

A Glimpse into the Philippine Human Rights Situation

30 December 2020

This briefer provides a comprehensive but inexhaustive overview of the pressing human rights issues in the Philippines today, covering both civil and political rights, and economic, socio-cultural rights, with a spotlight on issues compounded by the COVID-19 pandemic.

System of Impunity and Increasing Human Rights Violations

In June 2020 the United Nations Office of High Commissioner on Human Rights (UN-OHCHR) released a report on the widespread human rights violations and persistent impunity in the Philippines. It specifically called out the government for its drug policy that has created a cycle of impunity and system of violence that has led to thousands of extrajudicial killings (EJKs). The report states that “since the Government launched its campaign against illegal drugs in 2016, official figures indicate that at least 8,663 people have been killed, with some estimates putting the real toll at more than triple that number”.¹

In December 2019, the Philippine Drug Enforcement Agency (PDEA) reported that 5,552 “drug personalities” have been killed in anti-drug operations from 1 July 2016 to 30 November 2019. However, just a year before PDEA’s report, the Philippines’ Commission on Human Rights (CHR) and other rights groups placed the number of victims of EJKs related to the drug war at a much higher count of about 27,000. The difficulty of accounting the exact number of deaths is largely due to the Philippine National Police’s withholding of records on the antidrug operations, as well as, the contradicting official numbers from the government, which were released through its #RealNumbersPH initiative.² There has been near

¹ United Nations Office of the High Commissioner on Human Rights, Philippines: UN report details widespread human rights violations and persistent impunity, 4 June 2020 *available at* <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25924&LangID=E> (last accessed 29 December 2020).

² In Defense of Human Rights and Dignity Movement, War on Drugs *citing* Philippine Center for Investigative Journalism, “PCIJ findings: What’s flawed, fuzzy with drug war numbers”, 8 June 2017.

impunity for these killings, with only one conviction for the killing of a drug suspect in a police operation since mid-2016.³

This system of violence and impunity is heavily attributed to the high-level rhetoric. President Rodrigo Duterte has explicitly sanctioned⁴ and encouraged⁵ the killings. Speech after speech he has encouraged the police to kill drug suspects, and even to plant evidence during raids.⁶ Officials who have followed his orders have later secured plum positions in government, among them Ronald dela Rosa, former Philippine National Police chief whom Duterte strongly supported in his candidacy for a Senate seat in May 2019.⁷ Duterte also promised police officers impunity for rights abuses, stating he would protect them, and ultimately pardon them, if ever they are convicted for enforcing his anti-drug policies.⁸

Return of the Death Penalty

The Philippines suspended the death penalty in 2006, and, ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty in 2007. Last 27 July 2020, President Duterte asked lawmakers in his 5th State of the Nation Address to reinstate capital

³ *Id.*

⁴ Republic of the Philippines Presidential Communications Operations Office, July 23, 2018, State of the Nation Address (2018) of President Rodrigo Roa Duterte, *available at* <https://pcoo.gov.ph/wp-content/uploads/2018/07/2018-State-of-the-NationAddress-of-Duterte.pdf> (last accessed May 7, 2020).

⁵ Republic of the Philippines Presidential Communications Operations Office, August 17, 2016, Speech of President Rodrigo Roa Duterte during the 115th Police Service Anniversary, *available at* <https://pcoo.gov.ph/aug-17-2016-speech-of-presidentrodrigo-roa-duterte-during-the-115th-police-service-anniversary/> (last accessed May 7, 2020).

In this speech, Duterte said: "I will kill you. I will kill you. I will take the law into my own hands."

⁶ Republic of the Philippines Presidential Communications Operations Office, December 19, 2016, Speech of President Rodrigo Duterte during the 2016 Presidential Awards for Filipino Individuals and Organizations Overseas, *available at* <https://pcoo.gov.ph/dec-19-2016-speech-president-rodrigo-duterte-2016-presidential-awards-filipino-individualsorganizations-overseas/> (last accessed May 2, 2020).

