

# PHILIPPINES

## SUBMISSION TO THE UN HUMAN RIGHTS COMMITTEE

136TH SESSION (10 OCTOBER TO 4 NOVEMBER 2022)



(Photo by Jes Aznar/Getty Images)



## INTRODUCTION

CIVICUS: World Alliance for Citizen Participation provides the following information with respect to human rights in the Philippines to the United Nations (UN) Human Rights Committee (the Committee) in advance of its fourth periodic review of Philippines' obligations under the International Covenant on Civil and Political Rights (ICCPR) at the Committee's 135th session.

In this document, CIVICUS sets out its main concerns regarding the implementation of the ICCPR by the Philippines, focusing on civic space issues, and specifically, the rights to the freedoms of expression (Article 19), peaceful assembly (Article 21) and association (Article 22).

## FREEDOM OF EXPRESSION (ARTICLE 19)

Freedom of opinion and expression is guaranteed under Article 3, section 4 of the 1987 Constitution of the Philippines which states that 'no law shall be passed abridging the freedom of speech, of expression, or of the press'.<sup>1</sup> However, CIVICUS has documented the use of defamation and sedition laws to stifle dissent as well as ongoing harassment and attacks against journalists in the Philippines.

### Criminal defamation laws

A number of laws in the Revised Penal Code of the Philippines have been used to criminalise the freedom of expression and as such are inconsistent with the ICCPR. They include Article 154 (unlawful use of means of publication and unlawful utterances), Articles 353 to 355 (libel), Article 357 (slander) and Article 139 (sedition).<sup>2</sup> Section 4(c)(4) of the 2012 Cybercrime Prevention Act criminalises online libel.<sup>3</sup>

In July 2019, the police filed a complaint alleging incitement to sedition, libel and cyber libel against 36 people including opposition politicians, religious leaders and human rights advocates who were critical of former President Rodrigo Duterte.<sup>4</sup>



Filipino journalist Maria Ressa (Photo Credit: Rappler)

Prominent journalist Maria Ressa, working for news platform Rappler, is a vocal critic of former President Duterte and his deadly 'war on drugs' which has killed thousands of people with impunity since he took office in 2016. Ressa and Rappler face multiple criminal charges and investigations that human rights groups believe are politically motivated. Ressa and former researcher-writer Reynaldo Santos Jr were found guilty of 'cyber-libel' in June 2020 over a 2012 Rappler article, which was updated in 2014. The article linked a Filipino business leader to a top judge.<sup>5</sup> On 7 July 2022, the Court of Appeal affirmed the conviction.<sup>6</sup>

## ABOUT THE CIVICUS MONITOR

The [CIVICUS Monitor](#), an online platform that tracks threats to civil society in countries across the globe, rates civic space – the space for civil society – in the Philippines as "**Repressed**".

The data provides the basis for civic space ratings, which are based on up-to-date information and indicators on the state of freedom of association, peaceful assembly and expression. Countries can be rated as:

CLOSED

REPRESSED

OBSTRUCTED

NARROWED

OPEN



On 29 November 2021, Alfonso Cusi, the Secretary of the Department of Energy, and Dennis Uy, a friend and campaign donor of Duterte's, filed libel and cyber libel cases against 21 journalists and seven media organisations who reported on a corruption complaint against the two over an energy deal.<sup>7</sup>

### **Closure of media outlets and cyber attacks**

Former President Duterte had been at odds with critical media outlets for reporting on his administration's 'war on drugs'. He was among the 37 global leaders to appear in Reporters Without Borders' gallery of 'press freedom predators' in 2021.<sup>8</sup>



Media groups protest closure of television network ABS-CBN in Manila (Photo Credit: Licas News)

ABS-CBN, the Philippines' top broadcaster, was forced off the air in May 2020 after it was ordered by the media regulator to stop operations as the network's congressional franchise had expired and it was refused a new licence.<sup>9</sup> ABS-CBN's coverage of the 'war on drugs' had angered the former president, and on several occasions, he threatened to block the renewal of its franchise.<sup>10</sup>

