

Human Rights Watch Submission on the Philippines to the Human Rights Committee 136th Session

September 2022

Human Rights Watch welcomes the opportunity to provide input to the Human Rights Committee (the “Committee”) ahead of its upcoming review of the Philippines. This submission highlights areas of concern that Human Rights Watch hopes will inform the Committee’s consideration of the Philippine government’s compliance with its obligations under the International Covenant on Civil and Political Rights (ICCPR). It proposes issues and questions that Committee members may wish to raise with the government of the Philippines.

Human Rights Watch is an independent, international human rights organization that monitors, reports, and conducts advocacy on human rights in more than 90 countries globally. We have monitored and reported on the Philippines for more than 30 years.

Extrajudicial Killings in “War on Drugs” (articles 6, 7, 9, 10, 14)

Even while the international community—particularly the UN Human Rights Council and the International Criminal Court—has taken notice of the human rights atrocities in the Philippines related to former President Rodrigo Duterte’s “war on drugs,” the abuses continue.¹ According to official government figures, members of the Philippine National Police and the Philippine Drug Enforcement Agency killed 6,252 individuals² during anti-drug operations³ from July 1, 2016 to May 31, 2022.

The same government data indicates that 71 individuals were killed by the police during drug raids since the UN Joint Program was launched in August 2021.⁴

The official death tolls do not include the deaths of those killed by unidentified gunmen whom Human Rights Watch and other rights monitors have credible evidence to believe operate in cooperation with local police and officials.⁵ The OHCHR calculated in its report to the UN Human Rights Council that the death toll was at least 8,663.⁶ Domestic human rights groups

¹ Human Rights Watch, *World Report 2022: Philippines*, January 2022, <https://www.hrw.org/world-report/2022/country-chapters/philippines>.

² Philippine Drug Enforcement Agency’s RealNumbersPH Facebook page, June 21, 2022, <https://web.facebook.com/realnumbersph/photos/2215676505280542> (accessed September 12, 2022).

³ “Philippines: Police Deceit in ‘Drug War’ Killings,” Human Rights Watch news release, March 2, 2017, <https://www.hrw.org/news/2017/03/02/philippines-police-deceit-drug-war-killings>.

⁴ Philippine Drug Enforcement Agency’s RealNumbersPH Facebook page, <https://web.facebook.com/realnumbersph/photos/2215676505280542>.

⁵ “Philippines: Police Deceit in ‘Drug War’ Killings,” Human Rights Watch news release, <https://www.hrw.org/news/2017/03/02/philippines-police-deceit-drug-war-killings>.

⁶ UN Human Rights Council, Situation of human rights in the Philippines. Report of the United Nations High Commissioner for Human Rights, A/HRC/44/22, June 29, 2020, <https://www.ohchr.org/sites/default/files/Documents/Countries/PH/Philippines-HRC44-AEV.pdf> (accessed September 12, 2022).

and the government-appointed Commission on Human Rights state that the real figure of “drug war” killings is possibly triple the number reported in the OHCHR report.

Monitoring by Dahas, a program run by the Third World Studies Center of the University of the Philippines (with support from Belgium’s Ghent University and the University of Antwerp), concluded that drug-related killings in 2022 through August 31 have totaled 221.⁷ Of that number, almost a third—72—were committed in the first two months of the administration of President Ferdinand Marcos Jr., which began on July 1, 2022. President Marcos has failed to order a stop or suspension of the “drug war” and his top police officials vowed to continue waging it.

Very few “drug war” killings have been seriously investigated by the authorities. Only a handful of cases—12 out of thousands—are in varying stages of investigation by police or active review by prosecutors. Only one case, the video-recorded murder of 17-year-old student Kian delos Santos in August 2017, has resulted in the conviction of police officers.⁸

The Department of Justice previously provided misleading information to the International Criminal Court (ICC) by claiming that the department was conducting a serious, independent review of 52 cases involving the police.⁹ But the ICC prosecutor, in seeking to continue the court’s investigation of the killings, determined that the Department of Justice review was insufficient and failed to satisfy the requirements to defer the ICC investigation.¹⁰

Human Rights Watch asks the Committee to consider including the following recommendations in its concluding observations on the Philippines:

- President Marcos should announce in unequivocal terms the end of the “drug war.”
- President Marcos should prioritize accountability for unlawful killings and other abuses.
- The government should form a “truth commission” that will gather testimonies of witnesses and victims and their families and make recommendations about justice and reparations.
- The government should assist the International Criminal Court in its investigation of extrajudicial killings.

