

1. In this submission, ICHRP-Canada assesses the Philippine government's implementation of recommendations it "supported" during the 3rd cycle on the 27th of UPR (May 2017). It also discusses issues related to recommendations that were "noted" by the Philippines during the 3rd cycle.

2. The prevailing climate of impunity is a major factor contributing to the continuing occurrence of extrajudicial killings, enforced disappearances, torture and other human rights abuses. The perpetrators of grave violation continue to evade prosecution and penalty due to lack of thorough, impartial, exhaustive police investigation, and the lengthy time to undertake trials. In many cases, the perpetrators are not identified, but even in cases where they were identified by those whose rights have been violated or others, they were not investigated or prosecuted.

3. The recommendations supported by the Philippine Government but failed to implement:

133.54 Ensure human rights standards are observed in the current government's conduct of its campaigns against illegal drugs. (Zambia)

133.59 Guarantee that all the Government's methods of combating the use of illegal drugs are brought into line with international standards. (Estonia)

133.113 Take all necessary steps to ensure prompt, impartial and transparent investigations into alleged unlawful killings and other abuses during anti-drug operations. (Hungary)

4. From the "war on drugs" to the targeting of human rights defenders, the police and military perpetrate summary executions. Other perpetrators are state-sponsored paramilitaries, and "vigilantes" hired by or working with government security forces.ⁱ

5. The official government reports 6,011 deaths in anti-drug operations for the sole period of 1 July 2016, to 31 December 2020,ⁱⁱ however, the United Nations (UN) OHCHR found that the figure from 1 July 2016 to March 2020 was at least 8,663, other studies suggest the figure is almost three times higher than that.ⁱⁱⁱ

6. A June 2016 command memorandum issued by then Philippine National Police (PNP) Chief Ronald dela Rosa on President Duterte's first day in office immediately kicked off the "War on Drugs" operations.^{iv} The memo provided directives for Project Double Barrel and its component, Project Tokhang, ordering police to create lists of suspects at the barangay level with the cooperation of the barangay officials, to conduct "house-to-house visitations" of "suspected drug personalities" in coordination with the barangay officials and other government agencies.^v The War on Drugs continues to undermine due process. Warrants are not required, and individuals lack immediate and effective legal recourse to challenge their inclusion on target lists.^{vi} These tactics to sow

fear in the communities of unlawful means of control by authorities.^{vii}

7. 133.41 Strengthen cooperation with national and international human rights institutions in order to implement the national human rights action plan. (Mexico)

8. The Commission on Human Rights (CHR) is an independent office created by Section 18, Article XIII of the Philippine Constitution, with the primary function of investigating all forms of human rights violations involving civil and political rights in the Philippines. The state or the government is obliged to “respect, protect, and fulfill” these rights.

9. The national human rights action plan stemmed from the **national inquiry**^{viii} conducted by CHR in September 2019. Over 4 days, the commission heard from various civil society organizations and human rights groups about their situation in the Philippines amid threats and harassment from the state.

10. United Nations special rapporteurs say the 'criminalizing discourse undermines the value of the vital work of human rights defenders' and further exposes them to harassment and threats. The UN special rapporteurs said that the accusations against UN special rapporteur Victoria Tauli-Corpuz “are clearly in retaliation for her invaluable work defending the human rights of indigenous peoples worldwide, and in the Philippines.”^{ix}

11. The Philippine government’s petition to have hundreds of people legally tagged as terrorists is a “virtual government hit list,” New York-based Human Rights Watch (HRW).^x The criminalizing discourse used by Philippine public officials undermines the value of the vital work of human rights defenders, denigrates them in the eyes of the public and may put them at risk of threats, violence, or other forms of harassment.

12. 133.132 Strengthen criminal justice reform efforts in order to ensure a speedy and fair trial for all accused. (USA)

13. The legal frameworks created by the Philippine government are obstacles to the fair trial for those who are accused. At a national level, the delegitimization, isolation and criminalization of dissent takes place through mechanisms such as Memorandum Order No. 32 issued on November 22, 2018;^{xi} Executive Order No. 70 (which authorized the creation of the NTF-ELCAC)^{xii} and the Anti-Terrorism Act (ATA),^{xiii} among others. These mechanisms have expanded the powers of security forces, nationalized the counterinsurgency program, broadened invasive scrutiny across all sectors of society, and institutionalized the label of “terrorist” as a catch-all to criminalize any political opposition.

