specific purpose or infraction allegedly committed with particular descriptions of the place to be searched and the persons or things to be seized.

6. The **warrant issued must not pertain to a criminal offense or pursued as a precursor for the filing of criminal charges** and any object seized pursuant to such writ shall not be admissible in evidence in any criminal proceeding.

7. The person temporarily deprived of a right or entitlement by an administrative warrant shall be formally charged within a reasonable time if no such period is provided by law and shall not be denied any access to a competent counsel of his or her own choice. Furthermore, in cases where a person is deprived of liberty by virtue of an administrative warrant, the adjudicative body which issued the warrant **shall immediately submit a verified notice to the Regional Trial Court nearest to the detainee for purposes of issuing a judicial commitment order.**

8. **A violation of any item of these guidelines is a *prima facie* proof of usurpation of judicial functions, malfeasance, misfeasance,**

nonfeasance, or graft and corrupt practices on the part of responsible officers.[23]

A perusal of the guidelines set forth in *Yuan Wenle* shows that several of those guidelines were not observed in the arrest of FPRRD. *First*, the DOJ is not expressly authorized by law to order the arrest of any person. *Second*, there is no showing that the DOJ had tangible proof of probable cause when it ordered the arrest of FPRRD. *Third*, the arrest of FPRRD certainly pertained to a criminal offense, contrary to guideline number 6. *Fourth*, the DOJ did not submit any notice to the Regional Trial Court for the purposes of issuing a judicial commitment order. In fact, the Philippine judicial system was completely bypassed.

Since the *Yuan Wenle* guidelines were not complied with in the administrative arrest effected by the Administration, guideline number 8 therefore comes into play. Thus, there is prima facie proof that officials of the administration committed violations of the Anti-Graft and Corrupt Practices Act or RA No. 3019 and Article 241 of the Revised Penal Code (RPC), among others.

Violations of RA No. 7438

At the time FPRRD was under the custody of Gen. Torre and the PNP in Villamor Air base, his immediate family members who were not already with him when he went to Hong Kong were not allowed to visit him. Thus, when the daughter of FPRRD, Vice President Sara Z. Duterte ("VP Sara"), came to visit him, Gen. Torre prevented VP Sara from doing so:

> **THE CHAIRPERSON**. Okay. Nakikinig kami diyan.
> **MR. TORRE**. The reason for that—
> **THE CHAIRPERSON**. You prevented VP Sara from entering?
> **MR. TORRE**. Yes, ma'am.

[23] Id.; Emphasis and underscoring supplied.

THE CHAIRPERSON. Okay.

MR. TORRE. Because the reason for that is that 12 hours na ang nakalipas at tapos na ang lahat ng mga delaying tactics. We cannot allow that; otherwise, magiging magulo pa ang situation, sir.

THE CHAIRPERSON. Nag-e-expire pala iyong karapatan ng ama sa anak.

SEN. DELA ROSA. May expiration date pala iyong karapatan ng anak na bumisita sa kanyang tatay?

MR. TORRE. Sir, we do believe--Ako sir personally, that's my call at that time because I am operating on the premise na—

SEN. DELA ROSA. So, it's your call? It's your call…

MR. TORRE. Yes, sir.

SEN. DELA ROSA. …to violate the law? It's your call to violate the law? Dahil nakalagay sa batas, binasa ni Senator Alan Cayetano na bawal na pigilan iyong anak na bumisita. So, it's your call to violate the law?

MR. TORRE. Hindi sa ganoong context, sir.

THE CHAIRPERSON. Anong konteksto? [24]

Videos streamed and posted in various social media sites show that, at some point during the time when FPRRD, was detained in Villamor Air Base, Gen. Torre arrested former Executive Secretary Salvador Medialdea ("ES Medialdea") and tried to forcibly take away Atty. Martin Delgra III ("Atty. Delgra").[25] When these videos were shown to Gen. Torre during the Forel hearings, he admitted that the events shown therein took place:

THE CHAIRPERSON. … use po of force. You were forcing them.

MR. TORRE. Yes, ma'am.

[24] Find in the TSN of the Third Hearing at 105.

[25] A universal storage bus (USB) containing the videos mentioned in paragraph 11 is herein attached as Annex "N". The filename of the aforementioned videos is "Torre Violations".

THE CHAIRPERSON. So, you admit you forced them? You used violence?

MR. TORRE. I have to. I have to because they won't go with us voluntarily, ma'am. So, I have tried all the—lahat ng pakiusap ay ginawa na namin buong araw.

THE CHAIRPERSON. Naku, General, naman, sa dinami-dami ng pulis, ang tanda-tanda na, may sakit pa, sa palagay mo, masisindak pa iyon o kaya bang lumaban noon?

MR. TORRE. In fairness to the president, ma'am, after I handcuffed ES Medialdea and told Atty. Delgra that he is the next one to be handcuffed and boarded on the bus, the former president actually acceded and said, "Sige na, alis na tayo."

And you saw that on video, it was Romy(?)—

THE CHAIRPERSON. Okay. Nakikinig kami diyan.

MR. TORRE. The reason for that—

THE CHAIRPERSON. You prevented VP Sara from entering?

MR. TORRE. Yes, ma'am.

THE CHAIRPERSON. Okay.

MR. TORRE. Because the reason for that is that 12 hours na ang nakalipas at tapos na ang lahat ng mga delaying tactics. We cannot allow that; otherwise, magiging magulo pa ang situation, sir.

THE CHAIRPERSON. Nag-e-expire pala iyong karapatan ng ama sa anak.

SEN. DELA ROSA. May expiration date pala iyong karapatan ng anak na bumisita sa kanyang tatay?

MR. TORRE. Sir, we do believe--Ako sir personally, that's my call at that time because I am operating on the premise na—

SEN. DELA ROSA. So, it's your call? It's your call…

MR. TORRE. Yes, sir.

SEN. DELA ROSA. …to violate the law? It's your call to violate the law? Dahil nakalagay sa batas, binasa ni Senator Alan Cayetano

na bawal na pigilan iyong anak na bumisita. So, it's your call to violate the law?

MR. TORRE. Hindi sa ganoong context, sir.

THE CHAIRPERSON. Anong konteksto?

THE CHAIRPERSON. Ayan, nakita na namin hindi ba, hinihila mo iyong upuan. Hindi ba, dapat talagang, General Torre, kailangan makinig ka doon sa sinasabi ng abogado? Hindi ba, karapatan noon?

MR. TORRE. I have already arrested—I even arrested ES Medialdea, ma'am, for obstruction of justice and placed handcuffs on him. That was already the last parts because masyado nang gabi, aabutin na kami ng umaga doon, ma'am. It's already unreasonable.[26]

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THE CHAIRPERSON. Parang hindi na pakiusap ang nangyari?

MR. TORRE. Yes, ma'am.

THE CHAIRPERSON. Kasi inaresto na ninyo si Atty. Medialdea, sabi ninyo, obstruction of justice, tama?