⁷ Dahas, 32 *Drug-Related Killings. August 1-31, 2022*, undated, <https://docs.google.com/document/d/1SY3wQkf5JUQIRnR-Aztch79fW09SneHmxOGDjr7ghFI/edit> (accessed September 12, 2022).

⁸ Brad Adams, “First Conviction of Officers in Philippines ‘Drug War’,” commentary, Human Rights Watch Dispatch, November 29, 2018, <https://www.hrw.org/news/2018/11/29/first-conviction-officers-philippines-drug-war>.

⁹ Currie Cator, “DOJ review on drug war cases ‘grossly insufficient’ — lawyer group,” *CNN Philippines*, October 21, 2021, <https://www.cnnphilippines.com/news/2021/10/21/FLAG-Diokno-hits-drug-war-review-DOJ.html> (accessed September 12, 2022).

¹⁰ International Criminal Court, Statement of the Prosecutor of the International Criminal Court, Karim A. A. Khan QC, following the application for an order under article 18(2) seeking authorisation to resume investigations in the Situation in the Philippines, June 24, 2022, <https://www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-karim-khan-qc-following-application-order> (accessed September 12, 2022).

Political Killings, Threats and Harassment of Activists (articles 6, 7, 9, 10, 14)

Leftist activists and human rights defenders have long been the target of extrajudicial killings by security forces in the Philippines.¹¹ One particularly horrific recent case was the so-called “Bloody Sunday” killings in March 2021 when nine activists and unionists were killed in a series of raids by the police.¹² Thirty-four police officers were implicated in the violence but none were brought to justice.

On August 17, 2020, unidentified gunmen shot dead Zara Alvarez, a legal worker for the human rights group Karapatan, in Bacolod City in the central Philippines. Alvarez was the 13th Karapatan member killed during the Duterte administration. Alvarez’s killing came a week after peasant leader Randall Echanis was found dead, after apparently being tortured in his home in Quezon City.

These attacks against activists occurred in the context of the government’s armed conflict with the communist New People’s Army insurgency. Government and military officials have accused civil society groups of being supporters of the insurgents. Such accusations are part of what is known in the Philippines as a “red-tagging” campaign, and these actions put the accused at heightened risk of attack. The military, national security agencies, and the police have actively used social media to convey “red tagging” threats, and in a number of cases, those red-tagged persons were subsequently killed by unknown gunmen.¹³

The government’s National Task Force to End Local Communist Armed Conflict, which is working closely with the military, police, and the president’s office, has accused numerous political activists of being members of the Communist Party of the Philippines or the New People’s Army.¹⁴ Among those red-tagged by the task force is former Vice President Leni Robredo, who lost to Marcos in the recent presidential election. The task force has also red-tagged journalists, book publishers, and nongovernmental groups, including Oxfam.¹⁵

Red-tagged individuals such as leaders and lawyers of peasant organizations and human rights groups have been physically harmed by government security forces and vigilantes; many have been killed.¹⁶ Others were harassed, such as a group of nuns and peasant women whose bank accounts were frozen.¹⁷

¹¹ Human Rights Watch, “‘No Justice Just Adds to the Pain’: Killings, Disappearances, and Impunity in the Philippines,” July 18, 2011, <https://www.hrw.org/report/2011/07/18/no-justice-just-adds-pain/killings-disappearances-and-impunity-philippines>.

¹² Rambo Talabong, “Bloody Sunday: 9 dead, 6 arrested in Calabarzon crackdown on activists,” *Rappler*, March 7, 2021, <https://www.rappler.com/nation/dead-arrested-calabarzon-crackdown-progressives-march-7-2021/> (accessed September 12, 2022).

¹³ Pauline Macaraeg, “Gov’t platforms being used to attack, red-tag media,” *Rappler*, May 12, 2020, <https://www.rappler.com/newsbreak/investigative/government-platforms-being-used-attack-red-tag-media> (accessed September 12, 2022).

