



General Assembly

Distr.: General
21 August 2019

English only

Human Rights Council

Forty-second session

9–27 September 2019

Agenda item 2

**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

**Joint written statement* submitted by Lawyers' Rights
Watch Canada, Lawyers for Lawyers, International
Association of Democratic Lawyers (IADL), non-
governmental organizations in special consultative status,
and Asian Legal Resource Centre, non-governmental
organization in general consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 August 2019]

* Issued as received, in the language(s) of submission only.



Philippines: Extrajudicial killing of jurists as part of a pattern of widespread and systematic violations of human rights

Introduction

Since 30 June 2016, the Government of the Philippines has engaged in a campaign of extrajudicial killing in violation of the Philippines' international law obligations. Since President Rodrigo Duterte (President Duterte) took office on 30 June 2016, up to 27,000¹ persons have been extrajudicially killed with impunity, as part of a "war on drugs." The Philippines' official number is 5,526.² The victims include 45 lawyers, prosecutors and judges (jurists) assassinated between August 2016 and July 2019, and 134 human rights defenders (defenders).³ This pattern of gross and systematic violations contravenes the Philippines' obligation to prevent and remedy violations of the right to life. The widespread murders of jurists also cause violations of the rights to legal representation and fair trials.

In few cases are suspects in custody or charges pending against suspects. In the majority of cases there has been no effective investigation or minimal progress on investigations. In addition to 45 jurists murdered, eight lawyers have survived murderous attacks, and one has been abducted and disappeared. A court worker and two paralegals are also among the additional victims. The online Appendix to this report lists the jurists with dates of death and status of investigations.⁴

Since 2016, UN bodies and experts, including the UN High Commissioner for Human Rights (UNHCHR) have reported gross and systematic violations of human rights by the Philippines while a member of the Human Rights Council (Council).⁵ The Philippines has failed to "uphold the highest standards in the promotion and protection of human rights," and to "fully cooperate with the Council,"⁶ as required by General Assembly (GA) Resolution 60/251. The Philippines has persistently disregarded recommendations of UN Treaty Bodies, Universal Periodic Reviews (UPR)⁷ and Special Procedures. The Philippines has failed to respond to communications⁸ or requests for visits from Special Procedures concerned with civil and political rights,⁹ vilified the Special Rapporteur on Extrajudicial Killings,¹⁰ and conducted reprisals against the UN Special Rapporteur on the Rights of Indigenous Peoples.¹¹ The Philippines threatened the International Criminal Court (ICC) Prosecutor with arrest after she opened a preliminary examination of alleged crimes against

¹ OHCHR, High Commissioner Bachelet calls on States to take strong action against inequalities, 6 March 2019,

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24265&LangID=E>.

² J.A.L. Rocamora, 7K nabbed since PRRD campaign vs. illegal drugs: PCOO, PNA, 18 July 2019, <https://www.pna.gov.ph/articles/1075342>. This contradicts the previous official number of 6,600: C.L. Caliwán, "PNP to focus drugs ops vs. syndicates, traffickers," PNA, 30 June 2019, <https://www.pna.gov.ph/articles/1073672>.

³ CIVICUS, "Despite progress on HRD bill, attacks against activists and media persist in the Philippines," 14 June 2019, <https://monitor.civicus.org/newsfeed/2019/06/14/despite-progress-hrd-bill-attacks-against-activists-and-media-persist-philippines/>.

⁴ See Appendix: <https://www.lrwc.org/philippines-extrajudicial-killing-of-jurists-appendix/>.

⁵ The Philippines was re-elected to the Council in October 2018. Its term ends 31 December 2021.

⁶ Human Rights Council: resolution / adopted by the General Assembly, 3 April 2006, A/RES/60/251, <http://www.refworld.org/docid/4537814814.html>.

⁷ Report of the Working Group on the UPR, Philippines: Addendum, Views... presented by the State under review, 19 September 2017, A/HRC/36/12/Add, para 8 (a), <https://undocs.org/en/A/HRC/36/12/Add.1>.

⁸ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/41/36/Add.1, para 14, <https://undocs.org/A/HRC/41/36/Add.1>.

⁹ E.g., visit request by the Special Rapporteur on Human Rights Defenders, <https://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/CountryVisits.aspx>.

¹⁰ OHCHR, Attacks/threats by States against UN human rights experts, 21 November 2017, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22421&LangID=E>.

