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“IN THE CROSSHAIRS OF THE PRESIDENCY”

ATTACKS ON
OPPOSITION
LAWMAKERS IN
THE PHILIPPINES



ASEAN PARLIAMENTARIANS
FOR HUMAN RIGHTS

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Cover image: The Philippine House of Representatives in session, Manila, January 2019. Credit: APHR.

GLOSSARY

ACT – Alliance of Concerned Teachers

ASEAN – Association of Southeast Asian Nations

CHR – Commission on Human Rights of the Philippines

CRC – Convention on the Rights of the Child

DDB – Dangerous Drugs Board

ICC – The International Criminal Court

ICCPR – International Covenant on Civil and Political Rights

IPU – Inter-Parliamentary Union

NSM – National Solidarity Mission

PCOO – Presidential Communications Operations Office

PDP-Laban – Partido Demokratiko Pilipino–Lakas ng Bayan

PNP – Philippines National Police

RA – Republic Act

RTC – Regional Trial Court

SOS Network – Save Our Schools Network



The Philippine Senate in session, Manila, January 2019. Credit: APHR.

EXECUTIVE SUMMARY

Since President Rodrigo Duterte took office in the Philippines in June 2016, global headlines have been dominated by the so-called “war on drugs” launched by his administration. An estimated 6,000 to 27,000 people have been extrajudicially killed by the police or their proxies in a campaign that human rights groups have said could amount to crimes against humanity under international law.

While the global outcry is warranted, it has also had the effect of masking another trend: the Duterte administration’s growing authoritarianism. The government has launched what amounts to an assault on democratic institutions unprecedented in scale since the end of the Ferdinand Marcos dictatorship in 1986. It has been characterized by the persecution of a range of actors and institutions – including the judiciary, media and civil society – in a deliberate effort to muzzle critics and weaken checks and balances on the executive branch of the government.

This briefing by ASEAN Parliamentarians for Human Rights (APHR) sheds light on one key facet of this trend: the systematic harassment of opposition lawmakers and attempts to silence opponents in the bicameral Congress. During its almost three years in office, the Duterte administration has used a range of tactics towards this end, including trumped-up criminal charges, the manipulation of democratic processes, and open threats and aggressive rhetoric. It is often those lawmakers who have vocally defended human rights, including by condemning extrajudicial killings in the context of the anti-drug campaign, who have been targeted.

Internationally, Senator Leila de Lima has emerged as the most well-known symbol of the Duterte administration’s efforts to silence critics. The Senator is a long-time human rights defender who launched investigations into extrajudicial killings under Rodrigo Duterte’s watch first as Mayor of Davao City and then as President. She was arrested on clearly fabricated drug trafficking charges in February 2017 and remains detained in Camp Crame, the headquarters of the Philippine National Police (PNP), outside Manila, the capital.

“ONE KEY FACET OF THIS TREND: THE SYSTEMATIC HARASSMENT OF OPPOSITION LAWMAKERS AND ATTEMPTS TO SILENCE OPPONENTS IN THE BICAMERAL CONGRESS.”

APHR has also documented how at least seven other opposition lawmakers have faced politically motivated criminal cases under the current administration. Although the authorities have relied on a range of different laws – including charges for “child abuse”, “kidnapping”, “wiretapping” and “rebellion” – the cases all fit a common pattern. Those targeted are mainly lawmakers who have used their public positions to denounce the “war on drugs” and other policies of the administration. Based on interviews with lawmakers and analysis of their cases, a picture emerges of a concerted attempt by the Duterte administration to bring criminal charges in order to judicially harass opponents.

In the Senate, apart from Leila de Lima, the opposition lawmakers Antonio Trillanes and Risa Hontiveros – both staunch critics of the anti-drug campaign – have faced a slew of criminal charges. In Antonio Trillanes’ case, the President resurrected “rebellion” and “coup d’état” cases against the Senator in September 2018 for which the Senator had been pardoned under a previous administration. Risa Hontiveros in 2017 faced “kidnapping”, “obstruction of justice” and “wiretapping” charges for her role in sheltering underage witnesses to the police murder of a 17-year-old boy.

In the House of Representatives, among those facing spurious criminal cases are four members of the left-wing Makabayan bloc. These include Representatives Antonio Tinio and Ariel Casilao, who were charged with “child abuse” after attending a demonstration against Martial Law in Mindanao along with youths from the indigenous Lumad community in October 2018. Moreover, Representative France Castro has faced “child abuse” charges for her role in providing aid to indigenous communities harassed by paramilitary groups in November 2018.

The administration has also relied on open threats and unsubstantiated public accusations of criminal behaviour to intimidate and delegitimize opponents. The President has threatened to jail lawmakers who voted against him, while his government has released several public lists of names of people, including lawmakers, supposedly plotting to bring down the government or engaging in the illegal drug trade. Much of the rhetoric has also been deeply misogynistic. The President has castigated Senator de Lima as an “immoral woman” and made jokes about her sex life, while belittling other female lawmakers as “stupid” or “weak” and claimed that they are not qualified to hold office. In the online sphere, opponents of the government are frequent targets of abuse and disinformation (or “fake news”) that is spread through a plethora of pro-Duterte websites and social media accounts. Instead of seeking to restrict such content, government officials have often relied on it themselves to denigrate and fuel further abuse of opponents.

Lawmakers told APHR of the chilling effect these combined efforts have had on their legitimate and peaceful political activities. There is a clear lack of evidence to support the criminal cases examined in this briefing. Despite this, many opposition lawmakers expressed a fear that they could lead to convictions in the administration’s efforts to use the judiciary to settle political scores. Senator de Lima’s detention was often cited as an example of the risks of criticising the government. Some lawmakers spoke of a “climate of fear” where they feel a need to “lie low” or refrain from criticising the government because they fear arrest and/or public anger of the President or his supporters, whether through speeches, media commentary or online abuse and disinformation.

This briefing also documents how the Duterte administration has manipulated democratic processes to side-line the opposition in both houses of Congress. This has included stripping lawmakers of seats and chairmanships on Congressional committees when they have voted against administration policies, which has reduced the opposition's ability to affect the legislative process. Since it took office in June 2016, the government has also abused parliamentary procedure to create a Minority bloc in Congress that is mostly made up of Duterte supporters who follow the President's legislative agenda. Moreover, the authorities have on at least one occasion dramatically reduced development budgets for districts represented by opposition lawmakers in the House of Representatives.

Parliaments and parliamentarians can play crucial roles in promoting human rights but must be free to exercise their mandates without fear of reprisals to do so. The concerted efforts by the government of President Rodrigo Duterte to silence opponents in Congress are not only affecting efforts to curb human rights abuses but is also threatening to do lasting damage to democratic institutions in the Philippines.

“PARLIAMENTS AND PARLIAMENTARIANS CAN PLAY CRUCIAL ROLES IN PROMOTING HUMAN RIGHTS BUT MUST BE FREE TO EXERCISE THEIR MANDATES WITHOUT FEAR OF REPRISALS TO DO SO.”

The mid-term elections held on 13 May 2019, in which 12 seats in the Senate and all seats in the House of Representatives were being contested, has further strengthened President Duterte's grip on power, in particular in the Senate. With the newly elected 18th Congress set to begin its first sessions on 22 July, APHR urges the Philippine government to ensure that lawmakers are able to exercise their mandates without undue interference or fear of reprisals.

METHODOLOGY

This briefing is based on an extensive desk review of existing literature on the topic, including reports by civil society organisations, various United Nations bodies and other human rights groups, as well as academic research and credible media reports. It is also based on research carried out by APHR in Manila during January 2019 when the organization interviewed Representatives and Senators or their staff, as well as other relevant actors including political analysts, UN officials, civil society representatives and journalists. APHR has to a large extent relied on analysis of official court documents and police records in documenting the cases detailed in Chapter 3. APHR wishes to thank those lawmakers and others who contributed to this briefing by offering their time and insights. Due to security concerns, some of the names of interviewees have been withheld to protect their identities throughout the briefing.

This briefing is part of APHR's efforts to document attacks on lawmakers in the Southeast Asia region and to ensure that lawmakers can exercise their mandates to protect human rights free of interference. It builds on the report *Death Knell for Democracy: Attacks on Lawmakers and the Threat to Cambodia's Institutions* (March 2017), which documented judicial attacks and threats against opposition MPs in Cambodia.