MR. TORRE. Force continuum, ma'am … sa pakiusap.

THE CHAIRPERSON. At sinabi rin ninyo sa last hearing natin, under oath, sinabi naman ninyo na talagang hinandcuff (handcuff) ninyo at binasahan na ninyo ng Miranda's. Tama?

MR. TORRE. Because on the force continuum, ma'am, pataas nang pataas ang application of force. Pinakiusap ko, sampung oras na nakikiusap, hindi masunod; and alas dose na, mag-a-alas diyes na, lilipad na ang eroplano, in-elevate ko nang kaunti. So I became forceful at that time.

THE CHAIRPERSON. Okay. Pero ang tanong, bakit inaresto? May paghadlang ba sa proseso ng batas? May tunay ba na obstruction of justice? May panahon ba na pinigilan ni ES Medialdea kung sino mang testigo na magsalita? Binago ba niya? Sinira ba niya iyong mga dokumento? Tinago ba niya ang makakatakas na suspect? Lahat ng

[26] First Hearing TSN at 180.

obstruction of justice. May pekeng pangalan ba na ibinigay? Pinagtatanggal niya iyan—na paglitis ng isang krimen ..

THE CHAIRPERSON. … na paglitis ng isang krimen. Lahat ba iyon talagang obstruction of justice? Aling bahagi diyan ang obstruction?

MR. TORRE. Ang specific po na ginawa ni ES Medialdea para siya ay aking arestuhin sa obstruction of justice, he prevented me from taking physical custody of President Duterte so that he can be boarded on the bus that will bring him to the plane. Iyon na, ma'am. Kaya part iyon. I read him his right. Kaya pataas nang pataas, ma'am, ang level ng—

SEN. DELA ROSA. So talaga, talaga na— [27]

These actions by Administration officials are clear violations of Section 2 (a) and (f) of RA No. 7438.

IV.

The Administration deliberately deprived FPRRD of his right to seek interim release before local courts.

As discussed, the only way for the Administration's arrest and turn-over of FPRRD to have some legal ground is if the Rome Statute still applies. Indeed, in the context of the arrest and turn-over of FPRRD, "surrender" under Section 17 of RA No. 9851 must go hand in hand with the Rome Statute. This must be so because surrender cannot be effected without any treaty or extradition law. Justice Azcuna succinctly explained that:

"However, I believe that the surrender is not, because the surrender must be pursuant to a treaty. **And therefore, our own law, Section 17 of Republic Act 9851, brought back the**

[27] TSN of the Third Hearing at 159 to 160.

> **Statute of Rome even after withdrawal because it requires that a surrender must be pursuant to the applicable treaty. And therefore, in this case, the applicable treaty remains the Statute of Rome. And thus, we have to follow Article 59 of the Statute of Rome which requires that the custodial state, namely, the Philippines, must first bring the arrested person to a local court** to determine two things: whether or not the person is really the one named in the warrant; second, whether or not the person has been informed of the charges against him or her. This was not done. **Therefore, there was, in my view, a violation in the act of surrender."**[28]

However, even on the gratuitous assumption that the Rome Statute applies, the Administration would still be liable for its blatant failure to observe the provisions meant to safeguard the rights of the accused. Aside from the deliberate violations of Philippine laws, the Committee hearings reveal that the Administration willfully denied FPRRD of his right to seek interim release before Philippine courts.

Paragraph 2 of Article 59 of the Rome State requires that the person arrested must be brought promptly before the competent judicial authority of the custodial State. Meanwhile, paragraph 3 of the same article provides that a person arrested shall have the right to apply to the competent authority in the custodial State for interim release pending surrender.

These rights correspond well to the rights of an extraditee under Philippine extradition laws, as interpreted by the rulings of the Supreme Court. Thus, in the case *Government Of Hongkong Special Administrative Region Vs. Olalia, Jr.*[29] the Court recognized that an extraditee has a right to apply for bail, provided that certain standards for the grant are satisfactorily met.

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[28] TSN of the Third Hearing at 27.
[29] G.R. No. 153675, April 19, 2007.

Notwithstanding the fact that the right to seek interim release before local courts is espoused in both domestic jurisprudence and in the Rome Statute, the Administration nonetheless chose to deprive FPRRD of the same. Much like its deliberate violations of the various domestic laws, the Administration also deliberately ignored the mandate of Article 59 of the Rome Statute by its patently erroneous and strained interpretation of Section 17 of RA No. 9851. In applying Section 17, the Administration simply focused on the term "surrender"--which is not even defined in the law—and then totally ignored the remaining portion of the provision, particularly the phrase "pursuant to the applicable extradition laws and treaties." This strained reading of Section 17 runs counter to the fundamental precept of statutory construction that every clause and word of a statute must be so construed as to harmonize and give effect to all its provisions as much as possible.[30]

There is an obvious reason why the Administration employed such blatant mental gymnastics just to deprive FPRRD of the chance to apply for interim release ---it would have been a big political setback on their part if FPRRD was released.

As discussed previously, the arrest and turn-over of FPRRD was politically-motivated. It was a very important part "Oplan Horus" of the Administration which was designed to politically cripple the Dutertes. The risk that the local courts would grant the application for release of FPRRD was too much to bear because it would endanger the success of an otherwise well-planned and well-coordinated political maneuver.

V.

The ICC Prosecutor knew, or should have known, that the Philippine Government would deprive FPRRD of his right to apply for interim release before local courts

[30] Chavez vs. Judicial and Bar Council, et al., G.R. 183517, June 22, 2010.

Having ascertained that the Administration deliberately deprived FPRRD of his right to apply for interim release, the next question that must be resolved is whether the ICC Prosecutor was aware or should have been aware that the Philippine Government would abuse Philippine laws or otherwise distort its application in order to so deprive FPRRD of such right.

The answer is in the affirmative.

When the facts and circumstances are given careful thought and consideration, it cannot be dismissed that there is reasonable basis to hold that the ICC Prosecutor knew, or at least, should have known, that the Philippine Government would abuse the existing legal framework in order to deny FPRRD of any chance to seek interim release before the Philippine Court.

The ICC Prosecutor was very much aware of the ongoing political situation in the Philippines. After all, his office has been investigating the Dutertes for many years already. His operatives even received assistance from the political enemies of FPRRD. In fact, as discussed above, the Action Plan of Lakas-CMD confirmed that the House of Representatives and government agencies like the PNP collaborated with former Senator Antonio Trillanes, a known and bitter enemy of FPRRD, to help the ICC Prosecutor obtain an arrest warrant.