In June 2022, the authorities ordered Rappler to shut down after the Philippine Securities and Exchange Commission (SEC)

upheld its earlier ruling to revoke the news site's operating licence. In January 2018, the SEC had revoked the registration of Rappler over alleged violation of foreign ownership rules.<sup>11</sup>

In September 2021, two alternative media outfits, Altermidya and Bulatlat, said that a unit under the Department of Information and Communications Technology has confirmed that cyber attacks on their websites were linked to the Philippine army.<sup>12</sup>

### **Harassment, threats and attacks on journalists**

CIVICUS has also documented cases of arrests, threats and the killing of journalists with impunity. Former President Duterte has made incendiary public statements against journalists, even justifying death threats against them.<sup>13</sup> In May 2016 he said, 'just because you're a journalist you are not exempted from assassination'.<sup>14</sup> At least 23 journalists and media workers were killed under Duterte, based on a tally by the National Union of Journalists of the Philippines in May 2022.<sup>15</sup>

On 21 January 2020, Glenn Jester Hitgano, a reporter based in Davao and working at the Radio ni Juan Network, was arrested and detained for interviewing protesters who were harassed by police.<sup>16</sup> Two assailants on a motorcycle shot and killed journalist Virgilio Maganes on 10 November 2020 outside his home in Villasis, in the northern province of Pangasinan, and then fled the scene. Maganes worked as a commentator at the local DWPR radio station and as a columnist for the weekly Northern Watch newspaper, and often covered political issues.



Ronnie Villamor was shot dead by soldiers on 14 November 2020 in the town of Milagros, Masbate province. He was contributor to the local independent Dos Kantos Balita weekly newspaper and was killed at a military checkpoint while he was on his way to cover a disputed land survey. The local police chief alleged that the troops ordered Villamor to stop his motorcycle.<sup>17</sup>

On 8 December 2021, unidentified assailants on a motorcycle shot journalist Jesus 'Jess' Malabanan in the head while he was watching television at his family's store in Calbayog City, Samar province. The journalist was declared dead on arrival at the city's St Camillus Hospital.<sup>18</sup>

Ahead of the May 2022 elections, in February 2022, The National Union of Journalists of the Philippines and the Center for Media Freedom and Responsibility expressed alarm over hostility against the media, including online attacks and death threats.<sup>19</sup>

## **THE HUMAN RIGHTS COMMITTEE SHOULD RECOMMEND THAT THE PHILIPPINES GOVERNMENT:**

- Review all existing legislation to ensure compatibility with international law and standards including the UN Human Rights Committee's General Comment 34 on Freedom of Expression.
- Reform or repeal defamation legislation in the Revised Penal Code and the 2012 Cybercrime Prevention Act in conformity with Article 19 of the ICCPR.
- Reinstate all media outlets that have unwarrantedly been closed.
- Immediately drop all charges or quash convictions against journalists, including Maria Ressa and others, who have been targeted solely for the peaceful exercise of their right to the freedom of expression and media freedom and ensure that journalists can work freely and without fear of criminalisation.
- Conduct prompt, thorough, impartial and effective investigations into the killings, threats and harassment of journalists and bring the perpetrators to justice.
- Formulate a national policy on the protection of journalists with provisions to ensure independent and speedy investigations into violations and abuses reported against them.

## **FREEDOM OF PEACEFUL ASSEMBLY (ARTICLE 21)**

The right to peaceful assembly is guaranteed under Article III, section 4 of the 1987 Constitution. Despite these guarantees, the authorities continue to subvert the freedom of peaceful assembly through a combination of legislative restrictions and the use of excessive force.

### **Legal barriers to hold protests:**

Section 4 of the Public Assembly Act of 1985 requires prior written authorisation from local authorities to assemble peacefully in a public space, other than in an approved place, five days in advance.<sup>20</sup>

A proposed new law regulating public assemblies was adopted by the House of Representatives in February 2018 and is currently before the Senate. House Bill 6,834 will replace the Public Assembly Act of 1985. Concerns have been raised that the Act could allow for unlawful restrictions on the right to peaceful assembly.