SENATE OF THE PHILIPPINES

2. BACKGROUND

The Senate of the Philippines building in Manila, January 2019. Credit: APHR.

2.1 THE PHILIPPINES UNDER PRESIDENT RODRIGO DUTERTE

Rodrigo Roa Duterte was elected President of the Republic of the Philippines in a land-slide victory in the presidential election on 30 May 2016. With 39.1 per cent of the national ballot, he secured more than six million more votes than the runner-up Mar Roxas. Rodrigo Duterte took office as the first Philippine president from the southern island of Mindanao, and the first who is not part of the country's established political elite. Although President Duterte comes from a political family in Mindanao where his father once served as governor, he emphasized his outsider credentials during the campaign. He railed against the *trapos* ("traditional politicians") that had dominated the Philippines for decades, while promising to steer the country away from its dependence on the United States, and – most significantly – to take an uncompromising approach to crime.

Rodrigo Duterte had made his name in his home town of Davao City, the largest city on the island of Mindanao, where he served as mayor more or less uninterruptedly between 1988 and 2016.¹ To his supporters, he was viewed as a competent administrator who had turned Davao City from a crime-infested backwater into a thriving financial hub in the south. But critics claimed that there was a dark side to his leadership of Davao City. Human rights groups documented how at least 1,400 suspected drug offenders had been extrajudicially killed under the mayor's watch since 1998, with the true figure believed to be much higher.² While Mayor Duterte himself always publicly denied directing the infamous "Davao Death Squad" accused of being behind the killings, he used his strong-man credentials and approach to crime to garner support.

THE "WAR ON DRUGS"

After taking his seat in the Malacañan Presidential Palace on 30 June 2019, President Duterte wasted little time in replicating his anti-drug campaign in Davao City on a national scale. Almost immediately after the President took office, reports began to emerge of nationwide killings of

¹ The only exceptions were stints as Vice-Mayor of Davao (2010-2013, while his daughter Sara served as Mayor) and as a Representative for Davao City in Congress (1998-2001). On both occasions term-limit restrictions prevented him from running for re-election as mayor.

² Brookings Institute, "The human rights consequences of the war on drugs in the Philippines", 8 August 2017, <https://www.brookings.edu/testimonies/the-human-rights-consequences-of-the-war-on-drugs-in-the-philippines/>; For background, see Human Rights Watch, "You Can Die Any Time": Death Squad Killings in Mindanao (April 2009), <https://www.hrw.org/report/2009/04/06/you-can-die-any-time/death-squad-killings-mindanao#>.

alleged drug offenders. The statistics on those killed in the “war on drugs” are disputed. While the Philippine Drug Enforcement Agency (PDEA) has claimed that 5,050 people have been killed, mostly by police, between July 2016 and November 2018, others have put the figure much higher. Some human rights groups have estimated the death toll to between 12,000 and 20,000, while in December 2018 the Philippine Commission on Human Rights said it could be as high as 27,000.³ Victims have overwhelmingly come from poorer communities.⁴

The extent of illegal drug use in the Philippines is similarly disputed. While homicide rates in the country are above average for the region, there is little supporting evidence for the administration’s linkage of crime rates to drug use in particular. The use of methamphetamines, known as “shabu” in the Philippines, is above the regional average although the overall prevalence of drug use is comparatively low.⁵ President Duterte and other government officials have frequently estimated the number of “drug addicts” in the country to between three and four million. In September 2016 the Dangerous Drugs Board (DDB) however estimated that 1.8 million people (roughly 2.3 percent of the population between the ages of 10 and 69) had used drugs during the 13-month period it surveyed.⁶ President Duterte in May 2017 announced the dismissal of the then-DDB Chairperson for contradicting the government’s estimates of drug users.⁷

The drug war has sparked widespread condemnation. Amnesty International and Human Rights Watch have both stated that the scale of extrajudicial killings during the campaign could amount to crimes against humanity, for which President Duterte could bear command responsibility. On 8 February 2018, the International Criminal Court (ICC) announced that it was conducting a preliminary inquiry into possible crimes committed in the context of the “war on drugs”, including extrajudicial killings.⁸ In response, the Duterte administration announced its intention to withdraw from the Rome Statute that established the ICC, which it eventually did on 17 March 2019.⁹ In June 2019, a group of UN experts furthermore urged the UN Human Rights Council to establish an independent investigation into human rights violations in the Philippines.¹⁰

AN ASSAULT ON DEMOCRACY

Another key feature of the current administration has been its increasingly authoritarian streak. President Duterte and his allies have lashed out against critics from a range of institutions, using threats, harassment and trumped-up criminal charges in attempts to silence those who oppose them. While critics of the “war on drugs” have been singled out, those who have opposed other policy initiatives have also been targeted. These notably include opponents of President Duterte’s

3 ABS-CBN, “CHR chief: Drug war deaths could be as high as 27,000”, 5 December 2018, <https://news.abs-cbn.com/focus/12/05/18/chr-chief-drug-war-deaths-could-be-as-high-as-27000>.

4 ABS-CBN, “Poor Filipinos most vulnerable in Duterte’s drug war: study”, 25 June 2018, <https://news.abs-cbn.com/focus/06/25/18/poor-filipinos-most-vulnerable-in-dutertes-drug-war-study>.

5 UN Office on Drugs and Crime (UNODC), *World Report on Drugs 2011* (June 2011), p. 134, https://www.unodc.org/documents/data-and-analysis/WDR2011/World_Drug_Report_2011_ebook.pdf; UNODC, *Synthetic Drugs in East and South-East Asia* (March 2019), https://www.unodc.org/documents/southeastasiaandpacific/Publications/2019/2019_The_Challenge_of_Synthetic_Drugs_in_East_and_SEA.pdf.

6 Reuters, “As death toll mounts, Duterte deploys dubious data in drugs war”, 24 October 2016, <https://www.reuters.com/article/us-philippines-duterte-data-specialreport-idUSKCN12O1CB>; Rappler, “DDB: Philippines has 1.8 million current drug users”, 19 September 2016, <https://www.rappler.com/nation/146654-drug-use-survey-results-dangerous-drugs-board-philippines-2015>.

7 Rappler, “Duterte ‘fires’ DDB chair: You do not contradict your own gov’t”, 24 May 2017, <https://www.rappler.com/nation/170839-duterte-fires-ddb-benjamin-reyes-contradict-government>.

8 Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on opening Preliminary Examinations into the situations in the Philippines and in Venezuela, 8 February 2018, <https://www.icc-cpi.int/Pages/item.aspx?name=180208-otp-stat>.

9 New York Times, “Philippines Officially Leaves the International Criminal Court”, 17 March 2019, <https://www.nytimes.com/2019/03/17/world/asia/philippines-international-criminal-court.html>.

10 UN Office of the High Commissioner for Human Rights, “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>

proposed constitutional reforms, and the stalled attempt to re-introduce the death penalty in 2017.¹¹ President Duterte has publicly denigrated Vice-President Leni Robredo, who under the Philippine political system belongs to a different party from the President, and barred her from attending cabinet meetings. The government has also established an anti-corruption body specifically to investigate the “biased and corrupt” Office of the Ombudsman in an apparent response to former Ombudsman Conchita Carpio-Morales’ criticism of extrajudicial killings of drug suspects.¹²

Although the Philippine judiciary operates independently of the executive per the Constitution, the institution has not been immune from political influence since the return to democracy in 1986.¹³ This trend has continued under the Duterte administration, which has increasingly sought to compromise judicial independence. The most egregious example of this is the removal of former Supreme Court Chief Justice Maria Lourdes Sereno on 11 May 2018. Chief Justice Sereno, a prominent critic of the “war on drugs”, was removed through an 8-6 vote in the Supreme Court after the solicitor-general had filed a petition accusing her of failing to file asset disclosures as a state university law professor. Her removal pre-empted impeachment proceedings against her over alleged corruption launched in the House of Representatives in March 2018.¹⁴ Maria Lourdes Sereno denies both allegations. One human rights group called her ouster “an attack on the rule of law”, while the UN Special Rapporteur on the Independence of Judges and Lawyers said the decision had led to a “climate of intimidation” within the judiciary.¹⁵