Thus, at the time the ICC Prosecutor applied for a warrant of arrest until the time such warrant was issued by the ICC and sent via Diffusion Notice to the Philippine Government, the ICC Prosecutor was fully cognizant of the following:

a. that the political branches of the Philippine Government—the Congress and the Executive—were under the control of the Administration;

b. that it was necessary for the political survival of the present Administration in the 2028 elections that the Dutertes be taken out, particularly, that FPRRD be taken to the Hague and VP Sara be impeached;

c. that the only branch of the Philippine Government that is not under the full control of the present Administration is the Judiciary; and

d. that the Administration would do everything in its power—to the extent of abusing processes and disregarding laws and procedure—to ensure that the Judiciary is not involved.

The Philippine judiciary, being an independent and co-equal branch of the Executive, was the only unknown variable in the Administration's plan in getting rid of FPRRD. This fact is too plain for the ICC Prosecutor to feign ignorance of since separation of powers, especially between the executive and the judiciary, is a lynchpin of democratic systems.

Thus, any lawyer worth his salt, more so someone as experienced as the ICC Prosecutor, would have naturally anticipated that the Administration will, as much as possible, avoid the involvement of the local courts through some strained and flimsy application of domestic laws.

Then there is, as well, the innate potential for abuse by ill-motivated authorities of the word "surrender" in Section 17 of RA No. 9851. Such term is not defined anywhere in the law. Read in isolation, as what the Administration did, there is no safeguard whatsoever in proceeding with this so-called surrender. What is worse, there are even no rules promulgated to put into effect the surrender under Section 17 of RA No. 9851.

With the combination of an ambiguous term in RA No. 9851 and an administration hell-bent on getting FPRRD out of the country as fast as possible, the ICC Prosecutor knew or should have known that abuses of the rights of FPRRD, most especially his right to seek release from local courts, will be committed by the administration. Yet, despite the foresight of pending abuse of domestic law, the ICC

Prosecutor appeared to have chosen to just go along with it, without any concern whether rights have been observed and the procedure tediously complied with.

Further showing that the Prosecutor tolerated, or even endorsed, the misuse by the Administration of domestic laws in order to deny the right of FPRRD to apply for interim release before the local courts is the "Information on the Surrender and Transfer" signed by the Philippine Special Envoy for Transnational Crime Markus Lacanilao. In item number 8 thereof which requires Ambassador Lacanilao to indicate the "date, time and location of the appearance of the arrested person before the competent national judicial authority", what is written is "Do not know".[31]

This answer should have right away alerted the ICC Prosecutor that the ICC procedure under Article 59 was not observed since the person who was supposed to know these details, claim not to know them. However, instead of raising alarm over the matter, the ICC Prosecutor chose to ignore the same.

Thus, in view of the foregoing, there is reasonable basis to conclude that the ICC Prosecutor knew, or at least, should have known, that FPRRD was deprived of his right to apply for release before the local courts and that the ICC Prosecutor turned a blind eye to these unlawful actions by the Administration.

VI.
There is a coordinated attempt to cover-up the details and motives behind the arrest of FPRRD.

The three hearings thus far conducted by the Committee reveal that the Administration has been exerting considerable effort in denying the Committee and the public access to critical information and answers to certain basic questions. Fortunately, despite the deliberate attempt to withhold information, some key pieces

[31] A Copy of the Information on the Surrender and Transfer is hereto attached as Annex "O".

of information were obtained because of the public statements by high-ranking Administration officials.

Foremost, just when the first hearing of the Committee was underway on 20 March 2025, the Executive Secretary ("ES Bersamin") sent a letter[32] to the Committee, informing the Committee that the administration was claiming executive privilege on the following matters:

1. Presidential communications solicited and received by advisers of the President, including those discussed during closed-door cabinet meetings on the matters covered by the agenda;
2. Communications, documents, correspondences, and information covering military and diplomatic secrets;
3. Diplomatic communications and correspondences with law enforcement agencies and government authorities of foreign jurisdictions and international organizations; and
4. Matters involving the arrangements in transporting FPRRD to The Hague.

Save perhaps for transportation arrangements to The Hague listed in item number 4, the matters enumerated by ES Bersamin are traditionally covered by executive privilege and known by every member of the Committee. Thus, the fact that ES Bersamin still sent the letter, bundling therein item number 4 on the transportation arrangement to the Hague, only invites suspicion that either the Administration is hiding something pertaining to such transportation arrangement or the Administration is trying to pave the way for a scenario where questions that would reveal the actual motives and the masterminds of the incident would be side-stepped with two magic words—executive privilege.

True enough, as the first hearing progressed, the Secretary of the Interior and Local Government, Juanito Victor Remulla ("Secretary Jonvic Remulla") invoked

[32] A Copy of ES Bersamin's Letter dated 20 March 2025 is hereto attached as Annex "P".

executive privilege when he was questioned on his public interview with Pinky Webb where he said that the arrest and transport of FPRRD was a "group effort."[33] At first, Secretary Jonvic Remulla dismissed as "chismis" the supposed "group effort" which he so willingly mentioned in public.[34] However, when it appeared Secretary Jonvic Remulla's story was already falling apart, his brother, DOJ Secretary Jesus Crispin Remulla, came to the rescue with the two magic words--executive privilege:

> **MR. J.V. REMULLA**. We were all talking about a rumor, ma'am. And that was all.
> **THE CHAIRPERSON**. Rumor lang iyon?
> **MR. J.V. REMULLA**. Yes, ma'am.
> **THE CHAIRPERSON**. Group effort ang sabi mo. Ang tanong niya, kung ikaw ang nagplano. Tapos sabi mo, "Hindi. Group effort."
> **MR. J.V. REMULLA**. There was no planning, ma'am.
> **THE CHAIRPERSON**. Anong in-effort ng group kapag hindi plano?
> **MR. J.V. REMULLA**. Ma'am, let me make it clear.
> **MR. J.C. REMULLA**. I think that—intruding into executive privilege already, ma'am. I think that we—please respect our—[35]

Secretary Jonvic Remulla denied planning the arrest of FPRRD even after he said on TV that he was not the only one who planned it and that it was, in fact, planned by a group.[36] Nonetheless, when he was again cornered with incisive questioning, executive privilege was once more invoked.

Another potent weapon used by the Administration in preventing the Committee from fully ferreting out the truth is the "sub judice" rule. An example of this was when General Nicolas Torre III ("General Torre") was caught uttering an obviously misleading statement during the first hearing when he claimed that the reason he was rushing to deliver FPRRD to the Hague was because of the

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[33] TSN of the Committee hearing on March 20, 2025, at 68.
[34] Id., at 72.
[35] Id. at 72.
[36] Id. at 73.

reglementary period under Article 125 of the RPC. When confronted with the fact that Article 125 of the RPC applies only to warrantless arrests, General Torre, upon the advice of the DOJ, invoked the sub judice rule all of a sudden.[37]

That the sub judice rule was being used to escape difficult-to-answer questions and obscure the truth is made more apparent in the third hearing when General Torre was again confronted with his reference to Article 125 of the RPC during the first hearing. This time, having obviously anticipated and studied the same question, neither the DOJ nor General Torre invoked the sub-judice rule.