In this speech, Duterte addressed law enforcers: "If they put up a good fight and they don't have a gun, give them a gun."

⁷ Esguerra, D., August 8, 2019, Duterte assures cops: 'You're safe in the Senate' with Go, Bato, Philippine Daily Inquirer, *available at* <https://newsinfo.inquirer.net/1151950/duterte-assures-cops-youre-safe-in-the-senate-with-go-bato> (last accessed September 9, 2020).

⁸ Republic of the Philippines Presidential Communications Operations Office, July 17, 2016, President Rodrigo Roa Duterte's Speech during the reunion and fellowship of Bedans Batches '71 and '72 with nationwide legal coordinators, *available at* <https://pcoo.gov.ph/july-17-2016-speech-of-president-rodrigo-roa-duterte-during-the-reunion-and-fellowship-of-bedansbatches-71-and-72-with-nationwide-legal-coordinators/> (last accessed May 2, 2020).

In this speech, Duterte said: "The president can grant pardon, conditional or absolute; or grant amnesty with the concurrence of Congress. I will use it. Believe me... I will not hesitate to pardon 10, 15 military and policemen every day.)

punishment via lethal injection for heinous crimes, including drug-related offenses.⁹ At present, there are twelve bills filed in the 18th Congress seeking to reimpose the death penalty.

Attacks against Press Freedom and the Freedom of Expression

Media watchdog Reporters Sans Frontieres (RSF) presently ranks the Philippines 134th of 180 countries in terms of the enjoyment of press freedom. The Freedom for Media, Freedom for All Network, composed of five media groups in the Philippines, have documented at least 154 incidents of attacks and threats against news media during the Duterte presidency, including at least 15 journalists slain. Sixty-nine of these cases had State agents as known or alleged perpetrators.¹⁰

In its June 2020 report, the UN-OHCHR also detailed ongoing threats to freedom of expression, with legal charges and prosecutions being brought against journalists and senior politicians critical of the Government, as well as actions to shut down media outlets.

ABS-CBN, one of the country's leading media outlets, has consistently earned the ire of the president and on several occasions was on the receiving end of threats of closure and non-renewal of its franchise. Last 30 March 2020 its franchise expired and on May 2020 its renewal was denied by Congress - resulting to the loss of more than 11,000 jobs,¹¹ millions of people's access to news and information, and massive erosion of press freedom.

Online news outfit Rappler has also been on the receiving end of political harassment. As of July 2019, nine court cases have been lodged against Rappler CEO and executive editor Maria Ressa, Rappler's directors, and one former researcher.

⁹ Ranada, P., July 27, 2020, Duterte again call for return of death penalty by lethal injection, Rappler, *available at* <https://rappler.com/nation/duterte-calls-return-death-penalty-lethal-injection-sona-2020-speech> (last accessed September 9, 2020).

¹⁰ In Defense of Human Rights and Dignity Movement, Communications on Shrinking Civic Spaces in the Philippines.

¹¹ Hallare, K., July 24, 2020, Gov't gave assurance ABS-CBN's 11K workers won't go unemployed — Garin, Philippine Daily Inquirer, *available at* <https://newsinfo.inquirer.net/1311466/garin-govt-undertaking-steps-to-assure-abs-cbns-11000-workers-wont-go-unemployed> (last accessed September 9, 2020).

The company, including its executives and staff, are also facing at least 11 administrative complaints pending at the Securities and Exchange Commission (SEC). Last June 15 2020, after an eight-month trial, Rappler CEO Maria Ressa and writer Reynaldo Santos, Jr. were both found guilty of cyberlibel.