The law would prohibit people aged 15 and under from organising a public assembly and participants or organisers could face potential criminal liability for holding a peaceful assembly without the approval of local executives. The proposed law states that any person or group intending to organise a public assembly will only need to notify the city or municipal mayor at least three days prior to the holding of an assembly. However, in an inherent contradiction, it prohibits the ‘holding of a public assembly at a time and place other than that approved by the city or municipal mayor’. which puts in place a de facto approval provision. The law also increases the penalty for holding a public assembly without this de facto approval by local authorities.<sup>21</sup>

### **Arrests and excessive force:**

CIVICUS has documented a number of cases where the right to protest was restricted by the police arresting protesters and using unnecessary or excessive force against them.



Riot police officers stand guard as anti-Marcos activists take part in a protest

On 5 June 2020, near the University of the Philippines Cebu, against the Anti-Terrorism Act. Among those arrested were seven activists and one bystander who did not participate in the rally. The activists were part of an estimated 50 people who participated in the protest action. They were arrested for allegedly violating a ban on mass gatherings under the general community quarantine issued in response to COVID-19.<sup>23</sup>

On 4 July 2020, 11 activists were arrested during a protest in Cabuyao, Laguna against the Anti-Terrorism Act. Those involved claimed that suspected members of the military approached and arrested the protesters as they were about to leave the protest area.

On 1 July 2020, police in Manila arrested 20 peaceful LGBTQI+ protesters attending a Pride event and protesting against the Anti-Terrorism Bill, which was signed into law two days later. Officers later charged the 20 under the Law on Reporting of Communicable Diseases and the Public Assembly Act.<sup>24</sup>

Almost 150 protesters from various organisations and groups nationwide were arrested by the national police force due to protest actions coinciding with President Duterte’s fifth State of the Nation Address on 27 July 2020.<sup>25</sup>

On 25 May 2022, a relatively peaceful protest at the Commission on Human Rights compound in Quezon City turned violent when the authorities stopped protesters marching to the Batasang Pambansa, where the proclamation of the winning presidential and vice-presidential candidates took place. This was despite no permits being required to hold rallies in the area. Police officers in full battle gear clashed with activists and a water cannon was used to disperse them. Fourteen protesters were hurt and needed medical assistance. One of those injured was a campus journalist from the Polytechnic University of the Philippines who covered the protest.<sup>26</sup>

On 15 June 2018, the Bulacan provincial police violently dispersed around 300 workers from NutriAsia, a condiments factory, who went on strike for 12 days to protest against low wages and unhealthy working condition. At least 10 were injured and 19 workers and supporters were subsequently arrested. The National Union of Journalists of the Philippines also reported that two journalists were assaulted and threatened while covering the protests.<sup>22</sup>

Police arrested eight people during a protest rally on 5 June 2020, near the University of the Philippines Cebu, against the Anti-Terrorism Act. Among those arrested were seven activists and one bystander who did not participate in the rally. The activists were part of an estimated 50 people who participated in the protest action. They were arrested for allegedly violating a ban on mass gatherings under the general community quarantine issued in response to COVID-19.<sup>23</sup>

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## THE HUMAN RIGHTS COMMITTEE SHOULD RECOMMEND THAT THE PHILIPPINES GOVERNMENT:

- Amend the 1985 Public Assembly Act in order to guarantee fully the right to the freedom of peaceful assembly in accordance with international law and standards.
- Adopt best practices on the freedom of peaceful assembly, as put forward by the 2012 report of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, which calls for simple processes for the notification of assemblies being held rather than permission being required, and by General Comment No. 37 on the right to peaceful assembly adopted by the UN Human Rights Committee in 2020.
- Immediately and impartially investigate all instances of extrajudicial killing and excessive force committed by security forces in the context of protests and bring the perpetrators to justice.
- Review and, if necessary, update existing human rights training for police and security forces, with the assistance of independent civil society organisations (CSOs), to foster the more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Provide recourse to judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to the freedom of peaceful assembly by state authorities.

