

THE PHILIPPINES: ATTACKS AGAINST LAWYERS FURTHER ESCALATING

23 June 2021 – Attacks against lawyers in the Philippines continue to take place and killings have reached a record high since the start of President Duterte’s administration five years ago. We, the undersigned organizations, express our deep concern over the attacks and the oppressive working environment lawyers still face in the Philippines. We call again on the Duterte Government to adequately protect the safety and independence of lawyers and end the culture of impunity in which these attacks occur.

Increased extrajudicial killings and harassment of lawyers

In our previous statement of [17 September 2019](#), we signalled that the number and intensity of attacks against lawyers had increased significantly since President Duterte took office on 30 June 2016. At least [46 jurists](#) were extrajudicially killed between July 2016 and 5 September 2019. Among them at least 41 lawyers and prosecutors, of which [24 practicing lawyers](#). Eight jurists survived attacks on their life.

It is now [reported](#) that more lawyers have been killed in the five years since President Duterte took office than under any other government in Philippine history. The number of deaths of lawyers since 2016 has risen to 61. According to the [Free Legal Assistance Group](#) (FLAG) half of the lawyer killings since 2016 were [work-related](#). The [National Union of People’s Lawyers](#) (NUPL) reports that [at least 54](#) of the 61 killings are likely to be work-related. Many other lawyers are facing threats and are afraid that they might be the next victims of attacks.

Lawyers at risk

Lawyers involved in high-profile or human rights cases are especially at risk. These are cases in which they represent victims of human rights violations, government critics, political opposition leaders, human rights defenders, environmental activists, and people who are accused of terrorist- or drug-related crimes. Very often, the rights of the elite or government policies are at stake. Examples are cases about land rights of farmers and indigenous peoples, anti-drug operations, and the enforcement of measures to combat the Covid-19 pandemic. Lawyers also face reprisals for participating in the public debate on legal matters and the protection of human rights.

Culture of Impunity

In a [June 2020 report](#), the United Nations Office of the High Commissioner for Human Rights (OHCHR) concluded that ‘persistent impunity for human rights violations is stark’ and ‘practical obstacles to accessing justice are almost insurmountable’. The NUPL reached a similar [conclusion](#): ‘almost all of the perpetrators have never been brought to the bar of justice’. According to NUPL, this climate of impunity emboldens perpetrators to commit further attacks.

Grave implications of public labelling and worrying new laws

Prior to being attacked, an increasing number of lawyers was labelled as “communist” or “terrorist” by state agents and officials. This labelling takes place regardless of actual political beliefs or

affiliations of the targeted individuals and is aimed at making them legitimate targets. Following earlier fact finding missions conducted by independent lawyers and judges, the combination of labelling or 'red-tagging' and a culture of impunity was already [identified](#) as one of the main root causes of extrajudicial killings in the Philippines. This practice [continues](#) unabated.

OHCHR [noted](#) that alongside the intensified campaign against illegal drugs, the government of the Philippines has scaled up its response for countering terrorism and conflicts. This also has an acute impact on civil society, including lawyers and judicial actors, "particularly through the phenomenon of "red-tagging". The OHCHR found that "red-tagging" in de Philippines "has been a persistent and powerful threat to civil society and freedom of expression", adding that "[S]uch public labelling has proved extremely dangerous". OHCHR referred to the example of four human rights defenders, including Attys [Benjamin Ramos Jr.](#) and [Anthony Trinidad](#), who appeared on posters and hit lists claiming to depict members of alleged terrorists organizations, and were subsequently murdered.

Despite national and international concern, the practice of "red-tagging" continues to take place and has also frequently been used by the [Duterte administration](#) itself. In a 7 June 2019 [press release](#), eleven UN human rights experts already expressed their concern over this governmental practice and called on the UN Human Rights Council to establish an independent [investigation](#) into human rights violations committed in the Philippines. "Instead of [the Government] sending a strong message that these killings and harassment are unacceptable, there is a rising rhetoric against independent voices in the country and ongoing intimidation and attacks against voices who are critical of the government, including independent media, human rights defenders, lawyers and journalists," the experts said. In a July 2020 [report](#), the Human Rights Commission of the Philippines stated that the '[P]resident through his pronouncements created a dangerous fiction that it is legitimate to hunt down and commit atrocities against human rights defenders because they are enemies of the State'.

All this is strengthened by the recently adopted [Anti-Terrorism Act of 2020](#) (ATA 2020). Among its provisions is the creation of a government-appointed Anti-Terrorism Council that is given vast powers, including the power to designate individuals and groups as terrorists without due process. Critics and human rights groups have condemned the law for its overbroad definitions, vagueness, and dilution of human rights safeguards, calling it a weapon to target opponents and stifle free speech. A total of 37 petitions were [filed](#) to the Supreme Court after the law was enacted. Also lawyers have questioned the law before the Supreme Court, stating that the legislation could be abused to target administration opponents and suppress peaceful dissent. According to the July 2020 [report](#) of the Human Rights Commission of the Philippines, the law "is prone to misuse". The Commission worries that "the overbroad definition of terrorism gives the government unbridled power to determine who are "suspected terrorists" – which may include ordinary citizens and human rights defenders". Once people are designated as terrorist they can be arrested and detained without warrants or charges for up to 24 days.