¹⁴ Jodesz Gavilan, “From UN reports to Congress: The many times ‘red-tagging’ was used,” *Rappler*, May 4, 2021, <https://www.rappler.com/newsbreak/iq/list-times-term-red-tagging-use-united-nations-legislators-philippines/> (accessed September 12, 2022).

¹⁵ Shawn W. Crispin, “Red-tagging’ of journalists looms over Philippine elections,” *Committee to Protect Journalists*, May 5, 2022, <https://cpj.org/2022/05/red-tagging-of-journalists-looms-over-philippine-elections/> (accessed September 12, 2022).

¹⁶ Phil Robertson, “Two More Philippine Activists Murdered,” commentary, Human Rights Watch Dispatch, August 18, 2020, <https://www.hrw.org/news/2020/08/18/two-more-philippine-activists-murdered>.

¹⁷ Ma. Ceres P. Doyo, “Supporters denounce ‘red-tagging’ of prominent Philippine nun,” *Global Sisters Report*, June 28, 2020, <https://www.globalsistersreport.org/news/news/news/supporters-denounce-red-tagging-prominent-philippine-nun> (accessed September 12, 2022).

Human Rights Watch asks the Committee to consider including the following recommendations in its concluding observations on the Philippines:

- The government should thoroughly investigate the attacks and killings of activists and bring the perpetrators to justice.
- The government should stop the practice of “red-tagging” activists and critics of the government.
- The government should stop harassing activists with threats of arrests or criminal libel cases.
- The government should stop the misuse of the anti-terrorism law to harass activists and human rights defenders.

Attacks Against Journalists (articles 6, 19)

Nobel Peace Prize laureate Maria Ressa, the CEO of the news website *Rappler*, was convicted of cyber-libel and faces several other legal cases filed by the government that appear intended on shutting down the news outlet.¹⁸ The cases against Ressa and *Rappler* are part of the government’s campaign of retaliation against media organizations for their critical reporting on “drug war” killings and other human rights abuses committed by the Duterte administration.¹⁹ Since 2016, President Duterte and his supporters on social media have subjected Ressa and *Rappler* to threats and harassment, including misogynistic attacks online.

The Philippine cyber-libel law, passed in 2012, has been used several times against journalists, columnists, critics of the government, and ordinary social media users. The Office of Cybercrime at the Department of Justice reported that 3,700 cyber-libel cases were filed as of May 2022. Of that number, 1,317 were filed in court while 1,131 were dismissed. Twelve cases ended in a conviction.²⁰

Aside from facing criminal libel cases, journalists in the Philippines continue to face deadly attacks,²¹ with at least two of them murdered so far in 2022, according to UNESCO.²² The government has likewise sought to silence journalists by shutting down their websites, such as in the case of *Bulatlat* and *Pinoy Weekly*, two publications in the so-called alternative press.²³

¹⁸ Carlos H. Conde (Human Rights Watch), “In the Philippines, Free Speech is Being Smothered,” commentary, *The Globe and Mail*, June 15, 2020, <https://www.hrw.org/news/2020/06/15/philippines-free-speech-being-smothered>.

¹⁹ Patricia Evangelista, “Some People Need Killing’ | Part 1,” *Rappler*, June 3, 2019, <https://www.rappler.com/newsbreak/investigative/tondo-vigilante-gang-war-on-drugs-series-part-one> (accessed September 12, 2022).

²⁰ Lian Buan, “Decriminalize libel: PH junked one-third of cyber libel cases filed since 2012,” *Rappler*, July 20, 2022, <https://www.rappler.com/newsbreak/in-depth/decriminalize-philippines-junked-cyber-libel-cases-since-2012/> (accessed September 12, 2022).

²¹ Carlos H. Conde, “Killing of Journalist, Criminal Libel in the Philippines,” commentary, Human Rights Watch Dispatch, December 10, 2021, <https://www.hrw.org/news/2021/12/10/killing-journalist-criminal-libel-philippines>.

²² UNESCO, “UNESCO observatory of killed journalists - Philippines,” undated, <https://en.unesco.org/themes/safety-journalists/observatory/country/223790> (accessed September 12, 2022).

²³ National Union of Journalists of the Philippines, “FMFA statement in solidarity with *Bulatlat* and *Pinoy Weekly*,” June 27, 2022, <https://nujp.org/statement/fmfa-statement-in-solidarity-with-bulatlat-and-pinoy-weekly/> (accessed September 12, 2022).