Attacks on Lawyers, Judges, and Judicial Independence

As of December 2020, the Integrated Bar of the Philippines (IBP) has 54 documented cases of slain lawyers since July 1, 2016. The IBP has sounded the alarm, saying that “when lawyers, prosecutors, and workers in the justice sector are murdered with impunity and alarming regularity, no one feels safe, our people lose trust and faith in our government and its justice system, and the unscrupulous are emboldened to take the law in their criminal hands”.¹² The UN-OHCHR report has also corroborated information that many of the lawyers killed were working on politically sensitive cases or advocating for land rights of farmers and indigenous peoples. Moreover, reprisals, threats and criminal charges – often for non-bailable offences – against legal professionals involved in human rights cases are also prevalent.¹³

On the issue of Judicial Independence, in 2018, the Supreme Court removed from office through a quo warranto petition then Chief Justice Maria Lourdes Sereno who was a vocal critic of the government’s war on drugs. The Commission on Human Rights denounced her removal, recalling that under the Constitution, a Chief Justice can only be removed through impeachment by Congress. United Nations special rapporteurs warned that her dismissal had a “chilling effect” on judicial independence.¹⁴

¹² Cristina Eloisa Baclig, IBP seeks for ‘more effective’ solution on cases of slain lawyers, judges in PH, *Inquirer*, 22 December 2020, available at <https://newsinfo.inquirer.net/1374729/ibp-seeks-for-a-more-effective-solution-on-cases-of-slain-lawyers-and-judges-in-ph#ixzz6i5a3LP7I> (last accessed 29 December 2020).

¹³ United Nations Office of the High Commissioner on Human Rights, Philippines: UN report details widespread human rights violations and persistent impunity, 4 June 2020 available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25924&LangID=E> (last accessed 29 December 2020).

¹⁴ *Id.*

Shrinking Civic Spaces, Attacks against Human Rights Defenders, and the Anti-Terror Law of 2020

The June 2020 UN-OHCHR report also mentioned the phenomenon of red tagging and notes how in some cases those who have been red-tagged were subsequently killed. It states that “the pervasive nature of government red-tagging is clearly illustrated by the inclusion of 649 names in the Government’s court petition to designate the Communist Party of the Philippines and NPA as terrorist groups under the Human Security Act. The list included indigenous and other rights defenders, and a United Nations special rapporteur. Many were subsequently removed from the list, but continued to report harassment and labelling as terrorists”.¹⁵ The report also notes that “between 2015 and 2019, at least 248 human rights defenders, legal professionals, journalists and trade unionists have been killed in relation to their work”.

In its 2019 annual report the Global Witness tagged the Philippines as the most dangerous place for land and environmental defenders. The group noted that 30 activists were killed in 2018 alone, while 48 were killed the year before.¹⁶ Moreover, various media groups have monitored at least 128 attacks on members of the press with at least 12 journalists killed since 2016.¹⁷

Last 1 June 2020, President Duterte certified the Anti-Terrorism Bill as urgent. Subsequently, it was quickly passed by Congress and was signed into law on 3 July 2020. This was met with a lot of contention from civil society organizations, members of the law community, academics, law makers, former Justices of the Supreme Court, Constitutional framers, and citizens in general. More than 30 petitions have been filed with the Supreme Court questioning the constitutionality

¹⁵ *Id.*

¹⁶ TFDP Mid-term Human Rights Situationer *citing* Torres, J., July 31, 2019, Philippine targeted killings spark growing global concern, Union of Catholic Asian News, *available at* <https://www.ucanews.com/news/philippine-targeted-killings-spark-growing-global-concern/85767> (last accessed September 9, 2020).