### FREEDOM OF PEACEFUL ASSEMBLY (ARTICLE 21)

The right to the freedom of association is guaranteed in Article III section 8 of the 1987 Constitution. The Revised Corporation Code as well as the provisions under tax laws pertaining to exemptions of non-governmental or non-profit organisations (NPOs) are the specific operative laws dealing with civil society registration in the Philippines. The SEC is the primary registration and supervision agency of all NPOs in the Philippines, as it mandates NPOs to submit annual reports.

Although there are no legal barriers against the formation of associations, practical barriers exist that prevent the full realisation of the right to association, including increased and continuous targeting of civil society. The authorities have harassed and vilified activists and have also frozen the funds of CSOs and community groups. Human rights defenders, activists and lawyers have faced judicial harassment, and some have been killed by security forces and unknown individuals.

In one positive step, on 17 January 2022, the House of Representatives adopted House Bill No. 10,576, known as the Human Rights Defenders Protection Act, on its third and final reading. The Bill was developed in consultation with civil society. It has not yet been passed by the Senate.<sup>27</sup>

### Vilification of CSOs and ‘red-tagging’:

The phenomenon of ‘red-tagging’ – labelling individuals or groups as communists or terrorists – poses a serious threat to civil society and activists. ‘Red-tagging’ has been used for decades in the Philippines in the government’s campaign against the communist New People’s Army (NPA), which began in 1969. The government’s counterinsurgency efforts include publicly accusing activists, journalists, politicians and others and their organisations of being directly involved in the fighting or supporting the NPA. This label puts activists at grave risk of being targeted by the state and pro-government militias.



A landmark report by the Office of the High Commissioner for Human Rights in June 2020 noted how in some cases those who have been ‘red-tagged’ were subsequently killed. Others said they had received death threats or unwelcome sexual comments in private messages or on social media.<sup>28</sup>



Activists call for an end to ‘red-tagging’ during a protest march (Photo Credit: Bulatlat)

According to human rights groups, ‘red-tagging’ became deadlier when Duterte became president in 2016. Duterte created the National Task Force on Ending Local Communist Armed Conflict, with billions of pesos at its disposal, making red-tagging his government’s official policy. The task force is composed of, and headed by, former military officials. It carries out red-tagging through its social media posts and official pronouncements.<sup>29</sup>

### Freezing of CSO funds:

Even international CSOs have been targeted. In November 2019, Oxfam was listed as a supposed front for local ‘communist terrorist groups’ while its international and UK arms were branded by the Department of National Defence as ‘foreign funding agencies wittingly or unwittingly providing funds’.<sup>30</sup>

Restrictions on foreign funding have been documented, including the use of the Anti-Money Laundering Act and Republic Act No. 10,168, known as The Terrorism Financing Prevention and Suppression Act of 2012, which criminalises the provision of funds that contribute to acts of terrorism. It incorporates the vague and broad definition of terrorism set out in the 2007 Human Security Act, now replaced by the 2020 Anti-Terrorism Act.

Under section 25 of the Anti-Terrorism Act, the Anti-Terrorism Council (ATC) has the power to designate people and groups as terrorists. Under the same provision, the Anti-Money Laundering Council (AMLC) then has the power to freeze their assets. There is no court order needed to freeze the assets of designated terrorists – meaning there is no judicial oversight of such an action – and the AMLC does not need to engage in further investigation before issuing a freeze order.<sup>31</sup>

On 7 February 2020, the government froze several bank accounts of the Rural Missionaries of the Philippines (RMP), a Catholic church group, on suspicion of ‘terrorism financing’. The RMP, which works with rural poor people, was previously tagged as a ‘communist front’ because of their activism and their criticism of the Duterte government.<sup>32</sup>

On 12 June 2021, human rights group Karapatan reported that the AMLC had frozen the bank accounts of Amihan, an organisation of peasant women, which the authorities alleged were linked to communist rebels.<sup>33</sup>



## Judicial harassment of human rights defenders, activists and critics:

As well as the vilification of human rights defenders, activists and CSOs and attempts to squeeze their funds, the authorities have targeted them directly by arresting and detaining them, often on fabricated charges. There have also been reports of evidence being planted by the police and military forces to justify arrests or violence against activists.