¹¹ OHCHR, The Philippines: Renewed allegations against UN expert are "clearly retaliation", 1 May 2019, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24538&LangID=E>.

humanity in the context of the “war on drugs.” On 24 June 2019, the UNHCHR welcomed¹² a 7 June 2019 statement of eleven UN Special Procedures mandate holders calling for a UN investigation to address the “staggering number of unlawful deaths and police killings in the context of the so-called war on drugs, as well as killings of human rights defenders,” noting that UN experts had raised these concerns with the Philippines on “33 occasions over the last three years.”¹³

On 11 July 2019, the Council adopted Resolution 41/L.20 urging the Philippines “to take all necessary measures to prevent extrajudicial killings and enforced disappearances, to carry out impartial investigations and to hold perpetrators accountable,” and to cooperate with the UNHCHR and Council mechanisms by “facilitating country visits and preventing and refraining from all acts of intimidation or retaliation.” Resolution 41/L.20 directed the UNHCHR to prepare “a comprehensive written report on the situation of human rights in the Philippines” for the September 2020 Council session.

The Philippines was among 14 Council members opposing Resolution 41/L.20.¹⁴ In the Council chamber, the Philippines condemned the adoption of Resolution 41/L.20, stating that “...its validity is highly questionable” and threatening its proponents with “consequences; far-reaching ones.”¹⁵ On 14 July 2019, Foreign Affairs Secretary Teodoro Locsin Jr. stated: “Any probe resulting from the narrow vote for [Resolution 42/L.20] will not be allowed into the Philippines.”¹⁶ On 23 July 2019, President Duterte announced that the “war on drugs...will be as relentless and chilling...as on the day it began.”¹⁷

Such defiant responses to Resolution 41/L.20 demonstrate the need for further Council action to ensure cooperation with Council mechanisms, including Resolution 41/L.20.

The Philippines’ persistent pattern of gross and systematic human rights violations

The “war on drugs” has not only resulted in thousands of extrajudicial killings but also has targeted jurists, defenders, journalists, and civil society activists. President Duterte has repeatedly threatened to kill defenders.¹⁸

In December 2018, the ICC Prosecutor¹⁹ stated

The UN Secretary General, UN bodies and experts, various States, international NGOs and national civil society representatives have expressed **serious concern** about the alleged extrajudicial killings and criticised statements by President Duterte which have been viewed as endorsing the killings and fostering an environment of impunity and violence.”²⁰

¹² Opening statement by UNHCHR, 41st session of the Human Rights Council, 24 June 2019, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24724&LangID=E%20%80%AC>.

¹³ OHCHR, UN human rights experts call for independent probe into Philippines violations, 7 June 2019, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24679&LangID=E>.

¹⁴ Promotion and Protection of human rights in the Philippines, A/HRC/41/L.20, 5 July 2019, http://ap.ohchr.org/documents/E/HRC/d_res_dec/A_HRC_41_L_20.docx.

¹⁵ Human Rights Council, Statement by Philippines after the vote on Resolution 41/L.20, <http://webtv.un.org/search/ahrc41.20-vote-item2-37th-meeting-41st-regular-session-human-rights-council/6057882637001/#t=8m20s>.

¹⁶ Teddy Locsin Jr., 14 July 2019, <https://twitter.com/teddyboylocsin/status/1149665318165291013/>.

¹⁷ Nestor Corrales, “Duterte: Drug war to remain ‘relentless and chilling,’” *Inquirer*, <https://newsinfo.inquirer.net/1013351/duterte-drug-war-will-be-relentless-and-chilling>.

¹⁸ Amnesty International, “‘They Just Kill’: Ongoing Extrajudicial Executions and Other Violations in the Philippines’ ‘War on Drugs,’” 8 July 2019, p. 9, <https://www.amnesty.org/download/Documents/ASA3505782019ENGLISH.PDF>.

¹⁹ Statement of the Prosecutor of the ICC, Fatou Bensouda concerning the situation in the... Philippines, 13 October 2016, <https://www.icc-cpi.int/pages/item.aspx?name=161013-otp-stat-php>.

²⁰ ICC Office of the Prosecutor Report on Preliminary Examination Activities 2018, 5 December 2018, para. 50, <https://www.icc-cpi.int/itemsDocuments/181205-rep-otp-PE-ENG.pdf>.

International law obligations

The Philippines' campaign of extrajudicial killings represents a continuing pattern of persistent, gross and systematic violations that contravene the Philippines' international law obligations under the International Covenant on Civil and Political Rights (ICCPR) and other international human rights instruments, including the UN Declaration on Human Rights Defenders²¹ and the UN Basic Principles on the Role of Lawyers.²² The Philippines is also violating its responsibilities as a Council member under GA Resolution 60/251.