¹⁷ Talabong, R., May 3, 2019, Over 100 attacks vs journalists since Duterte assumed office – monitor, Rappler, <https://rappler.com/nation/over-100-attacks-vs-journalists-duterte-assumed-office>

of the law. Among the contested provisions are (1) the broad definition of what constitutes terrorism and who can be considered terrorists (2) increase in pre-charge detention from 3 days to 14 days and extendible to another 10 days without a warrant and (3) the power of the Anti-Terrorism Council to allow warrantless arrests and warrantless detention for up to 24 days. The Anti-Terrorism Law is feared to have a chilling effect on the people's exercise of their right to free speech and association. Moreover, there is a question on the credibility of state actors who will implement the law given the increasing number of extrajudicial killings, reported abuses committed by the military and police personnel, red-tagging of activists by government personalities, filing of cases against members of the political opposition, and the rising attacks and killings against lawyers, judges, and human rights defenders.

Leaving the Rome Statute and Proceedings with the ICC

Following the probe of the ICC on the War on Drugs, the Philippines announced its withdrawal from the Rome Statute on March 2018. While the Philippines does not recognize the jurisdiction of the ICC, the ICC states that “pursuant to article 127.2 of the Statute and based on prior ICC ruling in the situation in Burundi, the Court retains its jurisdiction over crimes committed during the time in which the State was party to the Statute and may exercise this jurisdiction even after the withdrawal became effective”.¹⁸ With this, the ICC in its December 2020 report on the preliminary examination on the Philippines stated that the chief prosecutor has already found "reasonable basis to believe" that crimes against humanity have been committed in the Duterte administration's war on drugs.¹⁹

COVID-19 and the Right to Health

¹⁸ International Criminal Court, Preliminary Examination – Republic of the Philippines, *available at* <https://www.icc-cpi.int/philippines>.

¹⁹ CNN Philippines, ICC finds basis for crimes against humanity in Duterte drug war, 15 December 2020 *available at* <https://cnnphilippines.com/news/2020/12/15/Duterte-drug-war-ICC-prosecutor-investigation-Philippines.html> (last accessed 20 December 2020).

The COVID-19 pandemic has brought immense attention to the country's fragile public healthcare system.²⁰ At present, the Philippines has one of the highest numbers of active cases and COVID-19 related deaths in Southeast Asia.²¹ Despite having the strictest and longest lockdown in the world, COVID-19 cases continue to rise. Over the past few months, healthcare workers and medical associations have sounded the alarms, saying that the country's public healthcare system is on the brink of collapse, and that medical workers are very much overwhelmed.²² During the early stages of the pandemic, the healthcare system was caught unprepared and with it came a growing list of health professionals dying while battling the disease due to the lack of protective gear available.²³ In a 2018 review of the Philippine health care system, Manuel M. Dayrit and his co-authors report that the country has 101,688 hospital beds, distributed in 1,223 hospitals across the country. Even if just 1 percent of the Philippines' 107 million population get infected with COVID-19, it is easy to see how hospitals can easily breakdown.²⁴

The lack of health personnel, equipment, infrastructure, training, and experience to fight a new virus led the government to rely on a militarized instead of public health based response. The government received numerous criticisms for its militarist approach and self-care method (e.g., regular handwashing, wearing of facemasks, staying at home), over prioritizing public health measures such as mass testing, extensive contact tracing, targeted quarantines and community engagement.²⁵

²⁰ Dayrit MM, Lagrada LP, Picazo OF, Pons MC, Villaverde MC (2018). The Philippines health system review. Regional Office for South-East Asia. Retrieved from <https://apps.who.int/iris/bitstream/handle/10665/274579/9789290226734-eng.pdf?sequence=1&isAllowed=y>.

²¹ Gil, E. (27 April 2020) Philippine: Upholding Human Rights during a State of Public Health Emergency. International Commission of Jurists. Retrieved from <https://www.icj.org/philippines-upholding-human-rights-during-a-state-of-public-health-emergency/>

²² Biana, Hazel, COVID-19: The need to heed distress calls of healthcare workers, *Journal of Public Health*, Volume 42, Issue 4, December 2020, Pages 853–854, available at <https://academic.oup.com/jpubhealth/article/42/4/853/5900208> (last accessed 29 December 2020).