Families and friends of detained activists call for their release (Photo Credit: Karapatan)

On 10 December 2020, police officers of the Criminal Investigation and Detection Group simultaneously raided the houses of six trade unionists and a journalist. They all belong to groups that had previously been red-tagged. The seven human rights defenders, referred to as the 'Human Rights Day 7', were subsequently arrested on charges of 'illegal possession of firearms and explosives', which police claimed were seized during the raids.<sup>34</sup>

On 21 March 2021, Renalyn Tejero, a worker for Karapatan, was detained after a raid on her apartment in Cagayan de Oro City by the national police and army. She was shown a warrant and was only able to read the words 'homicide' and 'RTC 34, Cabadbaran'. She was also interrogated without a lawyer, despite requesting one. Tejero is now facing murder and attempted murder charges that are believed to be fabricated. In November 2020, she had been 'red-tagged' by a group named 'Movement against Terrorism' along with 32 other people from various progressive organisations in the Caraga region.<sup>35</sup>

Human rights defender Teresita Naul, a regional council member for Karapatan in Northern Mindanao and a staff member of the Union of People's Lawyers in Mindanao spent 19 months in detention on trumped-up charges. She was arrested on 15 March 2020 in Lanao del Sur, Mindanao, by security forces on fabricated charges of 'kidnapping', 'destructive arson' and 'serious illegal detention'. Police claimed she was a member of the NPA. She was released on 28 October 2021 after charges were dismissed by the courts.<sup>36</sup>

On 14 November 2021, the authorities arrested Ma Salome 'Sally' Crisostomo-Ujano on the alleged charge of 'rebellion' for being involved with the Communist Party and its armed wing.<sup>37</sup> She was the National Coordinator of Philippines Against Child Trafficking and worked on women's and children's rights with various human rights organisations and networks.

Senator Leila de Lima is a long-time critic of former President Duterte's 'war on drugs'. She has been in police custody since February 2017 and faces charges alleging that she received money from drug lords while serving as justice secretary. She has repeatedly denied the charges, contending that the Duterte administration was retaliating against her for investigating extrajudicial killings under Duterte's anti-drug campaign. Two key witnesses in the Philippine government's case against Senator Leila de Lima have since retracted their testimony.<sup>38</sup>



## Impunity for the killing of activists:

CIVICUS has documented the extrajudicial killings of human rights defenders and activists. In several instances, the activists were vilified and red-tagged in relation to their work prior to their murder. Accountability for these actions have been virtually non-existent. The Office of the High Commissioner for Human Rights has verified the killings of 208 human rights defenders, journalists and trade unionists between January 2015 and December 2019.<sup>39</sup>



Filipinos Protest Against President Duterte (Photo by Jes Aznar/Getty Images)

Environmental and Indigenous rights defender Ricardo Mayumi was shot dead by two unidentified assailants on 2 March 2018. The killing came following the government labelling Indigenous rights activists as 'terrorists'.<sup>40</sup>

On 20 October 2018, nine sugar farmers who were members of a leftist labour group, the National Federation of Sugar Workers, were killed by unknown persons at a sugar plantation in Sagay on the island of Negros. They had joined the first day of a land occupation protest on part of a sugar plantation.<sup>41</sup>

Randy Felix Malayao, a human rights defender and peace consultant for the National Democratic Front of the Philippines, was shot dead by an unidentified assailant on 30 January 2019, as he slept on a bus in Aritao, Nueva Vizcaya.<sup>42</sup>

On 10 August 2020, activist and land rights defender Randall 'Randy' Echanis was killed inside his home in Quezon City. His body reportedly bore multiple stab and gunshot wounds. In the months before this death, Echanis had been active in opposing the Anti-Terrorism Bill.