Article 6 of the ICCPR guarantees the right to life, stating: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." No derogation from this right is allowed under any circumstances. ICCPR Article 2 requires all ratifying states to take effective measures to protect the right to life and provide remedies for violations. This obligation includes the duty to conduct prompt, effective, thorough, independent, impartial, and transparent investigations of all extrajudicial killings in accordance with the 2016 UN Minnesota Protocol on the Investigation of Potentially Unlawful Death (Minnesota Protocol).²³ When investigated deaths are apparent homicides, the State has a duty to prosecute suspected perpetrators in fair trials. Failure by a State to investigate unlawful deaths and hold perpetrators accountable is itself a violation of the right to life.²⁴

National legal obligations

The Constitution of the Philippines "adopts the generally accepted principles of international law as part of the law of the land" (Article II, section 2) and "guarantees full respect for human rights" (Article II, section 11). The Bill of Rights Article III section 1, stipulates that, "No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws." The Supreme Court of the Philippines has invoked the ICCPR and ruled that treaties to which the Philippines is a party have the force and effect of law in the Philippines.²⁵

On 3 June 2019, the Philippines House of Representatives passed the Human Rights Defenders Protection bill to prevent human rights violations against defenders. This Bill is based on the UN Declaration on Human Rights Defenders and the Model National Law on the Recognition and Protection of Human Rights Defenders.²⁶ The Bill will enter into force if passed by the Senate and approved by the President.

Systematic impunity for extrajudicial killings

Despite the Philippines' international and national legal obligations, President Duterte utilises "drug lists" to "red-tag" defenders with whom the Duterte administration disagrees, including lawyers representing those accused of drug crimes. Through these lists, defenders are publicly named, vilified as public enemies and subjected to the probability of being

²¹ UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms : resolution / adopted by the General Assembly, A/RES/53/144, 8 March 1999, <https://www.refworld.org/docid/3b00f54c14.html>.

²² UN Basic Principles on the Role of Lawyers, 7 September 1990, <https://www.refworld.org/docid/3ddb9f034.html>.

²³ Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), OHCHR, 2017, <https://www.ohchr.org/Documents/Publications/MinnesotaProtocol.pdf>.

²⁴ UN, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns A70/304, 7 August 2015.

²⁵ Tañadsa v Angara, G.R. No. 118295, May 2, 1997.

²⁶ International Service for Human Rights, Model National Law on the Recognition and Protection of Human Rights Defenders, 2016, https://academy.ishr.ch/upload/resources_and_tools/ishr_Model_Law_for_the_recognition_and_protection_of_human_rights_defenders_en.pdf.

assassinated. “Red-tagging” of people has resulted in “harassment, surveillance, loss of employment and killing.”²⁷

The Duterte administration impedes investigations as a matter of policy. On 24 July 2018, President Duterte stated he would not allow the Commission on Human Rights or Ombudsman to investigate alleged human rights violations committed by police or military without his permission. This approval requirement impairs the ability of authorities to conduct prompt, effective, independent and impartial, and transparent investigations in accordance with national and international human rights law. In the small number of cases where investigations have been conducted, publicly available information is minimal, and no reports are made. Few suspects have been identified by investigations or held accountable through prosecution and trial.

Conclusion and recommendations

LRWC, L4L, ALRC and IADL request the Council to insist and ensure that the Philippines:

- Immediately take measures to prevent and remedy extrajudicial killings and conduct independent, impartial investigations in accordance with the Minnesota Protocol;
- Cease publicly vilifying or ‘red tagging’ jurists, defenders and others;
- Adopt and implement the Human Rights Defenders Protection law;
- Fully cooperate with the UNHCHR and Council mechanisms, including Resolution 41/L.20, by facilitating country visits, providing unrestricted access to all areas and witnesses, and preventing interference, intimidation or reprisals against UN monitors or other individuals and groups seeking to cooperate with the UN on human rights;
- Remedy all human rights violations, including those identified by UN human rights bodies.

LRWC, L4L, ALRC and IADL also request that the Council

- Recommend to the GA steps to remedy any continued failure by the Philippines to comply with GA Resolution 60/251; including, as a last resort, consideration of suspension from Council membership;
- In consultation with civil society,²⁸ adopt policies and procedures for election of Council members, monitoring and reporting on members’ compliance with GA Resolution 60/251 and, as a last resort, suspension for persistent gross and systematic non-compliance.

The Bar Human Rights Committee of England and Wales, the International Association of People’s Lawyers (IAPL), and the Philippines National Union of Peoples’ Lawyers (NUPL), NGO(s) without consultative status, also share the views expressed in this statement.

²⁷ International Association of Democratic Lawyers, International Association of Lawyers, and Day of the Endangered Lawyer Foundation, Preliminary Findings of the fact finding mission to the Philippines, March 18th, 2019, <http://dayoftheendangeredlawyer.eu/preliminary-findings-philippines-2019/>.

²⁸ Amnesty International, et al, From the Ground Up: Opportunities for Strengthening and Leveraging Membership of the UN Human Rights Council. Report of a dialogue held 5 February 2019, https://www.ishr.ch/sites/default/files/documents/hrc_membership_report_web.pdf.