Independent media has been another frequent target under the Duterte administration. Maria Ressa, the CEO of the online news site Rappler that has reported widely on drug-related killings, has faced an array of criminal charges that have been characterized as politically motivated. In February 2019, for example, she was arrested on libel charges, but released on bail shortly after.¹⁶ Authorities have also targeted Rappler directly, including by revoking its operating license in January 2018 due to allegedly violating a law against foreign ownership of media outlets, and charging it with tax evasion in November 2018. Rappler denies all allegations as politically motivated. President Duterte has also used speeches to openly threaten the Inquirer newspaper, whose owners agreed in 2017 to sell the publication to a Duterte ally.¹⁷

11 President Duterte made constitutional change one of his central campaign promises, with an emphasis on introducing a federal system that would devolve power from Manila into 18 new regions. The government argues that the proposed changes would lead to a more equitable distribution of resources across the country and strengthen the role of political parties, but critics have questioned the capacity of regions to raise their own revenue and the huge costs involved. Some have also warned that constitutional change would allow President Duterte to stay in office beyond his current term, but the President has denied that that is his intention. A Consultative Committee formed by the President approved a draft revised Constitution on 3 July 2018, but it has yet to be tabled for a vote in Congress. See Council on Foreign Relations, “The Implications of Duterte’s Proposed Constitutional Changes, 24 July 2019, <https://www.cfr.org/blog/implications-dutertes-proposed-constitutional-changes>. For background on the effort to reintroduce the death penalty, see Section 4.3.2: Undermining Congress Committees.

12 Philippine News Agency, “Duterte creates Presidential Anti-Corruption Commission”, 5 October 2017, <https://www.pna.gov.ph/articles/1011910>.

13 For background, see Mark R Thompson, *Bloodied democracy: Duterte and the death of liberal reformism in the Philippines*, in *Südostasien aktuell : journal of current Southeast Asian affairs* 35 (2016), 3, pp. 39-68 and Desiree A. Desierto, in Schofield N., Caballero G. (eds) *The Political Economy of Governance* (2015), pp. 41-57.

14 Rappler, “House panel votes: Impeach Sereno”, 8 March 2018, <https://www.rappler.com/nation/197686-sereno-impeachment-house-committee-vote>.

15 International Commission of Jurists, “Philippines: President Duterte’s attack on the Chief Justice is an attack on the rule of law”, 10 April 2018, <https://www.icj.org/philippines-president-dutertes-attack-on-the-chief-justice-is-an-attack-on-the-rule-of-law/>; Associated Press, “UN expert says Manila’s judiciary under attack”, 1 June 2018, <https://www.apnews.com/08ecd121e408421bad381fd364a20707>.

16 APHR, “Philippines: Arrest of Rappler CEO Maria Ressa an attack on journalism”, 14 February 2019, <https://aseanmp.org/2019/02/14/philippines-arrest-of-rappler-ceo-maria-ressa/>.

17 Nikkei Asian Review, “Blasted by Duterte, Philippine Daily Inquirer owners opt to sell”, 18 July 2017, <https://asia.nikkei.com/Business/Blasted-by-Duterte-Philippine-Daily-Inquirer-owners-opt-to-sell>.

The President has singled out human rights defenders in vicious tirades. He labelled Victoria Tauli-Corpuz, the Philippine UN Special Rapporteur on the rights of Indigenous Peoples, a “terrorist”, while urging police to “shoot” human rights activists who resist arrest.¹⁸ In 2017, the President tried to slash the annual budget of the Commission on Human Rights to just USD20, although the move was eventually blocked by the Senate. In a recent report, the International Federation for Human Rights (FIDH) documented a “dramatic deterioration of the situation for human rights defenders” in the country, including through a rise in killings of journalists and land rights activists.¹⁹

While all Philippine presidents since the 1986 return to democracy have to an extent relied on executive power to push through their agendas, the current administration’s authoritarian tactics mark a clear escalation. According to the scholar David G. Timberman, the “Duterte presidency is fundamentally different from post-1986 administrations in its unrelenting use of intimidation to weaken any challenges to its authority.”²⁰ It is in the context of this systematic attempt to subvert democratic institutions that this report should be read.

2.2 THE PHILIPPINE POLITICAL SYSTEM

The Philippines returned to democracy after President Ferdinand Marcos, who ruled as a dictator under Martial Law during much of his time in office, was toppled in the “People Power” revolution of 1986. The 1987 Constitution ushered in a presidential system under a bicameral legislature, divided between the 24-member Senate and the now 300-member House of Representatives.²¹ Senators have a national mandate and serve a maximum of two consecutive six-year terms, with terms staggered so that 12 Senators are up for re-election every three years. Representatives all serve a maximum of three consecutive three-year terms. Proposed legislation can be drafted and tabled by both Senators and Representatives but need the approval of both houses and the President to be enacted into law.

Under the Philippine system, the President holds a dominant position, with far-reaching powers over budget allocation and appointments, from the national level down to local barangay (village) level. This has led to an ingrained system of patronage politics or so-called “pork barrel” spending, where the President relies on financial hand-outs and development support to secure the loyalty of allies.²² It has also encouraged frequent party switching, with lawmakers usually gravitating to the party of whoever controls the Presidency. Following the election of President Duterte in May 2016, for example, his Partido Demokratiko Pilipino–Lakas ng Bayan (PDP-Laban) swelled from three to 113 Members in the House of Representatives, to a large extent at the expense of the Liberal Party of former President Benigno Aquino III.²³

18 Human Rights Watch, “Philippines: Duterte Threatens Human Rights Community”, 17 August 2017, <https://www.hrw.org/news/2017/08/17/philippines-duterte-threatens-human-rights-community>.

19 FIDH, “I’ll kill you along with drug addicts”: President Duterte’s War on Human Rights Defenders in the Philippines (February 2019), <https://www.fidh.org/IMG/pdf/rapport-philippines2019web.pdf>

20 Carnegie Endowment for International Peace, “Philippine Politics Under Duterte: A Midterm Assessment”, 10 January 2019, <https://carneгиеendowment.org/2019/01/10/philippine-politics-under-duterte-midterm-assessment-pub-78091>

21 Under the Philippine Constitution, Congress is the bicameral legislature divided into the Senate and the House of Representatives. Colloquially and in media reports, “Congress” is however often used to refer to only the House of Representatives, while its Members are also often referred to as “Congressmen” or “Congresswomen”. In this report, APHR uses the official meaning of “Congress” (the bicameral legislature). Members of the lower house are referred to interchangeably as “Members of the House of Representatives” or “Representatives” (shortened to “Rep”).

22 Originally an American term, “pork barrel” derogatorily refers to government spending on localised projects in return for political support or votes from politicians or constituents.

23 Economist, “Why personalities trump parties in Philippine politics”, 4 October 2018, <https://www.economist.com/asia/2018/10/04/why-personalities-trump-parties-in-philippine-politics>.

This is indicative of the historically weak nature of political parties in the Philippines. More than 100 parties are registered with the Commission on Elections (COMELEC) and scores of other unregistered parties contest elections. In practice parties tend to be more tied to individuals, families or “clans” than ideology, and are badly staffed and resourced. Political parties take on more importance during election campaigns due to their ability to connect finances to candidates. Violence, including killings of candidates, and vote-buying are common features of Philippine elections, in particular at the local level.²⁴ Political campaigns in the country are also among the most expensive in the world, meaning candidates and parties must generate large amounts of funding to be competitive.²⁵

There have been several attempts to strengthen the role of political parties, including proposed legislation to limit “party switching”. Perhaps the most far-reaching such initiative is the party-list system introduced in 1998. Under this system, up to 20 per cent of seats in the House of Representatives are reserved for political parties elected through proportional representation on a national level. Party-lists are meant to represent interest groups, marginalised communities or particular ideologies. They can claim up to three seats in the House of Representatives for every two per cent of the national party-list vote they receive. In the 17th Congress (2016-2019), 234 Representatives represented geographical districts and 59 Representatives (just under 20 per cent) belonged to party-lists. Critics have in recent years, however, expressed concern over how traditional politicians and parties have increasingly manipulated the system by fielding their own candidates.²⁶

Since President Duterte took office, his government has enjoyed majority support in both houses of Congress. During the 17th Congress (2016-2019), a multiparty majority coalition controlled 250 of 297 seats in the House of Representatives, where the President’s PDP-Laban is the biggest party with 114 seats. In the Senate, the majority coalition was made up of 16 Senators while the minority consisted of six Senators mainly belonging to the Liberal Party. While the administration has largely been able to gain support for its legislative agenda in the House, the Senate has however resisted some of the President’s major policy initiatives, including efforts to rewrite the Constitution and to reinstate the death penalty.²⁷ The mid-term elections held on 13 May 2019 – in which all House seats and twelve Senate seats were contested – led to significant gains for President Duterte and his allies. In the Senate election, nine candidates formally allied with the President and three independent candidates won the twelve contested seats.²⁸ Both houses of the 18th Congress are due to begin their first sessions on 22 July 2019.