Another clear *indicia* of the cover-up being perpetrated by the Administration was the blanket use by ES Bersamin of the executive privilege doctrine to prohibit all executive officials from attending the second hearing which was set for 03 April 2025.[38] This conscious effort on the part of the administration to bury the truth became all the more clear when, in an unprecedented move, the Senate President refused to release the subpoenas he had already signed. The Committee therefore failed to secure the presence of several important witnesses.

Unfortunately, it did not end there. While the Administration officials attended the third hearing on 10 April 2025, executive privilege was claimed on the following matters, among others: who ordered the arrest of FPRRD[39], who ordered the transport of FPRRD to the Hague[40], and how the plane that was used to transport FPRRD was procured.[41]

Perhaps an even more readily-apparent proof of a cover-up was when one of the key witnesses, Special Envoy on Transnational Crimes Ambassador Markus Lacanilao ("Ambassador Lacanilao"), was cited in contempt because of his obvious

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[37] Id., at 205 to 208.
[38] A Copy of the Transcript of Stenographic Notes of the Hearing Conducted on April 3, 2025 (hereinafter the "Second Hearing TSN") is herein attached as Annex "Q".
[39] Third Hearing TSN at 144.
[40] Id., at 210.
[41] Id. at 265.

lies. In yet, another unprecedented move, the Senate President refused to detain Ambassador Lacanilao by refusing to sign the contempt order. Instead, the Senate President issued a show cause order[42] as to why Ambassador Lacanilao should not be ordered arrested and detained at the Office of the Seargent-at-Arms. It must be noted that this procedure is not even in the Senate Rules.

The refusal to honor the Senate Rules and punish the untruthful witness was all the more suspicious when it was found out during the hearing that Ambassador Lacanilao, who was by far a lower profile figure compared to the cabinet secretaries and generals who were also present, may have actually played a very important role in the arrest and turn-over of FPRRD. This confirms the suspicions that there are very important facts and behind-the-scenes maneuvering in the arrest and turn-over of FPRRD which the Administration still withholds.

The cover-up did not stop at the hearings.

After the arrest of FPRRD, pro-Duterte sentiments rose while the trust rating of the Administration plummeted severely. The Committee received information from a reliable source that the Administration has launched a communication plan to divert the attention of the people from the arrest and transport of FPRRD to the issues in the West Philippine Sea and the alleged disinformation activities of China.

Perhaps not expecting that the arrest and transport of FPRRD will politically backfire, the Administration now seeks to control the backlash by first bringing to life the West Philippine Sea issue through a Senate hearing. Then, the Administration will focus on Chinese involvement in those issues, followed by "uncovering" alleged disinformation campaign by China. Ultimately, the Administration plans on linking the rising pro-Duterte sentiment with this alleged disinformation campaign.

[42] A Copy of the Show Cause Order dated 11 April 2025 is hereto attached as Annex "R".

All of the foregoing shows a massive cover-up by the Administration in many of the important aspects of the arrest and turn-over of FPRRD and a deliberate attempt to distract the attention of the public to prevent them from uncovering the truth.

VII.
Recommendations

A. Criminal and administrative charges:

It is recommended that the Office of the Ombudsman investigates the following persons:

1. DOJ SECRETARY JESUS CRISPIN REMULLA

There is basis to conclude that SOJ Remulla is liable for usurpation of judicial functions under **Article 241 of the RPC and for violation of RA No. 3019 or the Anti-Graft and Corrupt Practices Act**. There is likewise reason to believe that SOJ Remulla is liable for the **administrative offense of Grave Misconduct & Conduct Prejudicial to the Best Interest of the Service**.

SOJ Remulla was the person who ordered the administrative arrest of FPRRD. This is apparent from the following admission of SOJ Remulla during the hearing held on 10 April 2025:

> **THE CHAIRPERSON.** So, Secretary Remulla, nagpa-interview na si General Torre. We're not bullying him. He voluntarily gave this interview, and like many of our countrymen, napanood namin. Sinabi niya na siya talaga. Papaano ba iyon? Sino ang nag-utos sa kanya?
>
> **MR. REMULLA.** Ano nga iyan, ma'am, sabi ko nga, klinir (clear) namin lahat iyan kasi they were asking me the legalities, even if I was abroad.
>
> **THE CHAIRPERSON.** Kanino po ninyo kinlir (clear)?

MR. REMULLA. Even if I was abroad, my advice was being sought, and I gave them the advice that number one, serve the warrant of arrest; and number two, surrender him to The Hague—that's what the law provides.

THE CHAIRPERSON. So, kayo ang nag-utos?

SEN. DELA ROSA. So, sir, you're the one giving the orders?

MR. REMULLA. Well, in some ways, because I gave them the legal basis for all the actions that happened.

SEN. DELA ROSA. So, you're the one giving the orders?

MR. REMULLA*. If I have to be the one, then if I am the one that is referred to. I will admit it that I gave the clearances to, number one, serve the warrant of arrest as I saw it, as I deemed fit; and number two, to fly to The Hague to be surrendered under Section 17 of Republic Act 9851.*[43]

Since the administrative arrest ordered by SOJ Remulla did not comply with the guidelines set forth by the Supreme Court in *Yuan Wenle*, then, in line with the pronouncements of the Court in the aforementioned case, it follows that there is prima facie proof that he committed violations of RA No. 3019 and Usurpation of Judicial Functions. For reference, guideline number 8 in the *Yuan Wenle* case provides that:

8. A violation of any item of these guidelines is a ***prima facie* proof of usurpation of judicial functions**, malfeasance, misfeasance, nonfeasance, or **graft and corrupt practices on the part of responsible officers.**

In particular, SOJ Remulla violated Section 3 (a) of RA No. 3019 which provides:

Section 3. *Corrupt practices of public officers.* In addition to acts or omissions of public officers already penalized by existing law,

[43] Third Hearing TSN at 147; Emphasis supplied.

the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

(a) Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter, or allowing himself to be persuaded, induced, or influenced to commit such violation or offense.

xxxx

First, SOJ Remulla is beyond question, a public official. *Second*, he induced or at least, influenced or persuaded the Philippine National Police ("PNP") and other law enforcement agencies, as well as other government officials involved in the arrest of FPRRD, to arrest and detain the former President even without a Philippine-court issued warrant. The PNP would not have arrested FPRRD without the "clearance" from the SOJ. This is evident from the SOJ's own testimony during the Forel Third Hearing where he said that his advice was sought even though he was abroad:

THE CHAIRPERSON. So, Secretary Remulla, nagpa-interview na si General Torre. We're not bullying him. He voluntarily gave this interview, and like many of our countrymen, napanood namin. Sinabi niya na siya talaga. Papaano ba iyon? Sino ang nag-utos sa kanya?

MR. REMULLA. Ano nga iyan, ma'am, sabi ko nga, **klinir (clear) namin lahat iyan kasi they were asking me the legalities**, even if I was abroad.