Human rights activist Zara Alvarez was gunned down by unidentified perpetrators on Sta Maria Street in Bacolod City on 17 August 2020. Alvarez had reportedly been receiving death threats for more than a year. She was the former campaign and education director and paralegal in Negros for Karapatan.<sup>43</sup>

Nine community-based activists were killed in coordinated raids, known as the 'Bloody Sunday' killings, which took place across four provinces in the Calabarzon region on 7 March 2021 by members of the national police and the military. The police claimed the operations were meant to arrest alleged NPA rebels identified in search warrants issued by two Manila courts.



Those killed include fishers' leaders Ariel Evangelista and Anna Marie Lemita-Evangelista, Emmanuel Asuncion, a labour organiser, housing rights activists Melvin Dasigao and Mark Bacasno, Puroy Dela Cruz and Randy Dela Cruz of the Indigenous Dumagat tribe and urban poverty activists Abner Esto and Edward Esto.

The Department of Justice (DOJ) reported in December 2021 that 17 police officers faced murder charges for the death of Emmanuel Asuncion. On 7 March 2022, the DOJ said murder charges had been filed against another 17 police officers for the deaths of Ariel Evangelista and his wife, Anna Marie. However, no further progress has been reported on the other above cases.<sup>44</sup>

On 15 January 2022, two members of farmers group Anakpawis were gunned down. The two – Silvestre Fortades Jr. and Rose Marie Galias – were shot dead in Barangay San Vicente, Barcelona town in Sorsogon. Anakpawis said in a statement that the victims were killed by four unidentified assailants on two motorcycles.<sup>45</sup>

### **Draconian anti-terror law:**

The draconian 2020 Anti-Terrorism Act includes a worryingly broad definition of terrorism and grants the Philippines police and military the power to detain suspects without a warrant or charge for up to 24 days for investigation. It also relaxes accountability for law enforcement agents who violate the rights of suspects, particularly those in detention.

The law gives the ATC a broad role with undue and arbitrary control over people's rights and freedoms. The council can now designate individuals and organisations as terrorists without any hearing, as long as it sees 'probable cause' that they have committed, attempted to commit or are part of a conspiracy to commit acts defined and penalised as terrorism. In this context, the law appears to be aimed at criminalising dissent.

At the same time, the Supreme Court of the Philippines announced that it had voted to strike down two portions of the law, including to ensure that terrorism does not include 'advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights'. The Supreme Court also declared unconstitutional the power of the ATC to designate a person or a group as terrorists based on a request by another country and upon determination that it meets the criteria of relevant UN Security Council Resolutions.<sup>46</sup>



## **THE HUMAN RIGHTS COMMITTEE SHOULD RECOMMEND THAT THE PHILIPPINES GOVERNMENT:**

- Immediately end the red-tagging and vilification of CSOs and activists, and halt any forms of retaliation, including threats, intimidation and attacks against them.
- Immediately reinstate access to funding for any CSOs that have been arbitrarily and unduly sanctioned by the Anti-Money Laundering Council.
- Refrain from acts leading to the arbitrary closure of CSOs or the suspension of their peaceful activities, including through misuse of the Anti-Money Laundering Act and the Terrorism Financing Prevention and Suppression Act.
- Remove all undue restrictions on the ability of CSOs to receive international and domestic funding in line with best practices articulated by the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association.
- Ensure that HRDs are able to carry out their legitimate activities without fear or undue hindrance, obstruction, or legal and administrative harassment.
- Cease unwarranted searches and seizures on CSOs and unjustifiable disruptions to legitimate activities organised by CSOs.
- Immediately dismiss charges and release all human rights defenders and activists who have been arbitrarily detained for their activism.
- Establish mechanisms to protect human rights defenders, including by adopting and implementing the Human Rights Defenders Bill.
- Send a clear public message to all security forces that unlawful killings are unacceptable and strictly prohibited at all times.
- Conduct prompt, thorough, impartial and effective investigations into the killings of human rights defenders and activists and bring the perpetrators to justice.
- Reform or repeal the 2020 Anti-Terrorism Act to bring it in line with international law and recommendations of the UN Special Rapporteur on counter-terrorism and human rights, and ensure it does not negatively impact on civil society and human rights defenders.



## ENDNOTES

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