24 For background, see Edward Aspinall, Michael W. Davidson, Allen Hicken and Meredith L. Weiss, “Local Machines and Vote Brokerage in the Philippines”, *Contemporary Southeast Asia*, Vol. 38, No. 2 (August 2016), pp. 191-196; and The Carter Center, Limited Election Observation Mission to the Philippines, June 2016, https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/philippines-june-2016-election-statement.pdf.

25 Celito Arlegue and John Joseph S. Coronel, “Philippines”, *Political Parties in Asia* (eds. Peter M. Manikas Laura L. Thornton), 2003, p. 230.

26 Philippine News Agency, “18th Congress should ‘seriously’ review party-list system: solon”, 22 May 2019, <https://ptvnews.ph/18th-congress-should-seriously-review-party-list-system-solon>.

27 Interviews conducted by the authors, Manila, January 2019.

28 Full election results are available through Rappler’s website: <https://ph.rappler.com/elections/2019>.



Coffee cups showing an image of President Rodrigo Duterte inside the House of Representatives building in Manila, January 2019. Credit: APHR.

3. LEGAL HARASSMENT AND POLITICALLY-MOTIVATED CRIMINAL CASES

3.1 INTRODUCTION

A key tactic of President Duterte’s administration to silence criticism has been the use of trumped-up criminal charges against lawmakers. While the cases of Senator Leila de Lima and, to a lesser extent, Senator Antonio Trillanes have attracted widespread international attention, other lawmakers have also been subjected to similar judicial harassment. This chapter details the cases of eight Senators and Representatives who have faced politically motivated criminal charges since June 2016.

Although these charges have been filed under different laws – including charges for “drug trafficking”, “kidnapping”, “child abuse” and “inciting to sedition” – the cases all fit a common pattern. These lawmakers appear to have been targeted for opposing the President’s policies, and in particular the widespread extrajudicial killings under the guise of the “war on drugs”. They have also often been singled out because of their defence of human rights and their attempts to protect their constituents from human rights violations, whether in the context of the anti-drug campaign or other administration efforts, such as the push to reinstate the death penalty.

While only one of the lawmakers – Senator Leila de Lima – is currently detained, the others all expressed frustration with having to dedicate time and resources to challenge cases that appear to have mainly been filed as a form of harassment. Several lawmakers also expressed fear that despite the cases against them lacking supporting evidence and clearly being politically motivated, there is a risk they could lead to convictions given the current government’s attempts to politicise the judiciary. The case of Senator de Lima was often mentioned as an example of this. At least three lawmakers APHR interviewed also said that they had heard from trusted sources in the judiciary and police that orders had come from the Malacañan Palace to “dig up” cases against them. This could be done by identifying past charges that could be resurrected, or outright fabrication of new charges. The pattern documented in the cases below appear to support this. The circumstances around the cases of Senators de Lima and Risa Hontiveros, for example, both appear to point to pre-meditated attempts to frame charges against critics.

HON. LEILA M. DE LIMA
SENATOR

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3.2 SENATORS

A sign showing the number of days since Senator Leila de Lima was detained on her office door in the Senate building in Manila, January 2019. Credit: APHR.

In some of the cases documented below, lawmakers have faced several different charges, often filed around the same time period and related to the same alleged offense. Lawmakers noted that this had forced them to dedicate a significant amount of time and resources to addressing the allegations, including by, for example, attending court hearings and discussing legal strategies.

3.2.1 SENATOR LEILA DE LIMA

Senator Leila de Lima, a member of APHR, is a prominent human rights activist. She was appointed Chairperson of the Philippine Commission on Human Rights (CHR) in May 2008. During her time with the CHR, de Lima launched an investigation into illegal killings of drug suspects in Davao City under then-Mayor Rodrigo Duterte. In June 2010, she was appointed Secretary of the Department of Justice by former President Benigno Aquino III, where she used her position to investigate the illegal drugs trade. In 2014, she led a series of highly publicised raids in the New Bilibid Prison in Muntinlupa, which exposed how convicted drug traffickers had lived in relatively luxurious conditions inside the prison where they continued to direct drug operations.²⁹

De Lima resigned from the Department of Justice in 2015 to focus on her campaign for a seat in the Senate. She was sworn in as a Senator with the Liberal Party in June 2016. In her new role as a legislator and Chair of the Senate Justice and Human Rights Committee, de Lima soon emerged as perhaps the most vocal critic of the Duterte government's drug war. Duterte had already threatened de Lima during the Presidential campaign: "I will investigate you. I will file charges against you. Do not pick a fight with me, you will lose."³⁰

On 11 August 2016, Senator de Lima announced her intention to launch an investigation into extrajudicial killings under President Duterte through the Committee on Justice and Human Rights. The announcement triggered a widespread smear campaign led by President Duterte and other government officials. In the media, President Duterte threatened to "destroy [de Lima] in public", and accused her of alleged involvement in the drug trade.³¹ Much of the harassment was highly misogynistic in nature. President Duterte described Senator de Lima as an "immoral woman"

²⁹ Rappler, "Drug lords, murderers, and high living in Bilibid", 19 December 2014, <https://www.rappler.com/nation/78395-new-bilibid-prison-vip>.

³⁰ Inquirer, "Duterte warns De Lima: 'Don't fight me; you'll lose'", 26 May 2018, <https://newsinfo.inquirer.net/787572/duterte-hits-de-lima-again-dont-fight-me-youll-lose>.

³¹ Agence France Presse, "Philippines senator who branded President Duterte 'serial killer' arrested", 23 February 2017, <https://www.>

because of an alleged relationship with a former bodyguard and made constant jokes about her sex life in public.³² Officials aligned with the President attempted to show an alleged sex video of Senator de Lima and her bodyguard, which had circulated widely online, in the House of Representatives (the video has since been proven to be fake). These attempts were only blocked after 66 members of the House of Representatives passed a resolution on 30 September 2016 calling the proposal an attempt to shame and demean women.³³ The Senate adopted a similar resolution on 4 October.³⁴

In September 2016, before charges were brought against her or an official investigation into her case had begun, the long-time Duterte ally and current Justice Secretary Vicente Aguirre staged a congressional hearing into the Senator's alleged role in drug trafficking. Inmates from New Bilibid Prison claimed during the hearing that the Senator had collected millions of Philippine Pesos in drug money from the prison to support her election campaign. During the hearings, the Senator's home address and mobile phone numbers were revealed to the public, prompting a barrage of abusive messages and death threats. On 19 September 2016, the Senate removed her as Chair of the Justice and Human Rights Committee, with only Senators from the Liberal Party or the minority bloc voting in her favour.

On 17 February 2017, the Department of Justice announced that three charges had been filed against Senator de Lima related to her alleged role in drug trafficking. The three charges, all filed with the Regional Trial Court (RTC) of Muntinlupa, accused her of violating the Comprehensive Dangerous Drugs Act (RA 9165), particularly Section 5 (sale) in relation to Section 3 (trading), and Sections 26(b) and 28, pertaining to her criminal liability as a government official. On 24 February 2017, Senator de Lima surrendered to the police after an arrest warrant had been issued the day before. She has since remained in detention in Camp Crame, Quezon City.

In October 2017, the Supreme Court rejected a petition from Senator de Lima to have her cases tried in the Sandiganbayan, an anti-graft court under the purview of the Office of the Ombudsman.³⁵ As a result, Senator de Lima will face trial by prosecutors directly overseen by Justice Secretary Vicente Aguirre, who played a prominent role in the smear campaign against her before her arrest.