THE CHAIRPERSON. Kanino po ninyo kinlir (clear)?
MR. REMULLA. Even if I was abroad, my advice was being sought, and I gave them the advice that number one, serve the warrant of arrest; and number two, surrender him to The Hague—that's what the law provides.[44]

[44] Third Hearing TSN at 147.

Third, the arrest, detention, and transport of FPRRD violated the laws against arbitrary detention under Article 124 of the RPC, the guidelines for a valid administrative arrest laid down by the Supreme Court in *Yuan Wenle*, and Sections 1 and 2 of the Bill of Rights.

It is likewise clear that the SOJ's actions to influence, persuade, or induce the law enforcement personnel to arrest FPRRD even without a Philippine court issued warrant was not for any legitimate purpose. As a seasoned lawyer, being in fact the head of the Justice Department, the SOJ was certainly aware that there is no law sanctioning the outright enforcement of a foreign arrest warrant. In fact, the SOJ admitted that there has not been any incident or Supreme Court ruling which allowed a Filipino citizen to be snatched from the streets without a warrant of arrest and then shipped off to a foreign country.[45]

As for Usurpation of Judicial Functions, all of the elements of such crime are likewise present. In usurpation of judicial function, the accused, who is not a judge, attempts to perform an act, the authority for which, the law has vested only in a judge. The DOJ is not part of the Philippine Judiciary. This notwithstanding, the SOJ assumed judicial power by ordering the arrest of FPRRD based on his own authority, rather than on a court order.

It bears stressing that only a Philippine court can give clearance for the enforcement of a foreign warrant of arrest, especially in this case where the jurisdiction of the ICC over the crimes allegedly committed by FPRRD was very much in doubt.

As for administrative liability, there is basis to hold SOJ Remulla liable for Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service.

[45] First Hearing TSN at 249.

In the case of the *Office of the Ombudsman and the Fact Finding Investigation Bureau v. Espina*,[46] it was held:

> "Misconduct generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose. It is intentional wrongdoing or deliberate violation of a rule of law or standard of behavior and to constitute an administrative offense, the misconduct should relate to or be connected with the performance of the official functions and duties of a public officer. It is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer.
>
> There are two (2) types of misconduct, namely: grave misconduct and simple misconduct. In grave misconduct, as distinguished from simple misconduct, the **elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule must be manifest.** Without any of these elements, the transgression of an established rule is properly characterized as simple misconduct only."

Secretary Jesus Crispin Remulla publicly **admitted** that the arrest and surrender of FPRRD were based on:

- An ICC-issued warrant, and
- A diffusion notice from Interpol
- Not on a Philippine court-issued warrant of arrest.[47]

The act of SOJ Remulla in "giving clearance" to enforce the ICC warrant violates Sections 1 and 2 of Article III of the Constitution, as well as the guidelines by the Supreme Court in *Yuan Wenle*. The question is whether SOJ Remulla was animated

[46] G.R. No. 213500, March 15, 2017.
[47] TSN of the Committee hearing held on April 10, 2025 at 147.

by a clear intent to violate the law or whether there is flagrant disregard of the law on his part. The answer is in the affirmative.

During the hearings, the SOJ asserted that no Philippine court warrant was necessary because the arrest and turn-over of FPRRD to the Hague was one of "surrender" and not "extradition" under Section 17 of RA No. 9851.[48] However, nothing in RA No. 9851 exempts the government from first obtaining a warrant of arrest in order to arrest the person in question before surrendering him to a foreign jurisdiction;

As the head of the DOJ, the SOJ of course knew that RA No. 9851 must be read in conjunction with the requirements of the Bill of Rights. Yet, he chose to read Section 17 of RA No. 9851 in isolation with the Constitutional requirements of due process and warrant of arrest—a reading which has no textual or jurisprudential support.

Finally, the SOJ is also administratively liable for Conduct Prejudicial to Public Service. His unlawful actions contributed to the erosion of public trust and confidence in the government, particularly of the DOJ.

Jurisprudence instructs that for an act to constitute such an administrative offense, the act need not be related to or connected with the public officer's official functions. As long as the questioned conduct tarnishes the image and integrity of his or her public office, the corresponding penalty may be meted on the erring public officer or employee.

The SOJ, as a public servant, is bound by the Constitution and RA No. 6713 to exhibit the highest degree of professionalism in his official duties. As the head of the DOJ, the SOJ carried with him the title and status of his office. As emphasized in *Abos v. Borromeo,* "titles of public officer are burdens on their holders as much as they are privileges. While they enjoy tenure, these titles accompany them. It is thus a stewardship that they should carry responsibly. It is, while they sit as public officers, a public trust". Thus, the SOJ's action of green lighting an illegal arrest can have a significant impact on the image and public perception of the DOJ.

[48] First Hearing TSN at 99.

2. **GENERAL NICOLAS TORRE III**

There is basis to hold that General Nicolas Torre III (Gen. Torre) is liable for **Arbitrary Detention (RPC, Art. 124); Violation of RA No. 7438; Violation of RA No. 3019; Grave Threats under Article 282 of the RPC; Grave Misconduct, and Conduct prejudicial to the Best Interest of the Service.**

The hearing reveals that General Torre was the commander on the ground during the arrest and transport of FPRRD.[49] It was General Torre who effected the arrest of FPRRD even though he was fully aware that there was no arrest warrant issued by Philippine Court. As the warrantless arrest was not premised on any legal ground (e.g. in flagrante delicto[50]; hot pursuit[51]; escape of prisoner[52]; etc.), Gen Torre's action of arresting FPRRD therefore constitutes Arbitrary Detention under Art. 124 of the RPC.

Aside from arbitrarily detaining FPRRD, Gen. Torre also arbitrarily detained former ES Medialdea. Gen. Torre admitted that he arrested ES Medialdea allegedly for obstruction of justice.[53] However, when asked how exactly was ES Medialdea committing obstruction of justice at the time of his arrest, Gen. Torre's reply was that ES Medialdea "placed another chair at the side of the president for the former president to sit":[54]

> **THE CHAIRPERSON**. Alam ko malaking tao si Atty. Medialdea, pero hinarang ba kayo? Tinulak ba kayo? Wala namang ginawa.
>
> **MR. TORRE**. He did, ma'am.
>
> **THE CHAIRPERSON**. Hindi naman nadadaan sa salita iyong obstruction.
>
> **MR. TORRE.** He did, ma'am. So, I do believe that under that circumstances, I have to arrest him to just to—and I do believe that I

[49] Third Hearing TSN at 101 to 103.
[50] Revised Rules of Criminal Procedure, Rule 113, Section 5 (a)
[51] Id., Section 5 (b)
[52] Id., Section 5 (c)
[53] First Hearing TSN at 196.
[54] Id., at 204.

used the reasonable force to ensure compliance for him to step aside for us to load the former president to the plane.