14. These legal frameworks also institutionalize, legitimize, and make more widespread the practice of “red-tagging,” which is the practice of labelling unarmed civilian individuals, and groups as members, supporters, or affiliates of the Communist Party of

the Philippines (CPP), and the New People's Army (NPA) in the context of the ongoing armed conflict in the country. This practice is a form of state terror, perpetrated by state agents and their proxies as part of the government's strategy to repress dissent. Disregarding evidence or due process, the simple act of "red-tagging" someone - even on social media - can lead to and institutionally legitimize government surveillance, threats, harassment, intimidation, trumped up arrests, and even the killing of those red-tagged. Human rights defender Zara Alvarez^{xiv} was murdered on 17 August 2020, after being red-tagged in a pattern similar to the large majority of human rights defenders and political dissenters who have been extrajudicially killed.

15. The employment of legal processes as a weapon against the rights of the people undermines the credibility and stability of proper judicial functions and the fair trial for the accused. Government resources are being systematically used to vilify and violate activists, progressive organizations, and communities by using illegal search and arrest warrants as legal covers. Formal legalization of illegal processes leading to violations, circumvention of legal procedure, use of repressive laws, jurisprudence, reinvention and high jacking of the law and legal principles are just some of the indicators of the weaponization of the law.

16. The filing of trumped-up charges against activists is a policy and practice by the administration to stifle dissent. Many human rights workers have been arrested not knowing that they were facing such charges in courts, nor were they even duly notified. Arrest warrants are usually issued by the courts in remote cities where the cases against human rights workers were eventually filed, arbitrarily branding them as "criminals on the loose."^{xv}

17. The weaponizing of laws to silence dissenters contributes to the failure of the Philippine judicial system to ensure fair and speedy trial. In testimony given on 25 May, 2021^{xvi} at the INVESTIGATE PH hearing, Atty. Edre Olalia, President of NUPL, highlighted such judicial failures as reasons why domestic legal remedies are insufficient or ineffective to bring justice to those who are unfairly criminalized, accused, imprisoned, and even killed for their activism, their critiques of government policy or their political stance. Courts delay or circumvent orders for habeas corpus, amparo, habeas data, the rights of arrested and detained persons and the protection provided in the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL), an agreement between the Philippine Government and the NDFP. State security forces openly mock these rights in court.^{xvii} Constitutional rights, social justice, and human rights provisions are routinely violated. International human rights and humanitarian law instruments to which the Philippines is a party or signatory are not implemented.

18. RECOMMENDATIONS “NOTED” by the Philippine government.

19. We provide recommendations “noted” by the Philippine Government during the 3rd cycle of the UPR which relate to matters that are required by its international law obligations to implement.

20. 133.74 Stop the implementation of counter-insurgency programs that target human rights defenders and civilians. (Slovakia)

21. Through the Anti-Terrorism Act of 2020 and the work of the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC), the chronic and persisting human rights violations in the government’s counterinsurgency campaign have continued unabated, even during the COVID-19 pandemic, and the country’s civic and democratic spaces continue to shrink. The ATA and the NTF-ELCAC were put into motion by the Duterte administration, after it unilaterally terminated the peace talks with the National Democratic Front of the Philippines (NDFP) through Proclamation No. 360 in November 2017.

22. At a national level, the dissent is delegitimized, isolated, and criminalized through mechanisms such as Memorandum Order No. 32; Executive Order No. 70 (which authorized the creation of the NTF-ELCAC) and the Anti- Terrorism Act, among others. These mechanisms have expanded the powers of security forces, nationalized the counterinsurgency program by mobilizing all Government agencies and their corresponding units at all levels as implementing agencies. By expanding it to scrutinize across all sectors of society and institutionalized the label of “terrorist” as a catch-all to criminalize any political opposition. During the Duterte Presidency, from July 2016 to December 2020, there were 376 cases of recorded extrajudicial killings and a further 488 cases of attempted killings.^{xviii} Several executive actions by President Duterte, including orders and the creation of the NTF-ELCAC, as well as the passage of the ATA, have provided the institutional machinery enabling this escalation of repression.

23. Police and soldiers are now executing human rights defenders and political dissenters in a manner like extrajudicial killings in anti-drug operations. Duterte’s National Task Force to End Local Communist Armed Conflict (NTF-ELCAC), the July 2020 Anti-Terrorism Act, and increasingly the justice system, have not only facilitated these killings, but are institutionalizing repression that broadly harms civil society, from alleged communists to churches and to long-standing democratic institutions.