Her cases have faced significant delays. In November 2017, the Department of Justice amended the charges in all three cases to “attempt or conspiracy to drug trading” under RA 9165. This appears to be a delaying tactic by the authorities given the failure to produce evidence to support the original charges. Senator de Lima's legal team further points out that the “conspiracy” charges are easier to prove in court, since the evidence standard is lower than for the original charges.³⁶ Six judges have to date recused themselves from hearing the cases, further delaying the proceedings.³⁷

After several deferrals, Senator de Lima has been arraigned in all three cases and trial proceedings have started.³⁸ She refused to enter a plea on all occasions, stating that she “does not recognize” the charges and calling them “completely fabricated”.

theguardian.com/world/2017/feb/24/philippines-senator-leila-de-lima-president-duterte-serial-killer-faces-arrest.

32 Inquirer, “Duterte blasts female senator: She's 'immoral', an 'adulterer'”, 17 August 2016, <https://newsinfo.inquirer.net/807080/duterte-blasts-female-senator-shes-immoral-an-adulterer>.

33 Rappler, “Lady lawmakers oppose showing of 'De Lima' video in House probe”, 29 September 2016, <https://www.rappler.com/nation/147682-showing-de-lima-sex-tape-house-probe-trampling-dignity-integrity>.

34 Senate of the Philippines, Resolution 184, 16 October 2016., https://www.senate.gov.ph/lis/bill_res.aspx?congress=17&q=SRN-184.

35 Rappler, “Supreme Court's 9-6 ruling keeps De Lima in jail”, 10 October 2017, <https://www.rappler.com/nation/178744-leila-de-lima-sc-sandiganbayan-drug-cases>.

36 Interview with staff from Senator De Lima's office conducted by the authors, Manila, January 2019.

37 Inquirer, “6th judge withdraws from De Lima cases”, 20 May 2019, <https://newsinfo.inquirer.net/1120887/6th-judge-withdraws-from-de-lima-cases>.

38 Arraignment is a court proceeding where a criminal defendant is formally informed of the charges against them and is asked to enter a plea.

Human rights groups and others have raised serious concerns about the charges against Senator de Lima.³⁹ The original charges filed against her were vague and lacked specific details, including the type of drug that de Lima was allegedly involved in trafficking or the alleged buyers. The evidence presented against her largely relies on testimony from convicted drug criminals in New Bilibid prison, many of whom were targeted in the raid on the prison Senator de Lima led while Justice Secretary. Of further concern is that some of the witnesses have received benefits in jail following their testimony, including by being moved into a Witness Protection Program and the dismissal of some charges against them.⁴⁰

Senator de Lima has continued to carry out her senatorial duties from her detention cell. While she communicates with supporters and files bills in the Senate through handwritten notes passed to her staff, multiple requests for furlough to attend Senate sessions in person - or to attend other official or personal appointments - have been denied.⁴¹ As a result, she has been unable to take part in Senate votes while in detention. De Lima has faced increasing restrictions in prison, including random inspection and confiscation of documents, a ban on using computers or the internet, and being barred from conducting media interviews while attending court hearings.⁴² The authorities have arbitrarily denied foreign visitors from seeing her in prison at least five times since July 2017, including a delegation from APHR in September 2017.⁴³

The charges against de Lima have been widely condemned by national and international human rights groups, including Amnesty International, who has declared her a “prisoner of conscience”, detained solely for her peaceful political activities.⁴⁴ In May 2017 the Inter-Parliamentary Union (IPU) found that “there is no evidence to justify the criminal cases against Senator de Lima” and called for her immediate and unconditional release.⁴⁵ In an opinion issued on 30 November 2018, the UN Working Group on Arbitrary Detention (WGAD) called her detention arbitrary and in contravention of international law, and urged her immediate release.⁴⁶ According to WGAD, the Senator “has been the target of partisan persecution and there is no explanation for this other than her exercise of the right to express such views and convictions as a human rights defender.”⁴⁷

39 Human Rights Watch, “Philippines: Drop Charges Against Duterte Critic”, 14 February 2018, <https://www.hrw.org/news/2018/02/14/philippines-drop-charges-against-duterte-critic>.

40 Inter-Parliamentary Union – Committee on the Human Rights of Parliamentarians, *Report on the mission to the Philippines* (May 2017), <http://archive.ipu.org/hr-e/201/ReportPhilippines.pdf>.

41 Interview with staff from Senator De Lima’s office conducted by the authors, Manila, January 2019.

42 Interview with staff from Senator De Lima’s office conducted by the authors, Manila, January 2019.

43 APHR, “ASEAN parliamentarians blocked from visiting Sen. De Lima in the Philippines”, 19 September 2017, <https://aseanmp.org/2017/09/19/asean-parliamentarians-blocked-from-visiting-sen-de-lima-in-the-philippines/>.

44 Amnesty International, “Philippines: Detained Duterte critic must be freed immediately”, 23 February 2017, <https://www.amnesty.org/en/latest/news/2018/02/philippines-detained-duterte-critic-must-be-freed-immediately/>.

45 Inter-Parliamentary Union – Committee on the Human Rights of Parliamentarians, *Report on the mission to the Philippines* (May 2017), p.1, <http://archive.ipu.org/hr-e/201/ReportPhilippines.pdf>.

46 According to WGAD, De Lima’s detention is arbitrary since it violates articles 2, 7, 9, 10, 11, 12 and 21 of the Universal Declaration of Human Rights and articles 2, 3, 9, 14, 17, 25 and 26 of the ICCPR. UN Human Rights Council, “Opinions adopted by the Working Group on Arbitrary Detention at its eighty-second session, 20–24 August 2018,” No. 61/2018 (Philippines), UN Doc. A/HRC/WGAD/2018/61, p. 12

47 *Ibid.*, p. 10.

3.2.2 SENATOR ANTONIO TRILLANES

Antonio Trillanes is a retired navy officer who served in the Senate between 2007 and 2019 with the Magdalo Para sa Pilipino, a party representing retired military personnel. He has become one of the most visible critics of President Duterte on the national stage, especially since the detention of Senator de Lima.

While Senator Trillanes has publicly criticised extrajudicial killings in the context of the war on drugs, he has also accused President Duterte and his family of corruption and involvement in the illegal drug trade. During the May 2016 election campaign, Senator Trillanes released documents that he said had been given to him by a whistleblower which alleged that the President had received US\$44 million between 2006 and 2015 but had failed to declare publicly.⁴⁸ Senator Trillanes has repeated the allegation multiple times since, while also accusing the President's son Paolo, the former Vice-Mayor of Davao City and recently elected Representative of Davao City, of involvement in the illegal drug trade. President Duterte and Paolo Duterte have denied these allegations.⁴⁹

While Senator Trillanes has faced several other criminal charges since President Duterte took office, the most prominent relate to his role in two failed military mutinies. In July 2003, then Navy Lieutenant Trillanes was arrested and charged with “rebellion” (Article 134 of the Revised Penal Code) for his role in the so-called “Oakwood Mutiny”, when more than 300 military personnel occupied the Oakwood Premier Hotel in Makati, Manila to protest corruption in the military in July 2003. While still in detention, he was elected to the Senate in May 2007. In November 2007, Trillanes was again arrested after occupying the Peninsula Hotel in Manila along with fellow army officers who called for the ouster of then President Gloria Macapagal-Arroyo. He was charged with staging a coup d'état under article 134A of the Revised Penal Code. In November 2010, the President Benigno Aquino III granted Senator Trillanes and the other soldiers amnesties for their roles in the uprisings under Presidential Proclamation 75.

On 4 September 2018, President Duterte issued Presidential Proclamation 572 which declared the amnesty granted to Senator Trillanes void.⁵⁰ As a result, the Department of Justice filed a motion for his arrest with the Makati Regional Trial Court (RTC) Branches 148 and 150, the two courts where he was previously tried in the coup d'état and rebellion cases respectively. Following a two-week standoff with the authorities when Senator Trillanes did not leave his Senate office, he was arrested on 25 September after Branch 150 issued a warrant for his arrest in the rebellion case. He was released after posting bail on the same day and has filed a motion for reconsideration.⁵¹ However, separately, Branch 148 of the Makati RTC denied the Department of Justice's issue of an arrest warrant in the coup d'état case, stating that there was no legal reason to void the amnesty issued in 2010. The government, through the Office of the Solicitor General, has asked the Court of Appeals to review the decision.⁵² Both legal processes are ongoing.