THE CHAIRPERSON. So, iyon lang iyong obstruction, dahil nagsisigawan iyong mag-asawa?

MR. TORRE. He is preventing us from doing our job of loading the former president to the plane.

THE CHAIRPERSON. Hinarang ba kayo?

MR. TORRE. Yes, ma'am.

THE CHAIRPERSON. Anong ginawa?

MR. TORRE. Nakikita naman sa video, ma'am.

THE CHAIRPERSON. Hindi namin makita.

MR. TORRE. Nakikita naman sa video.

THE CHAIRPERSON. Ang nakita ko lang, pinipilit ninyong iposas, hindi magkasya iyong posas.

MR. TORRE. Yes, that's one thing, ma'am. He is blocking my way; he is preventing us; he actually placed another chair at the side of the president for the former president to sit, which is already very much delaying everything because the plane is already ready to fly.

Under Section 1 of Presidential Decree No. 1829, obstruction of justice is committed through any of the following acts:

(a) preventing witnesses from testifying in any criminal proceeding or from reporting the commission of any offense or the identity of any offender/s by means of bribery, misrepresentation, deceit, intimidation, force or threats;

(b) altering, destroying, suppressing or concealing any paper, record, document, or object, with intent to impair its verity, authenticity, legibility, availability, or admissibility as evidence in any investigation of or official proceedings in, criminal cases, or to be used in the investigation of, or official proceedings in, criminal cases;

(c) harboring or concealing, or facilitating the escape of, any person he knows, or has reasonable ground to believe or suspect, has committed any offense under existing penal laws in order to prevent his arrest prosecution and conviction;

(d) publicly using a fictitious name for the purpose of concealing a crime, evading prosecution or the execution of a judgment, or concealing his true name and other personal circumstances for the same purpose or purposes;

(e) delaying the prosecution of criminal cases by obstructing the service of process or court orders or disturbing proceedings in the fiscal's offices, in Tanodbayan, or in the courts;

(f) making, presenting or using any record, document, paper or object with knowledge of its falsity and with intent to affect the course or outcome of the investigation of, or official proceedings in, criminal cases;

(g) soliciting, accepting, or agreeing to accept any benefit in consideration of abstaining from, discounting, or impeding the prosecution of a criminal offender;

(h) threatening directly or indirectly another with the infliction of any wrong upon his person, honor or property or that of any immediate member or members of his family in order to prevent such person from appearing in the investigation of, or official proceedings in, criminal cases, or imposing a condition, whether lawful or unlawful, in order to prevent a person from appearing in the investigation of or in official proceedings in, criminal cases;

(i) giving of false or fabricated information to mislead or prevent the law enforcement agencies from apprehending the offender or from protecting the life or property of the victim; or fabricating information from the data gathered in confidence by investigating authorities for purposes of background information and not for publication and publishing or disseminating the same to mislead the investigator or to the court.

The alleged act of ES Medialdea in "putting another chair at the side of the president for the former president to sit on" does not fall within any of the acts constitutive of obstruction of justice. Thus, there was no legal ground for Gen. Torre to arrest ES Medialdea.

Furthermore, Gen. Torre admitted to using force and handcuffing Atty. Medialdea, actions that were not only unnecessary under the circumstances but also indicative of coercion and a clear intent to intimidate. These actions may likewise fall under Grave Threats (Article 282, RPC), which is committed when (1) a person threatens another with the infliction of harm amounting to a crime, (2) the threat is directed at the person or their property, and (3) the threat is made with intent to intimidate. By forcibly restraining and threatening Atty. Medialdea in the absence of legal authority, Gen. Torre's actions satisfy these elements—particularly the intent to instill fear and suppress lawful opposition to an illegal arrest.

Moreover, as one of the main participants in the invalid administrative arrest of FPRRD, guideline number 8 in *Yuan Wenle* also applies against Gen. Torre. Therefore, there is prima facie proof that Gen. Torre violated RA No. 3019.

In addition, General Torre admitted that he prevented VP Sara from seeing FPRRD.[55] He also admitted that he arrested Former Executive Secretary Salvador Medialdea and threatened to arrest Atty. Martin Delgra III[56], both of whom were acting as counsels of FPRRD at that time. These are clear-cut violations of RA No. 7438.

The foregoing acts of Gen. Torre, ranging from arbitrarily detaining FPRRD, unlawfully arresting ES Medialdea, and violating FPRRD's rights under RA No. 7438 underscore his willful disregard of due process and constitutional protections constituting grave misconduct. In the case of *Samonte v. Jumawak*[57], it was explained that the misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law or to disregard established rules, which must be established by substantial evidence.

[55] Third Hearing TSN at 105.
[56] First Hearing TSN at 196 and 204.
[57] G.R. No. 249135, January 11, 2024.

General Torre's decisions reflect a conscious effort to ignore legal procedures, suppress constitutional safeguards, and prioritize brute enforcement over rule of law. Additionally, General Torre's actions fall within the broader scope of Conduct Prejudicial to the Best Interest of the Service, as defined under Section 46(b)(8) of the Revised Rules on Administrative Cases in the Civil Service (RRACCS). His actions—particularly the unlawful detention of a former Cabinet Secretary, the intimidation of legal counsel, and the obstruction of a sitting Vice President—undermine public confidence in the Philippine National Police and severely tarnish the image of the institution. This administrative offense is not contingent upon the commission of a specific crime but focuses on acts that bring public service into disrepute, precisely as occurred here.

3. **PNP CHIEF GENERAL ROMMEL FRANCISCO D. MARBIL**

Based from the hearings, there are reasonable grounds to hold that General Rommel Francisco D. Marbil ("General Marbil") is liable for **Arbitrary Detention (RPC Art. 124), Violation of RA No. 3019, Grave Misconduct, and Conduct prejudicial to the Best Interest of the Service.**

In the course of the arrest and turn-over of FPRRD to the ICC, General Rommel Francisco D. Marbil, in his capacity as Chief of the PNP, ordered and implemented the arrest and detention of FPRRD. As admitted by Gen. Torre during the third hearing on the matter, he was just taking his orders from General Marbil:[58]

> **THE CHAIRPERSON**. Si Ambassador Lacanilao? Si Lacanilao ang nag-order sa iyo na isakay siya sa eroplano?
>
> **MR. TORRE**. Sir, I think we have already established iyong order ko is for me to deliver him to the 250th Wing and deliver him to the team, assist the team—
>
> **SEN. DELA ROSA**. Okay, nandoon na siya sa 250th Wing. Ngayon, pinilit mo siyang ilabas. Nakita ko pa iyong matanda humawak

[58] Third Hearing TSN at 141.

sa lamesa, ayaw siyang magpadala sa iyo, ayaw niyang sumakay sa eroplano. Sino ang nag-order sa iyo na isakay siya sa eroplano? Sino ang nag-order sa iyo?