In July 2020, the Philippines Congress, in which Duterte's ruling coalition controlled a large majority, voted not to extend the franchise of ABS-CBN, the country's largest television network.²⁴

The vote led to the shutdown of ABS-CBN across the country. ABS-CBN earned the ire of Duterte, who accused the network, which often criticized the "war on drugs," of bias against him.²⁵

Human Rights Watch asks the Committee to consider including the following recommendations in its concluding observations on the Philippines:

- The government should stop the attacks, threats, and harassment against journalists.
- The government should drop the criminal libel and other cases against *Rappler* and its employees.
- The government should decriminalize the country's libel laws.

Arbitrary Detention of Former Senator Leila de Lima (article 9)

Former senator Leila de Lima, one of the foremost critics of former president Duterte, remains in police detention since her arrest on trumped-up drug charges in 2017 even though two key witnesses in the Philippine government's case against her have retracted their testimonies.²⁶ De Lima, 62, faces charges alleging without evidence that she received money from drug lords while serving as justice secretary. Human Rights Watch believes the Duterte administration was retaliating against her for investigating extrajudicial killings under Duterte's anti-drug campaign.

Rafael Ragos, a former officer-in-charge of the Bureau of Corrections in 2012, in his sworn affidavit dated April 30, 2022, recanted earlier testimony he had given to the court in which he alleged that he delivered money to de Lima from drug lords.²⁷ Ragos said his testimony was false and coerced "upon the instructions of Secretary Aguirre," referring to Duterte's justice secretary, Vitaliano Aguirre. In exchange for his false testimony, Ragos said he was dropped as a respondent in the same case and turned into a witness.

A few days before Ragos's retraction, on April 28, Kerwin Espinosa, a self-confessed "drug lord," also withdrew his testimony made before senators in November 2016 implicating de Lima in illegal drugs.²⁸ "Any statement he made against the Senator are false and was the result only of pressure, coercion, intimidation, and serious threats to his life and family members from the

²⁴ Committee to Protect Journalists, "Philippine Congress denies ABS-CBN news broadcaster's franchise renewal," July 10, 2020, <https://cpj.org/2020/07/philippine-congress-denies-abs-cbn-news-broadcasters-franchise-renewal/> (accessed September 12, 2022).

²⁵ "Philippines: Put Network Back on Air," Human Rights Watch news release, May 6, 2020, <https://www.hrw.org/news/2020/05/07/philippines-put-network-back-air>.

²⁶ "Philippines: Witnesses Retract Testimony Against Duterte Critic," Human Rights Watch news release, May 4, 2022, <https://www.hrw.org/news/2022/05/04/philippines-witnesses-retract-testimony-against-duterte-critic>.

²⁷ Lian Buan, "After Kerwin, DOJ's star witness retracts accusation vs De Lima," *Rappler*, May 2, 2022, <https://www.rappler.com/nation/doj-star-witness-rafael-ragos-retracts-accusation-vs-de-lima/> (accessed September 12, 2022).

²⁸ Tetch Torres-Tupas, "Kerwin Espinosa recants drug trade accusations vs Sen. Leila de Lima," *Philippine Daily Inquirer*, April 28, 2022, <https://newsinfo.inquirer.net/1589548/kerwin-espinosa-backtracks-drug-trade-accusations-vs-sen-leila-de-lima> (accessed September 12, 2022).

police who instructed him to implicate the Senator into the illegal drug trade,” Espinosa’s affidavit reads. Espinosa’s testimony is not part of the current cases against de Lima.

Human Rights Watch asks the Committee to consider including the following recommendations in its concluding observations on the Philippines:

- The government should drop all charges against former senator Leila de Lima and immediately release her from police detention.