The withdrawal of Senator Trillanes' amnesty appears to be a politically motivated attempt to retaliate against a prominent critic of the President. Whereas Proclamation 572 claimed that Senator Trillanes had failed to fill in the application form for amnesty admitting his guilt, Senator Trillanes has since presented witnesses and documentary evidence proving he filled out the said

48 Al Jazeera, “Duterte pressed for details of \$44m 'hidden deposit'”, 16 February 2017, <https://www.aljazeera.com/news/2017/02/duterte-pressed-details-44m-hidden-deposit-170216083344753.html>.

49 Reuters, “Philippine president's son denies links to \$125-million drug shipment”, 7 September 2017, <https://uk.reuters.com/article/uk-philippines-drugs/philippine-presidents-son-denies-links-to-125-million-drug-shipment-idUKKCN1BI0K6>.

50 <https://www.officialgazette.gov.ph/2018/08/31/proclamation-no-572-s-2018/>

51 New York Times, “Second Philippine Senator Who Defied Duterte Is Arrested”, 25 September 2017, <https://www.nytimes.com/2018/09/25/world/asia/philippines-antonio-trillanes-duterte.html>

52 Interview with Senator Trillanes conducted by the authors, Manila, January 2019.

form.⁵³ Moreover, the 2010 amnesty proclamation had been approved by both Houses of Congress. The fact that Proclamation 572 named only Senator Trillanes, but no other soldiers involved in the uprisings, indicates that it is part of a targeted attempt to judicially harass the Senator. At least one other at the time serving lawmaker, Rep. Gary Alejano (who belongs to the same party as Senator Trillanes), was among the soldiers granted amnesty in 2010. In October 2018, IPU expressed concern that President Duterte's move was "a targeted attempt to silence Senator Trillanes".⁵⁴ The Integrated Bar of the Philippines said Trillanes' arrest "runs roughshod over the constitutional guarantee against double jeopardy that no person shall be held to answer twice for the same criminal offense."⁵⁵

Senator Trillanes has faced several other criminal charges since President Duterte took office. Many of these cases were filed in September 2017 around the time that President Duterte voided his amnesty, possibly indicating a coordinated attempt at judicial harassment. Senator Trillanes was charged with "inciting to sedition" (Article 142 of the Revised Penal Code) after six Duterte-allied lawyers filed a criminal complaint against him in September 2017. The charges relate to a joke Senator Trillanes made during a Senate speech, which referred to President Duterte publicly imploring soldiers to "shoot" him if the corruption allegations against him were true. Furthermore, Paolo Duterte and the President's son-in-law Maneses Carpio (the husband of Sara Duterte) filed four separate libel cases in the same month against Senator Trillanes over his allegations that the two are involved in corrupt practices or the drug trade. In June 2018, former Congressman and staunch Duterte-ally Jacinto "Jing" Paras filed charges of "grave threats" (Article 282 of the Revised Penal Code) against Senator Trillanes following an exchange of words between the two in the Senate.⁵⁶

3.2.3 SENATOR RISA HONTIVEROS

Risa Hontiveros, a member of APHR, has served in the Philippine Senate since 2016 as a representative of the left-of-centre Akbayan Citizens' Action Party (Akbayan), where she is part of the minority bloc. She was previously a member of the House of Representatives (2004-2010) under the Akbayan party-list. A vocal critic of the "war on drugs", Senator Hontiveros has consistently promoted a pro-human rights legislative agenda during her time in the Senate. She has also often been the subject of harsh rhetoric from the Duterte administration and is among the opposition figures most often targeted through "fake news" content (see Sections 4.1 and 4.2).

Senator Hontiveros is currently facing separate cases involving charges of kidnapping, wiretapping and obstruction of justice, which all relate to her role in sheltering witnesses to the police murder of 17-year-old Kian delos Santos in August 2017. While police claimed to have killed Kian delos Santos in self defence, CCTV footage emerged contradicting the police's account. It has become one of the most emblematic cases in the "war on drugs".⁵⁷

53 Ibid.; additional information provided by Senator Trillanes' office to APHR.

54 IPU, Philippines: Case No PHL/09 – Antonio Trillanes – Resolution adopted by consensus by the IPU Governing Council at the 139th IPU Assembly (18 October 2018), <https://www.ipu.org/download/5702>.

55 Integrated Bar of the Philippines, "Statement by the Board of Governors of the Integrated Bar of the Philippines on Presidential Proclamation No. 572, Series of 2018", 10 September 2018, <http://www.ibp.ph/pdf/announcement/IBP%20STATEMENT%20re%20Sen.%20Trillanes.pdf>.

56 Information provided to APHR from Senator Trillanes' office.

57 Kian delos Santos was shot dead by police near his home in Caloocan City on 16 August 2017. While police claimed they had killed delos Santos in self-defence after he opened fire, CCTV footage subsequently revealed how plainclothes officers had dragged an unarmed delos Santos through an alleyway before shooting him at close range. The case attracted widespread international and national attention, and sparked protests against the "war on drugs" across the Philippines. Three men were sentenced to life in prison on 29 November 2018 for their roles in the murder, to date the only convictions of police officers in drug-related killings under the Duterte administration. New York Times, "3 Philippine Police Officers Are Convicted in a Drug War Killing", 29 November 2018, <https://www.nytimes.com/2018/11/29/world/asia/philippines-duterte-drug-killings-police.html>.

Shortly after delos Santos' death, three witnesses to the killing (one 31-year-old man, and two boys, aged 13 and 16) and their families approached Senator Hontiveros' office to ask for help in providing a safe shelter. According to Senator Hontiveros, the witnesses feared for their safety if they entered the state witness protection program, because they feared that they might suffer abuse or retaliation from police.⁵⁸ Senator Hontiveros' office provided the three with protective custody between 19 August and 3 September 2017, a fact she made public during a press conference. Her office eventually handed over custody of the witnesses to the Senate, where they testified during a hearing into the killing of delos Santos on 5 September.⁵⁹ The witnesses were later placed in the custody of the Bishop of Calocan at the parents' request.⁶⁰

During a speech to the Senate on 11 September, Senator Hontiveros revealed images of text messages from Justice Secretary Vitaliano Aguirre, which had been captured on camera by a journalist. The messages, which Secretary Aguirre sent during the Senate hearing while the witnesses were testifying, instructed former Congressman Jacinto "Jing" Paras to "expedite" the cases against Senator Hontiveros.⁶¹ Both Secretary Aguirre and Paras (who has since become Undersecretary of the Department of Labor) are long-time allies of the President and linked to the pro-Duterte group Volunteers against Crime and Corruption.

On 25 September, Paras filed several cases against Senator Hontiveros with the Ombudsman's Office. These included "kidnapping and failure to return a minor" and "inducing a minor to abandon his home" (Articles 270 and 271 of the Penal Code) over her role in sheltering the witnesses; and "obstruction of justice" under Presidential Decree No. 1829 and "wiretapping" under the Anti-Wiretapping Law (Republic Act 4200) for revealing the text messages in her speech to the Senate.⁶² Separately, on 2 October, Secretary Aguirre filed a "wiretapping" complaint against Senator Hontiveros with the Pasay City's Prosecutor Office.

All charges appear entirely baseless and politically motivated, attributed to Senator Hontiveros' role in advocating for accountability in one of the drug war's most high-profile murders. The Senator's office is in possession of notarized affidavits and letters of consent from the witnesses' parents confirming they asked for assistance in providing them with shelter.⁶³ The content of the text message exchange between Paras and Justice Secretary Aguirre, which neither man has denied the veracity of, appears to indicate a pre-meditated plan to frame criminal cases against Senator Hontiveros.

Showing screenshots of text messages filmed by a journalist does not meet the definition of "wiretapping" as defined in Presidential Decree No. 1829. Furthermore, Senator Hontiveros' speech in the Senate is protected under parliamentary immunity, as guaranteed by the Philippine Constitution, and the charges related to it should therefore be dismissed outright.⁶⁴

58 Interview with Risa Hontiveros conducted by the authors, Manila, January 2018.

59 Philstar.com, "Witnesses in Kian's killing now with Hontiveros", 20 August 2017, <https://www.philstar.com/headlines/2017/08/20/1731211/witnesses-kians-killing-now-hontiveros>.