MR. TORRE. Can I defer the question, sir, the answer to the questions to the SOJ considering that I have a team…

SEN. DELA ROSA. No, no, you are the one there. Wala si SOJ doon, ikaw ang nagkarga sa kaniya sa eroplano. Kaya tinatanong kita, who gave you the order?

MR. TORRE. Still, sir, I take my orders from the chief of the Philippine National Police.

SEN. DELA ROSA. So, Chief, PNP, you gave the order to have Former President Duterte board the plane?

MR. REMULLA. Ma'am, I think that from the very beginning, the DOJ's advice was sought on every step of the way. We gave the clearance to serve the warrant of arrest—

Hence, Gen. Marbil is liable to the same extent as Gen. Torre is for the arbitrary detention of FPRRD and for violation of RA No. 3019.

Gen. Marbil is, at the same time, administratively liable for Grave Misconduct and Conduct Prejudicial to the Best Interest of Service. General Marbil as the Chief of the entire PNP, is presumed to be fully aware of the constitutional and procedural requirements for a lawful arrest, especially for a high-profile figure such as a former President. His failure to secure a Philippine court-issued arrest warrant or ensure that any of the exceptions under Section 5, Rule 113 of the Revised Rules of Criminal Procedure were present reflects a willful disregard of clear and established legal standards.

The arbitrary detention of FPRRD—executed without a lawful warrant or legal basis—was not an act of mere negligence but a deliberate transgression of fundamental legal and constitutional norms, thereby qualifying as grave misconduct.

"Public service is a public trust."[59] In line with the constitutional mandate for accountability in public servants, RA No. 6713, or the Code of Conduct and Ethical Standards for Public Officials and Employees, was enacted "to promote a high standard of ethics in public service."

Gen. Marbil is also administratively liable for Conduct Prejudicial to the Best Interest of the Service. Gen. Marbil's actions expose the PNP to accusations of political partisanship, abuse of authority, and disregard for constitutional rights, especially considering that the subject of the arrest is a former Head of State.

The extrajudicial nature of the arrest and the absence of transparency undermine public trust in the PNP. By prioritizing a foreign directive over domestic legal safeguards, General Marbil's conduct suggests an alarming willingness by senior law enforcement officials to bypass courts and constitutional safeguards in favor of foreign or international directives. Such actions undermine the confidence of citizens in the PNP's role as a neutral, professional law enforcement agency committed to the rule of law.

4. DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT (DILG) SECRETARY JUANITO VICTOR REMULLA

DILG Secretary Juanito Victor Remulla ("SILG Remulla") should be held criminally liable for **violation of RA No. 3019 and Arbitrary Detention**. He should also be held accountable for **Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service.**

The PNP would not have made any move without the go-signal of the head of the DILG. In fact, SILG Remulla even bragged on national television that he was part of the group who planned the arrest and turn-over of FPRRD. It is thus clear that SILG Remulla was instrumental in effecting the invalid administrative arrest against FPRRD. As such, he is liable for violation of RA No. 3019, in line with the

[59] Abos v. Borromeo, A.M. No. P-15-3347 [Formerly OCA IPI No. 13-4067-P], July 29, 2015.

pronouncements of the Supreme Court in *Yuan Wenle*. In the same manner, as one of the planners of such arrest, SILG Remulla is liable for Arbitrary Detention, to the same extent as the physical perpetrator--Gen. Torre.

As for administrative liability, there is basis to hold SILG Remulla liable for Grave Misconduct. As one of the planners of the illegal arrest of a former President of the Republic, his complicity in the illegal act is a deliberate transgression of fundamental legal and constitutional norms, thereby qualifying as grave misconduct.

In addition, SILG Remulla's acts exposes the DILG to allegations of partisanship, thereby tarnishing the Department's reputation at a time when it is paramount to project an image of neutrality insofar as politics is concerned. Thus, SILG Remulla is liable for Conduct Prejudicial to the Best Interest of the Service.

5. **SPECIAL ENVOY ON TRANSNATIONAL CRIME MARKUS V. LACANILAO**

Special Envoy on Transnational Crime Markus V. Lacanilao ("Lacanilao") should be held accountable for **usurpation of Official Functions (RPC Article 177); False Testimony in Other Cases and Perjury in Solemn Affirmation, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service**.

Lacanilao, reportedly designated as a Special Envoy, assumed a prominent—though legally ambiguous—role in the arrest and surrender of FPRRD. While the precise scope of his authority remains unclear, his involvement in facilitating the surrender of a Filipino citizen to an international tribunal—without court intervention, judicial warrant, or clear legal basis—raises serious legal, constitutional, and administrative concerns.

Notably, he admitted under oath that he volunteered to accompany FPRRD due to the unavailability of PCTC personnel, thereby arrogating to himself a role not lawfully delegated:

> "That time, wala hong available na members ng PCTC ang may passport noon. So, nag-volunteer—Kaya ho, sinabi ko kanina, I volunteered para ho i-accompany ang former president, in behalf of the PCTC."[60]

Lacanilao's conduct falls squarely within the elements of Usurpation of Official Functions, as defined in Article 177 of the RPC. Usurpation of Official Functions is committed by an individual who: (1) performs an act; (2) that pertains to a public officer or authority; (3) under the pretense of official position; (4) without being lawfully entitled to do so.

All elements are manifested in this case. Lacanilao performed an enforcement action, a function strictly reserved for law enforcement agencies and the judiciary. He acted under the guise of official capacity, falsely invoking his position as a "special envoy," which does not carry with it any enforcement powers. Most importantly, he did so without lawful entitlement, in clear violation of the limitations of his function.

Given his role as a Special Envoy, there is an expectation of heightened legal awareness and procedural diligence. Any person acting with diplomatic or executive capacity must be aware of the constitutional limits of authority, particularly when it involves the deprivation of liberty and international legal cooperation.

The Supreme Court's ruling in *Gigantoni v. People*[61] makes it clear that the mere act of falsely representing oneself as possessing official authority, even without completing the act, is punishable under the law. Here, not only did Ambassador Lacanilao misrepresent his authority, but he also carried out actions with direct consequences on the liberty and constitutional rights of a Filipino citizen and former Head of State—an overreach with far-reaching implications.

[60] Third Hearing TSN at 73.
[61] G.R. No. L-74727, 1998.

These unlawful acts further constitute Grave Misconduct, an administrative offense defined as a flagrant disregard of established rules and abuse of public position through unlawful behavior or gross negligence, coupled with willful intent to violate the law. By arrogating unto himself powers he did not possess—particularly in matters involving arrest and detention—Ambassador Lacanilao exhibited a willful and conscious violation of legal norms and a complete disregard for institutional protocols.

Lacanilao is also guilty of False Testimony in Other Cases and Perjury in Solemn Affirmation under Article 183 which provides that, "Any person, who knowingly makes 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."