24. Extrajudicial killings of dissenters by the Philippine armed forces and police have become more brazen throughout the country. Repression escalated in 2018, two days after Christmas, when police killed six civilians on the island of Negros, allegedly for fighting back, and arrested thirty-one others.^{xix}

25. This was followed by the massacre of fourteen farmers on March 30, 2019, in a joint operation by the military and police.^{xx} The killings in Negros are known as the police and military's 'Operation Sauron' or the intensified counter-insurgency campaign in Negros Oriental which then PNP Director General Oscar Albayalde described as 'maganda ang epekto' (the results were good) and was supposedly effective to end insurgency on the island.^{xxi}

26. 133.176 Guarantee the establishment of a safe and enabling environment for the work of human rights defenders, specifically through the adoption of a law for the protection and recognition of human rights defenders. (Hungary)

133.182 Promote a safe, enabling environment for the work of human rights defenders through the adoption of a charter for the protection and recognition of human rights defenders. (United Kingdom of Great Britain and Northern Ireland)

27. On 17 January 2022 the Philippines made welcome progress towards a law to protect the rights of human rights defenders when the House of Representatives adopted House Bill No 10576 the Human Rights Defenders Act. It is clear that such legislation is needed because defenders continue to be subjected to surveillance, trumped up charges, red-tagging, enforced disappearances, and extra-judicial killing.

28. It is hoped that under the next administration, the re-commencement of formal peace talks between government and the National Democratic Front of the Philippines (NDFP), the reaffirmation of the CARHRIHL (Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law), and the current unilateral ceasefires by both sides, will lead to a safer environment for human rights defenders.

29. To ensure a safe environment for human rights defenders the Human Rights Defenders Act must be adopted immediately and fully implemented.

30. 133.23 Ensure the incorporation of the principles and norms of the international human rights law, especially of those treaties to which the Philippines is party, into its national legislation. (Peru)

133.22 Ensure the precedence of provisions of international human rights treaties

over national laws in cases of conflict. (Slovakia).

31. The police and military forces have continued to violate the 1995 Joint JASIG 133 and the 1998 CARHRIHL^{xxii} bilateral agreements between the government and the NDFP.

32. The pattern of NDFP peace consultants being killed for allegedly fighting back when arrest warrants were served, continued 28 May 2021, when consultant Reynaldo Bocala, 74 years old, and his aide were killed in Iloilo. Another peace consultant, Rustico Tan, 80 years old, was killed while sleeping on a hammock on the same day in Cebu.^{xxiii} All the peace consultants should have been protected and given the right to defend themselves in the proper courts against the accusations alleged in the warrants. Seven peace consultants have been murdered since 2017, eleven arrested and two abducted and missing to this day. Attacking peace consultants who are non-combatants is a violation of International Humanitarian Law.^{xxiv}

33. The Duterte government openly admits to using these tactics through the counter insurgency program, including attacking human rights defenders, lawyers and paralegals actively defending those arrested, in clear violation of the Geneva Convention.^{xxv}

34. With respect to the upcoming 4th cycle of the UPR on the Philippines in October-November 2022, ICHRP-Canada urges all states to recommend that the Philippines implement all the above recommendations made during 3rd cycle of the UPR in 2017 and to:

1. Repeal Memorandum Order 32 and Executive Order 70 and investigate President Duterte for their unlawful implementation. These official orders, reinforced by his public statements to kill drug users and dissenters, have incited state security agencies and other civilian government agencies to unlawfully utilize government funds and networks to weaponize the law, stifle dissent, wrongly jail targeted individuals, torture, abduct or kill them.
2. Continue the peace negotiations with the National Democratic Front of the Philippines and with rebel groups in Mindanao (Southern Philippines) struggling for self-determination. It has been pointed out that the government's counter-insurgency program is the cause of many human rights violations against human rights defenders and principled negotiations to address the roots of the armed conflict can help mitigate these violations.
3. Reform the criminal justice system to ensure prompt, effective, thorough, independent, impartial, and transparent investigations of all potentially unlawful

deaths, and bring all suspected perpetrators to justice in fair trials, in accordance with the International Covenant on Civil and Political Rights, and the Minnesota Protocol, address the pervasive climate of impunity ensure speedy and proper investigation, arrest, prosecution, and conviction of perpetrators.