60 Information provided to APHR from Senator Hontiveros' office.

61 Rappler, "Aguirre, Jing Paras prepare slew of cases vs Hontiveros", 15 September 2017, https://www.rappler.com/nation/182241-aguirre-paras-hontiveros-complaint#cxrecs_s.

62 Information provided to APHR from Senator Hontiveros' office.

63 Interview with Risa Hontiveros conducted by the authors, Manila, January 2018.

64 The Constitution provides for a limited form of parliamentary immunity, which includes a prohibition on charging lawmakers with civil or criminal offenses for words spoken during debates, privilege speeches or in committees while Congress is in session. Section 11, Article VI of the 1987 Constitution reads: "A Senator or Member of the House of Representatives shall, in all offenses punishable by not more than six years imprisonment, be privileged from arrest while the Congress is in session. No Member shall be questioned nor be held liable in any other place for any speech or debate in the Congress or in any committee thereof." For more background information on the principle of parliamentary immunity, see APHR, *Death Knell for Democracy: Attacks on Lawmakers and the Threat to Cambodia's Institutions* (March 2017), pp. 41-50, https://aseanmp.org/wp-content/uploads/2017/03/APHR_Cambodia-MPs-Report_Mar-2017.pdf

Investigations into all cases are currently ongoing, with no trial or hearing dates set. “These cases are purely filed to harass. Normally you would trust justice to take its course, but under this administration there is still a fear they could lead to conviction,” Senator Hontiveros told APHR in January 2019.⁶⁵ It is particularly concerning that Justice Secretary Aguirre filed the case with the Pasay City’s Prosecutor Office, which is under his purview, instead of the Ombudsman’s Office. This also raises the prospect of political interference in the case.

**“THESE CASES ARE PURELY
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COULD LEAD TO CONVICTION”
- SENATOR HONTIVEROS**

⁶⁵ Interview with Risa Hontiveros conducted by the authors, Manila, January 2018.



JACINTO “JING” PARAS: CAUGHT IN THE ACT?

Jacinto “Jing” Paras was involved in another incident some six months after he had filed the charges against Senator Hontiveros. Tom Villarin, a member of APHR, was a Member of the House of Representatives between 2016 and 2019 with the Akbayan party-list, the same party as Senator Hontiveros. In the morning of 20 March 2018, Tom Villarin was attending a hearing in the House of Representatives when Paras, whom Tom Villarin says he had never interacted with before, approached him. According to Tom Villarin, Paras greeted him by saying: “Kayo pala ni Senator Hontiveros magkasama” (“So you are with Senator Hontiveros.”) and left shortly after. A few minutes later, Tom Villarin noticed that his mobile phone was missing. After contacting his staff to help him search for it, a security guard found the phone in a different room in the House of Representatives building about two hours later.

Tom Villarin requested CCTV footage to determine what had happened to his phone. The footage clearly showed how Paras approached Tom Villarin during the hearing, placed his own mobile phone on top of Tom Villarin’s, and then picked up both phones together when he left. The footage also showed Paras taking the phone into a different room in the House of Representatives building where he left it behind about one hour later.¹ During a 29 May speech in the House of Representatives, Tom Villarin showed the CCTV footage and accused Paras of stealing the phone in order to find information about his communications with Senator Hontiveros. Tom Villarin also filed a criminal case against Paras on charges of “theft” under Article 308 of the Revised Penal Code. Paras has denied the accusation and says that he picked up the phone by accident.² The police investigation is still ongoing.

1 Case Investigation Data Form by the Office of the Prosecutor of Quezon City, 28 May 2018 (copy on file with report authors); interview with Tom Villarin conducted by report authors, Manila, January 2019.

2 Rappler, “Akbayan’s Villarin accuses DOLE’s Jing Paras of trying to steal iPhone X”, 29 May 2018, <https://www.rappler.com/nation/203617-tom-villarin-complaint-jing-paras-theft-iphone-x>.

CCTV footage from inside the House of Representatives building in Manila showing Jacinto “Jing” Paras taking and then leaving the mobile phone of Rep. Tom Villarin.

Credit: Supplied to APHR by Tom Villarin’s office.





Poster showing some of the Representatives of the 17th Congress inside the House of Representatives building in Manila, January 2019. Credit: APHR.

3.3 MEMBERS OF THE HOUSE OF REPRESENTATIVES

3.3.1 REPRESENTATIVE FRANCE CASTRO

France Castro, a member of APHR, served as a Representative between 2016 and 2019 for the Alliance of Concerned Teachers (ACT) party-list, which belongs to the far left-wing Makabayan bloc in the House of Representatives. The Makabayan bloc initially allied itself with President Duterte following his election win and belonged to the House Majority. However in September 2017 the bloc's seven members defected from the Majority in protest against the President's policies.⁶⁶ The bloc has since been the target of frequent harassment and four of its members have faced trumped-up criminal charges. In addition to France Castro they include Carlos Zarate, Ariel Casilao and Antonio Tinio, whose cases are detailed below. Government officials and pro-Duterte online activists have also frequently accused the Makabayan bloc of ties to left-wing armed opposition groups (see Chapter 4: Threats and harassment).

In November 2018, France Castro participated in a National Solidarity Mission (NSM) to provide school supplies and food to indigenous Lumad communities in Mindanao, organised by the national non-governmental organisation Save Our Schools (SOS) Network.⁶⁷ The SOS Network had received reports of Lumad communities in the Talaingod municipality of Davao del Norte province being harassed by a local paramilitary group, which had reportedly imposed a food blockade in the area and padlocked the door to a school in the village of Dulya, preventing students from attending classes. Philippine security forces and paramilitaries in the region have a long history of human rights abuses against indigenous communities, whom they often accuse of supporting the communist armed group the New People's Army (NPA).⁶⁸

66 The Makabayan bloc had initially allied itself with President Duterte due to his commitments to pursue peace talks with armed groups in Mindanao, to steer Philippine foreign policy away from the US, and to appoint left-wing officials to senior government positions. In September 2017, however, the bloc left the government majority in the House, citing an over-reliance on China in foreign affairs, attempts to undermine checks and balances on executive power, and human rights issues including the "war on drugs" and the attempt to bring back the death penalty. (Interviews with members of the Makabayan bloc conducted by the authors, Manila, January 2019). By the time they formally defected, the Makabayan bloc members had already been stripped of their committee chairpersonships due to their opposition to the reintroduction of the death penalty (further detail below in Chapter 4). Philstar.com, "Makabayan bloc leaves House supermajority, ends Duterte alliance", 14 September 2017, <https://www.philstar.com/headlines/2017/09/14/1739108/makabayan-bloc-leaves-house-supermajority-ends-duterte-alliance>.

67 "Lumad", a Visayan word meaning "indigenous" or "native", is a collective term used for at least 17 different indigenous peoples in Mindanao.

68 For background, see Human Rights Watch, "Duterte Plan Against Rebels Ignores Tribal Community Concerns", 6 February 2018, <https://www.hrw.org/news/2018/02/06/duterte-plan-against-rebels-ignores-tribal-community-concerns>; Human Rights Watch, "Philippines: Paramilitaries Attack Tribal Villages, Schools", 23 September 2015, <https://www.hrw.org/news/2015/09/23/philip->

On the evening of 28 November, teachers at the school in Dulya contacted the NSM delegation to say they were being threatened by armed men outside of the school who warned that “something will happen” to them. Teachers at the school reported that at least one man was sharpening a sword outside of the school in a threatening manner.⁶⁹ The NSM delegation travelled to the school in a convoy of vans, where they picked up teachers as well as 14 underage Lumad students with a view to moving them to a safe house.⁷⁰ The delegation was harassed while travelling to Dulya, including by unknown men throwing rocks at the vans, breaking a window. At one point, two masked and armed men riding a motorcycle (so-called “riding in tandem”, a common modus operandi in drug war killings) drove past the delegation and fired two shots towards them but failed to hit anyone.⁷¹

When returning from Dulya, the delegation was stopped at a military checkpoint close to the village of Igang. Military personnel brought them to a police station in Talaingod, where 18 members of the delegation were eventually arrested, including France Castro and former Representative Satur Ocampo. The so-called “Talaingod 18” were initially charged with “kidnapping and failure to return a minor” under the Expanded Anti-Trafficking in Persons Act, but the charges were later downgraded to “other acts of child abuse” under Republic Act 7610. All 18 people were released on bail on 1 December, but the investigation into the case is ongoing.