²³ Cepeda, Mara, Duque Admits Health Workers Die, *Rappler*, available at <https://www.rappler.com/nation/duque-admits-health-workers-die-lack-ppes-dishonest-patients> (last accessed 29 December 2020).

²⁴ Baticulon, Ronnie, OPINION: The Philippine health care system was never ready for a pandemic, *CNN Philippines*, 20 March 2020 available at <https://cnnphilippines.com/life/culture/2020/3/20/healthcare-pandemic-opinion.html?fbclid%3Ffbclid%3Ffbclid%3Ffbclid> (last accessed 29 December 2020).

²⁵ Quintos, P. (June 2020). The Philippines' COVID-19 Responses: Symptoms of Deeper Malaise in the Philippine Health System. Retrieved from file:///C:/Users/M0036/Downloads/Quintos2020.PHcovid19response.pdf

The pandemic also highlighted the immense inequality when it comes to access to healthcare services. Even before COVID, healthcare has been out of reach for many people.²⁶ Statistics show that “6 out of 10 Filipinos die without ever seeing a doctor and when they sick, they shoulder 56 percent of total health expenses, out-of-pocket. As a result, every year, one million patients are driven to poverty because of catastrophic health expenses”.²⁷

The Philippine healthcare system is also plagued by anomalies and allegations of corruption. While in the middle a pandemic, news broke regarding mass scale corruption in Philhealth which serves as the state’s health insurance system. The fraudulent transactions and controversies in PhilHealth costing billions of pesos are now the subject of investigations by several government institutions and congressional hearings.²⁸

Access to Education

The 1987 Constitution of the Philippines provides that the State shall protect and promote the right of all citizens to quality education at all levels, and shall take appropriate steps to make such education accessible to all (Article XIV, Section 1).²⁹ The current health crisis caused massive socio-economic disruptions especially in the education system and around 28 million Filipino students are affected by school closures due to COVID-19.³⁰

In their efforts to ensure that learning is not hindered during the pandemic, the Department of Education (DepEd) and the Commission on Higher Education (CHED) have come up with ways to adapt to the “new normal”. However, despite

²⁶ Naguit, RJ, Philippines: COVID-19 as a public health crisis, 4 July 2020 available at <https://www.fes-asia.org/news/philippines-covid-19-as-a-public-health-crisis/> (last accessed 29 December 2020).

²⁷ Baticulon, Ronnie, OPINION: The Philippine health care system was never ready for a pandemic, CNN Philippines, 20 March 2020 available at <https://cnnphilippines.com/life/culture/2020/3/20/healthcare-pandemic-opinion.html?fbclid%3Ffbclid%3Ffbclid%3Ffbclid> (last accessed 29 December 2020).

²⁸ Uy, A. (23 August 2020). Corruption Amid of Pandemic. The ASEAN Post. Retrieved from <https://theaseanpost.com/article/corruption-amid-pandemic>

²⁹ The 1987 Constitution of The Republic of The Philippines – Article XIV, Section 1

³⁰ CNN. (29 July 2020). DepEd hits target number of enrollees, but millions of student seen to be left out. Retrieved from <https://www.cnn.ph/news/2020/7/29/DepEd-enrollees-2020-2021-.html>

efforts to offer options and alternatives to make education more accessible and inclusive during this pandemic, many students and teachers continue to struggle because of the digital divide. The adoption of new learning modalities presents many concerns in terms of accessibility. This includes not only access to online learning materials, but also access to printed and modular learning materials for learners in geographically isolated and disadvantaged areas, those belonging to low income households, and material accessibility for children with disabilities and very young children.³¹ The difficulty in accessing learning materials and the digital divide are further compounded by the damage brought about by natural disasters.³² Viral posts from social media showed difficulties both for students and teachers to reach stable internet connection. Some had to climb to high areas to get internet signal for their classes. With this, several student groups called out educational institutions for prioritizing academic output over student welfare.³³