In the surrender documentation, Lacanilao explicitly wrote "Do not know" in the section asking whether FPRRD was presented before a competent national judicial authority. Despite being physically present at every stage of the surrender operation—from the arrival of FPRRD at NAIA Terminal up to his transfer to Villamor Air Base and finally inside the aircraft bound for The Hague—Lacanilao disclaimed knowledge of whether FPRRD had been presented before any judicial authority. This contradicts his role in overseeing the surrender and suggests intentional evasion of truth—a ground for False Testimony in Other Cases and Perjury in Solemn Affirmation under Article 183. Lacanilao's commission of the offense is manifest in the following exchange during the third hearing:

> **SEN. DELA ROSA**: Nandoon ka? The whole time? Galing sa tube hanggang doon sa Villamor, nandoon ka. Hindi mo rin alam na hindi siya dinala sa judicial authority?
>
> **MR. LACANILAO**: Yes, Mr. Senator.

SEN. DELA ROSA: So, you are lying? Madam Chair, I move to cite in contempt Ambassador Lacanilao.[62]

Lacanilao was cited for contempt during the 3rd Senate Hearing after repeatedly stating he did not know whether FPRRD had been brought before a judicial authority, despite being present at every stage of the arrest and surrender of FPRRD.

Lacanilao's contradictory declarations—made both in sworn testimony before the Senate and in formal government submissions—demonstrate not merely confusion or negligence, but a pattern of calculated deception. Given his self-proclaimed leadership role in the surrender of FPRRD, it is simply implausible and legally indefensible for him to claim ignorance of whether or not such a high-value individual had been presented before a Philippine court.

Furthermore, his conduct clearly falls within the ambit of "Conduct Prejudicial to the Best Interest of the Service," under Section 46(b)(8) of the RRACCS. This provision punishes public officials whose actions tarnish the image and integrity of the public service, even when no specific law or rule is violated. By inserting himself into a highly sensitive law enforcement operation and violating constitutional guarantees, Lacanilao brought dishonor to his office and compromised the credibility of Philippine institutions on both domestic and international fronts.

B. Legislative Recommendations:

1. **Amend Section 17 of RA No. 9851, or the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity**

Under the principle of complementarity, the Philippines has primary jurisdiction over international crimes. As a general rule, national jurisdiction will be primary at all

[62] Third Hearing TSN at 207.

times, when the state authorities regularly perform their functions of investigation or prosecution except in cases when the state is unwilling or unable to investigate or prosecute.

However, under the 1st sentence of Section 17, Paragraph 2 of RA No. 9851, the Philippine law gives primary jurisdiction to an international tribunal. Thus, the repeal of this provision is recommended.

It is also recommended that the term "surrender" be clarified to apply only to foreign nationals accused or suspected of having committed the crimes defined and penalized in this Act, and not to Filipino citizens.

The new provision will now read as follows:

> "Section 17. Jurisdiction.- The State shall exercise jurisdiction over persons, whether military or civilian, suspected or accused of a crime defined and penalized in this Act, regardless of where the crime is committed, provided, any one of the following conditions is met:
>
> (a) The accused is a Filipino citizen;
>
> (b) The accused, regardless of citizenship or residence, is present in the Philippines; or
>
> (c) The accused has committed the said crime against a Filipino citizen.
>
> **[**~~In the interest of justice, the relevant Philippine authorities may dispense with the investigation or prosecution of a crime punishable under this Act if another court or international tribunal is already conducting the investigation or undertaking the prosecution of such crime. Instead, the~~**]** **PHILIPPINE** authorities may surrender **FOREIGN NATIONALS** or extradite suspected or accused persons in the Philippines to the appropriate international court, if any, or to another State pursuant to the applicable extradition laws and treaties.

No criminal proceedings shall be initiated against foreign nationals suspected or accused of having committed the crimes defined and penalized in this Act if they have been tried by a competent court outside the Philippines in respect of the same offense and acquitted, or having been convicted, already served their sentence."

2. Include a penal provision for government officials or employees or agent abusing the provisions of RA No. 9851

Chapter IV of RA No. 9851 provides:

"Section 7. Penalties. - Any person found guilty of committing any of the acts provided under Sections 4, 5 and 6 of this Act shall suffer the penalty of reclusion temporal in its medium to maximum period and a fine ranging from One hundred thousand pesos (Php 100,000.00) to Five hundred thousand pesos (Php 500,000.00).

When justified by the extreme gravity of the crime, especially where the commission of any of the crimes specified herein results in death or serious physical injury, or constitutes rape, and considering the individual circumstances of the accused, the penalty of reclusion perpetua and a fine ranging from Five hundred thousand pesos (Php 500,000.00) to One million pesos (Php 1,000,000.00) shall be imposed.

Any person found guilty of inciting others to commit genocide referred to in Section 5(b) of this Act shall suffer the penalty of prision mayor in its minimum period and a fine ranging from Ten thousand pesos (Php 10,000.00) to Twenty thousand pesos (Php 20,000.00).

In addition, the court shall order the forfeiture of proceeds, property and assets derived, directly or indirectly, from that crime, without prejudice to the rights of bona fide third (3rd) parties. The court shall also impose the corresponding accessory penalties under the Revised Penal Code, especially where the offender is a public officer."

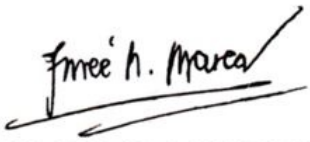
As seen above, the law only provides for penalties against people committing crimes against international humanitarian law, genocide and other crimes against humanity. Therefore, it is necessary to include a provision punishing any government official or employee or agent who abuses their authority in the implementation of the said law to ensure accountability, protect public trust, and promote ethical governance.

By introducing clear penal measures which shall provide for the liability of abusive government officials, we can create a deterrent that minimizes misconduct and ensure that those in position of power are held to the highest standards of integrity. This amendment would not only serve as a safeguard for the rights of citizens but also restore the confidence in public institutions, demonstrating that no one, regardless of their position, is above the law. Hence, we recommend to insert the following paragraphs which shall now be Section 8 of RA No. 9851:

> "Section 8. Penalties for government officials or employees or agents. - Any government official or employee or agent who abuses their authority in the implementation of the provisions of this law shall be penalized with imprisonment of 6 years and 1 day to 12 years, perpetual disqualification to hold public office, the right to vote and participate in any public election and a fine not less than One million pesos (Php 1,000,000). All the benefits due from service in the government of such a public officer or employee shall also be forfeited."

Respectfully Submitted

Chairperson

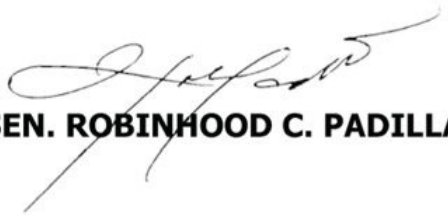


SEN. IMEE R. MARCOS

With concurrence –

SEN. RONALD "BATO" DELA ROSA

SEN. CHRISTOPHER "BONG" GO



SEN. ROBINHOOD C. PADILLA