Shackling of People with Psychosocial Disabilities (articles 7, 10, 26)

In October 2020 Human Rights Watch published a report, “[Living in Chains: Shackling of People with Psychosocial Disabilities Worldwide](#),” documenting the practice of shackling of people with psychosocial disabilities (mental health conditions) in 60 countries around the world, including in the Philippines. The report found that globally hundreds of thousands of men, women, and children—some as young as 10—with psychosocial disabilities have been shackled—chained or locked in confined spaces—at least once in their lives.²⁹ Many are held in overcrowded, filthy rooms, sheds, cages, or animal shelters and are forced to eat, sleep, urinate, and defecate in the same tiny area. The inhumane practice of shackling exists due to inadequate support and mental health services as well as widespread beliefs that stigmatize people with psychosocial disabilities. Shackling often occurs in homes because there are no services available in the community and families who struggle to cope with the demands of caring for a relative with a psychosocial disability may feel they have no choice but to shackle them. The time periods range from days and weeks, to months, and even years.

The nature of shackling means that people live in very restrictive conditions that reduce their ability to stand or move at all.³⁰ People who are shackled to one another are often forced to go to the toilet and sleep together. Shackling affects a person’s mental as well as physical health. A shackled person can be affected by post-traumatic stress, malnutrition, infections, nerve damage, muscular atrophy, and cardio-vascular problems.

The former UN Special Rapporteur on torture, Juan E. Méndez, explicitly noted that shackling “unequivocally amount[s] to torture even if committed by non-State actors under conditions in which the State knows or ought to know about them.”³¹

Human Rights Watch has learned from nongovernment organizations that in the Philippines, particularly in predominantly rural provinces, the shackling or arbitrary detention of people with psychosocial disabilities is not uncommon, mainly because of poverty and lack of access to services.

²⁹ Human Rights Watch, *Living in Chains: Shackling of People with Psychosocial Disabilities Worldwide*, October 6, 2020, <https://www.hrw.org/sites/default/files/reports/ghana1012webwcover.pdf>.

³⁰ *Ibid.*, p. 4.

³¹ UN Human Rights Council, Follow-up report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his follow-up visit to the Republic of Ghana, A/HRC/31/57/Add.2, February 25, 2015, <https://undocs.org/en/A/HRC/31/57/Add.2> (accessed February 10, 2022).

Media in the Philippines have reported several cases of shackling in recent years, depicting people with psychosocial disabilities in severe or dire conditions. In one case, in General Santos City in the southern Philippines, two twin boys, 15, were found naked, crawling through mud and living in chains.³² In another, in Minglanila town, in the central Philippine province of Cebu, an 11-year-old girl is shown in a video chained to her bed. The media report said she has been chained for the last eight years.³³

Human Rights Watch encourages the Committee to ask the Philippine government:

- Is there official data on the number of people who are currently shackled or have been subjected to shackling in the Philippines?
- What steps has the government taken to eliminate the practice of shackling of people with psychosocial disabilities?
- What steps has the government taken to develop adequate, quality, and voluntary community-based support and mental health services?

Human Rights Watch asks the Committee to consider including the following recommendations in its concluding observations on the Philippines:

- The government should ban shackling in law and in practice.
- The government should develop a time-bound plan to shift progressively to voluntary community-based mental health support, and independent living services.
- The government should comprehensively investigate state and private institutions in which people with psychosocial disabilities live, with the goal of stopping chaining and ending other abuses.
- The government should create and carry out a deinstitutionalization policy and a time-bound action plan, based on the values of equality, independence, and inclusion for people with disabilities. Preventing institutionalization should be an important part of this plan. The government should include people with disabilities and their representative organizations in developing and carrying out the plan.
- The government should conduct public information campaigns to raise awareness about psychosocial disabilities and the rights of people with disabilities, especially among alternative mental health service providers and the broader community, in partnership with people with lived experiences of psychosocial disability.

³² “Twins with mental disabilities chained, abandoned at GenSan” (“Kambal na may kapansanan sa pag-iisip, ikinadena at inabandona sa GenSan”), *GMA News Balitambayan*, November 22, 2021, <https://www.gmanetwork.com/news/balitambayan/talakayan/811854/kambal-na-may-kapansanan-sa-pag-iisip-ikinadena-at-inabandona-sa-gensan/story/> (accessed August 4, 2022).

³³ “11-year-old girl in Cebu chained to her bed for eight years” (“11-anyos na babae sa Cebu, walong taon nang nakagapos sa higaan”), *GMA News Balitambayan*, July 19, 2021, <https://www.gmanetwork.com/news/balitambayan/promdi/795965/11-anyos-na-babae-sa-cebu-walong-taon-nang-nakagapos-sa-higaan/story/> (accessed August 4, 2022).