The 2021 National Budget allocates PHP 4.1 trillion to DepEd. However, DepEd's request for an additional PHP 30 billion, affecting its plans to construct 65,000 more classrooms and hire 43,000 new teachers is still not covered by this budget. Moreover, with COVID-19, came drastic budget adjustments. The Department of Budget and Management slashed funding from pre-existing projects to reallocate the budget for COVID-19 containment. This resulted in a 4.39 per cent budget cut within the DepEd, which directly impacts the system's ability to adjust to the new online learning methods.³⁴

Access to Social Services

On March 2020 President Duterte locked down the entire Luzon-island, suspending work, classes, and temporarily closing non-essential businesses and

³¹ Ateneo Human Rights Center, Policy Brief Series No.1 – Education in the New Normal: Is the Philippine Education System Ready? July 2020.

³² Christine Marie Ramos, DepEd data: Damage to learning materials from typhoons hit P567M, Inquirer, *available at* <https://newsinfo.inquirer.net/1365678/deped-data-damage-to-learning-materials-from-typhoons-hit-p567m#ixzz6i5DyXVlf> (last accessed 29 December 2020).

³³ Ibid.

³⁴ Allego, R. Totally 'unprepared': The Philippines' education system is buckling under COVID-19. Retrieved from <https://www.arianalife.com/topic-type/news-feature/totally-unprepared-the-philippines-education-system-is-buckling-under-covid-19/>

public transportation. According to the Philippine Statistics Authority, the country's unemployment rate rose to a record 17.7% in April, amounting to 7.3 million unemployed Filipinos.³⁵ Also heavily affected are the overseas Filipino workers (OFWs) who had to go home following the breakout of the pandemic.³⁶ With this, the COVID-19 pandemic is expected to push even more families to poverty, with the World Bank estimating around 2.7 million families falling behind following a record slide in the Philippines' gross domestic product (GDP) or economic output.³⁷

To ease the economic burden on families who lost their sources of income, the government announced a 256 billion pesos subsidy program meant to aid 26.4 million families. Unfortunately, this was heavily plagued with corruption controversies especially at the local government level. Also, the implementation of the distribution of cash aids has been bogged down by complicated administrative processes and bureaucratic confusion arising from conflicting and overlapping roles of different government agencies.³⁸ The Department of the Interior and Local Government reported that as of August 2020, there are more than 400 local officials and civilian co-conspirators facing criminal charges, while 626 more were under investigation by police. Some officials were found to have pocketed some funds by falsifying the master list of beneficiaries. Some officials were also criticized for favoring some families. Last September, the Ombudsman suspended almost 100 village captains due to charges of grave misconduct and abuse of authority after complaints were filed against them for the anomalous distribution of the subsidies.³⁹

³⁵ Business World. (30 November 2020). Cash aid for Filipinos to buy food also becomes avenue for corruption. Retrieved from <https://www.bworldonline.com/cash-aid-for-filipinos-to-buy-food-also-becomes-avenue-for-corruption/>

³⁶ Sou-Jie, M. and Brunnersum, V. (27 April 2020) Coronavirus: Vulnerable Filipinos fight for survival during lockdown. Retrieved from <https://www.dw.com/en/coronavirus-vulnerable-filipinos-fight-for-survival-during-lockdown/a-53258915>

³⁷ Ben O. De Vera, World Bank: Pandemic to sink 2.7M more Filipinos in poverty, *Inquirer*, Inquirer 8 December 2020, available at <https://business.inquirer.net/313528/world-bank-pandemic-to-sink-2-7m-more-filipinos-in-poverty#ixzz6i5L64hYe>.

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³⁸ Sou-Jie, M. and Brunnersum, V. (27 April 2020) Coronavirus: Vulnerable Filipinos fight for survival during lockdown. Retrieved from <https://www.dw.com/en/coronavirus-vulnerable-filipinos-fight-for-survival-during-lockdown/a-53258915>

³⁹ *Ibid.*