4. Authorize an independent investigation in the Philippines of the findings 4 June,2020 report of the UN, Hight Commissioner for Human Rights.
5. Allow other stakeholders to conduct international fact-finding and humanitarian missions to specific regions in the Philippine which have been heavily militarized and where wanton violations of human rights and International Humanitarian Law have been documented.

- ⁱ Arnold P. Alamon, *Wars of Extinction: Discrimination and the Lumad Struggle in Mindanao* (Iligan City: Rural Missionaries of the Philippines Northern Mindanao Sub-Region, Inc.), 2017; <https://www.reuters.com/article/us-philippines-duterte-police-specialrep/special-report-police-describe-kill-rewards-staged-crime-scenes-in-dutertes-drug-war-idUSKBN17K1F4>; https://www.amnesty.org.uk/files/2017-04/ASA3555172017ENGLISH.PDF?9_73DdFTpveG_iJgeK0U13KUVFHKSL_X.
- ⁱⁱ <https://pdea.gov.ph/2-uncategorised/279-realnumbersph>
- ⁱⁱⁱ <https://undocs.org/en/A/HRC/44/22>, p. 5.
- ^{iv} <https://data.world/stabile-center/ph-drug-war/>
- ^v <https://didm.pnp.gov.ph/images/Command%20Memorandum%20Circulars/CMC%202016-16%20PNP%20ANTI-ILLEGAL%20DRUGS%20CAMPAIGN%20PLAN%20%20PROJECT%20DOUBLE%20BARREL.pdf>
- ^{vi} <https://www.ohchr.org/Documents/Countries/PH/Philippines-HRC44-AEV.pdf>, p. 4.
- ^{vii} Testimony of Vincent Go, photographer, INVESTIGATE PH Hearing, May 18, 2021.
- ^{viii} <https://www.rappler.com/nation/239409-commission-human-rights-national-inquiry-threats-situation-human-rights-defenders-under-duterte/>
- ^{ix} <https://www.rappler.com/nation/229431-un-experts-tell-philippine-government-stop-red-tagging-victoria-tauli-corpuz-rights-groups/>
- ^x <https://www.rappler.com/nation/197769-philippine-terrorist-list-human-rights-watch/>
- ^{xi} <https://www.officialgazette.gov.ph/downloads/2018/11nov/20181122-MO-32-RRD.pdf>.
- ^{xii} <https://www.officialgazette.gov.ph/downloads/2018/12dec/20181204-EO-70-RRD.pdf>.
- ^{xiii} <https://www.officialgazette.gov.ph/downloads/2020/06jun/20200703-RA-11479-RRD.pdf>.
- ^{xiv} <https://www.karapatan.org/karapatan+condemns+killing+of+human+rights+and+health+worker+zara+al+varez>; <https://www.latimes.com/world-nation/story/2020-08-27/philippines-zara-alvarez-human-rights>.
- ^{xv} <https://www.philstar.com/nation/2021/03/09/2083143/davao-court-recalls-arrest-warrant-vs-cordillera-ip-leader-group-says-threats-remain>.
- ^{xvi} Annex 2, Section 2, Document 7: Atty. Edre Olalia's paper on judicial failures.
- ^{xvii} <https://news.abs-cbn.com/news/05/12/21/how-red-tagging-became-front-and-center-as-sc-oral-arguments-on-anti-terrorism-act-draw-to-a-close>; <https://>
- ^{xviii} <https://www.karapatan.org/2020-karapatan-year-end-report>, p.13.
- ^{xix} <https://www.rappler.com/nation/negros-oriental-police-operations-december-27-2018>
- ^{xx} <https://www.bulatlat.com/2019/04/01/14-peasants-killed-12-arrested-in-a-day-in-negros-oriental/>.
- ^{xxi} <https://www.pna.gov.ph/articles/1075740>'
- ^{xxii} <https://peacebuilderscommunity.org/documents/CARHRIHL.pdf>.
- ^{xxiii} <https://www.karapatan.org>
karapatan+calls+for+independent+investigation+on+the+killing+of+former+priest+peace+consultant+and+aide.
- ^{xxiv} Testimony of Atty. Neri Colmenares, INVESTIGATE PH Hearing 27 March 2021; see also Annex 2
- ^{xxv} Testimony of Atty. Neri Colmenares, INVESTIGATE PH Hearing 27 March 2021; see also Annex 2, Section 2, Document 16: Neri Colmenares' paper on possible violations on IHL by Duterte.