Consequences

The attacks against and extra-judicial killings of lawyers, the impunity shielding perpetrators, the continuous/increased practice of 'red-tagging', in combination with new laws and amendments that risk eroding constitutional and other legal protections, such as the ATA 2020, impair the ability of lawyers to provide effective legal representation, make lawyers increasingly wary of working on sensitive cases, and consequently severely undermine the proper functioning of the rule of law and the adequate protection of rights, including the right to remedies and fair trial.

International obligations

According to the United Nations Basic Principles on the Role of Lawyers (Basic Principles)¹, States should ensure that all persons within their jurisdiction have effective and equal access to lawyers of their own choosing², and that lawyers are able to perform their professional functions without intimidation, hindrance, harassment or improper interference³. The Basic Principles require that lawyers are adequately protected when their security is threatened because of carrying out their legitimate professional duties⁴, and not be identified with their clients or their clients' causes⁵. The Basic Principles affirm that lawyers, like other citizens, are entitled to freedom of expression and assembly.⁶ The duty to respect and guarantee these freedoms forms an integral part of the Philippines' international legal obligations under the International Covenant on Civil and Political Rights.

Recommendations

In view of the above, the undersigned organizations and individuals urge the Government of the Philippines to:

1. Investigate promptly, effectively, thoroughly and independently all extrajudicial killings and attacks against lawyers, and other jurists, with the aim of identifying those responsible and bringing them to justice in proceedings that respect international fair trial standards;
2. Take all reasonable measures to guarantee the safety and physical integrity of lawyers, including the provision of adequate protection measures, in consultation with the persons concerned;
3. Create and fully support an independent, credible and impartial body, i.e. not under the control or the influence of the government, composed of members selected exclusively from nominees from lawyers organizations, civil society, the Church and the like in a transparent way, who are known for their human rights record, independency and integrity; this civilian

¹ The UN Basic Principles on the Role of Lawyers provide a concise description of international norms relating to the key aspects of the right to independent counsel. The Basic Principles were unanimously adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba on 7 September 1990. Subsequently, the UN General Assembly "welcomed" the Basic Principles in their 'Human rights in the administration of justice' resolution, which was adopted without a vote on 18 December 1990 in both the session of the Third Committee and the plenary session of the General Assembly. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>.

² Basic Principle 1.

³ Basic Principle 16.

⁴ Basic Principle 17.

⁵ Basic Principle 18.

⁶ Basic Principle 23.

investigative body must be entrusted with the necessary investigative and prosecutorial powers to investigate promptly, impartially and effectively - under international supervisory mandate - all reports and complaints against state security agents with respect to extrajudicial killings, threats and other forms of harassment; the recommendations of this investigative body should be immediately followed by the government.

4. Consistently condemn all forms of threats and attacks against lawyers publicly, at all political levels and in strong terms; and,
5. Fully comply with and create awareness about the core values underlying the legal profession, amongst others by bringing the UN Basic Principles on the Role of Lawyers to the attention of relevant stakeholders, especially members of the executive, police, and the military.

Signatories (in alphabetical order):

AIJA - International Association of Young Lawyers
Amsterdam Bar Association (Netherlands)
ASESORÍA JURÍDICA BOADA
Asian Legal Resource Centre (ALRC)
Associació Catalana per a la Defensa dels Drets Humans
Avvocati minacciati Unione camere penali italiane
Bar Human Rights Committee of England and Wales
Burgas Bar Association
Confederation of Lawyers of Asia and the Pacific (COLAP)
Council of Bars and Law Societies of Europe (CCBE)
Deutscher Anwaltverein
European Association of Lawyers for Democracy and World Human Rights (ELDH)
European Criminal Bar Association
European Democratic Lawyers
Foundation Day of the Endangered Lawyer
Human Rights Embassy (Moldova)
Indian Association of Lawyers
International Bar Association's Human Rights Institute (IBAHRI)
International Commission of Jurists
International Observatory of Lawyers in Danger
Law Council of Australia
Law Society of England and Wales
Lawyers for Lawyers
Lawyers' Rights Watch Canada
Noord-Nederland Bar Association (Netherlands)
Progressive Lawyers Association (Turkey)
Rotterdam Bar Association (Netherlands)
Southern African Human Rights Defenders Network
The Arrested Lawyers Initiative
UIA-IROL (Institute for the Rule of Law of the International Association of Lawyers)