The case appears politically motivated, as the delegation escorted the minors from the village at the request of their parents, in order to protect them from potential abuse by paramilitaries. Given the paramilitaries’ history of abuse towards indigenous communities in the region, which has often included attacks on schools, it was reasonable to assume that their safety was at risk.⁷² Moreover, it is particularly worrying that the convoy was shot at by armed men. The delegation had informed the local authorities, including the offices of the Provincial Governor and the Department of Education, of their presence and plans to deliver aid to the Lumad communities. The NSM’s actions clearly do not meet the definition of “other acts of neglect, abuse, cruelty or exploitation”, as defined by RA 7610. On 12 December, 46 Representatives passed a resolution calling for the “obviously false” and “trumped-up” charges against France Castro to be dropped immediately.⁷³

pines-paramilitaries-attack-tribal-villages-schools; and CNN Philippines, “Duterte threatens to bomb Lumad schools”, 25 July 2017, <http://cnnphilippines.com/news/2017/07/25/Duterte-threatens-to-bomb-Lumad-schools.html>. The NPA, the armed wing of the Communist Party of the Philippines, has been engaged in an armed rebellion to create a Maoist state in the Philippines since 1969. Human rights groups have accused the NPA of human rights violations including abductions and killings of civilians. Human Rights Watch, “Philippines: Communist Rebels Target Civilians”, 5 October 2011, <https://www.hrw.org/news/2011/10/05/philippines-communist-rebels-target-civilians>.

69 Interview with staff from France Castro’s office conducted by the authors, Manila, January 2019.

70 Evangelical Christian groups and churches in the Philippines operate a network of safe houses to house Lumad communities that have been displaced or threatened by paramilitary groups or security forces. One of the largest such safe houses is the Haran Mission House operated by the United Churches of Christ in the Philippines in Davao City, which has housed hundreds of Lumad people for more than two decades. The Haran Mission House has often been harassed by security forces or the PNP, see for example: ABS-CBN, “Lumad ‘goddess’ storms sanctuary of threatened IPs”, 24 July 2015, <https://news.abs-cbn.com/focus/07/24/15/lumad-goddess-storms-sanctuary-threatened-ips>.

71 Affidavit-complaint filed with Davao del Norte Provincial Prosecutors Office on 29 November 2018 and Counter-Affidavit filed by France Castro with Davao del Norte Provincial Prosecutors Office on 8 January 2019 (copies on file with the report authors); Interview with staff from France Castro’s office conducted by the authors, Manila, January 2019.

72 MindaNews, “Army hit for continued attacks vs. Lumad schools, children in Mindanao”, 27 November 2018, <https://www.mindanews.com/top-stories/2018/11/army-hit-for-continued-attacks-vs-lumad-schools-children-in-mindanao/>

73 House of Representatives of the Philippines, 17th Congress, House Resolution 2367 (copy on file with the report authors).

3.3.2 REPRESENTATIVES ANTONIO TINIO AND ARIEL CASILAO

Antonio Tinio served as a Member of the House of Representatives between 2010 and 2019 with the ACT party-list. Ariel Casilao served in Congress between 2016 and 2019 with the Anakpawis party-list, representing trade unions and peasant groups. Both are member of APHR and were members of the Makabayan bloc, as noted above.

The charges against Antonio Tinio and Ariel Casilao stem from a demonstration they attended in Davao City on 23 October 2018. This was part of a series of similar rallies organised by the Makabayan bloc across Mindanao to protest the imposition of Martial Law on the island.⁷⁴ The demonstration was peaceful, and was, among others, attended by children and youth belonging to Lumad communities.

On the day of the rally, Sara Duterte, the President's daughter and current mayor of Davao City, posted pictures on social media of Antonio Tinio and Ariel Casilao attending the demonstration. She wrote: "You take [minors] out of school to put them in the streets to conduct your rallies. Again, you do not deserve to be in Congress. When will the House of Representatives ever kick you out."⁷⁵ On 4 December, Davao City police charged Antonio Tinio and Ariel Casilao with "other acts of child abuse" under PA 7610. The investigation into the case is still ongoing.

The charges appear entirely baseless. There is no evidence of the participants "influencing" the youth to be "angry and resent the present government" as claimed in the subpoena filed by the Davao City Prosecutor's Office.⁷⁶ Even if they had done so, this would hardly constitute "other acts of neglect, abuse, cruelty or exploitation", as defined by RA Act 7610. The charges further violate the right to freedom of peaceful assembly, which is guaranteed in the Philippine Constitution to all citizens regardless of age.⁷⁷ This right is also protected by international treaties to which the Philippines is a state party, including the International Covenant on Civil and Political Rights (ICCPR) and the Convention of the Rights of the Child (CRC). The latter explicitly enshrines the right of children to take part in peaceful assemblies.⁷⁸

The case appears to be part of a wider effort to harass the Makabayan bloc and their affiliated social organisations (see Chapter 4: Threats and harassment). In a recent example of this in January 2019, it emerged that the PNP had instructed its intelligence operatives to develop a database of teachers belonging to the ACT (which acts as a social organisation for teachers as well as a political party). A memo signed by Police Chief Inspector Pancho Dasca Doble, which was left in a school after a police visit, instructed officers to "conduct an inventory" of all teachers who are "members of or aligned with the ACT".⁷⁹ The Philippine Commission on Human Rights condemned such profiling as a violation of "the rights to privacy and association".⁸⁰

74 President Duterte imposed Martial Law in Mindanao through Proclamation no. 216 on 23 May 2017 after the armed group Maute – with links to the Islamic State – carried out deadly attacks in Marawi City and occupied key infrastructure. Although combat operations in Marawi City formally ended in October 2017, Martial Law has been extended twice since for 12-month periods, most recently in December 2018. Human rights groups and UN experts have raised concerns about increasing human rights violations by Philippine security forces in Mindanao during the imposition of Martial Law, including military operations leading to the displacement of Lumad people. See for example: UN Officer of the High Commissioner for Human Rights, "Philippines warned over 'massive' impact of military operations on Mindanao indigenous peoples", 27 December 2017, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22567&LangID=E>.

75 Posts from Sara Duterte's Instagram account, 23 October 2018, <https://www.instagram.com/p/BpQvtAmAD9d/> and <https://www.instagram.com/p/BpQuyIcgZoV/>.

76 Affidavit-complaints attached to Subpoena issued by the Davao City Prosecutor's Office to Antonio Tinio on 13 November 2019 (copy on file with the report authors).

77 1987 Constitution of the Republic of the Philippines, Article III, Section 4, <https://www.officialgazette.gov.ph/constitutions/the-1987-constitution-of-the-republic-of-the-philippines/the-1987-constitution-of-the-republic-of-the-philippines-article-iii/>.

78 ICCPR, Article 21; CRC, Article 15.

79 Memo issued by Zambales Police Provincial Office on 27 December 2019 (copy on file with the authors).

80 Commission on Human Rights of the Philippines, "Statement of CHR spokesperson, Atty Jacqueline Ann de Guia, on the alleged

3.3.4 REPRESENTATIVE CARLOS ZARATE

Carlos Zarate, a member of APHR, has served in the House of Representatives since 2013 with the left-wing Bayan Muna party-list and is a member of the Makabayan bloc.

The charges against Carlos Zarate relate to his participation in a demonstration on 13 November 2017 against the visit of US President Donald Trump to Manila during the 31st ASEAN Summit. The protest, which was organised by various leftist groups including Bayan Muna, turned violent when protesters tried to charge through a police barricade. Protesters used sticks to beat police while police responded with water cannons and sonic alarms. Several protesters and police received minor injuries, although the numbers are disputed.⁸¹

On 30 January 2018, more than two months after the demonstration, Carlos Zarate, along with four others, was charged with “conducting a rally without a permit” under Section 13(a) of the Public Assembly Act of 1985, and with “direct assault with physical injury” and “resistance and disobedience to a person in authority” under Articles 148 and 158 of the Revised Penal Code. The Manila City Prosecutor’s Office dismissed all charges against Carlos Zarate and his co-accused on 8 May 2018.

The charges appear to have been baseless and part of the wider effort to judicially harass members of the Makabayan bloc. The charges under Articles 148 and 158 of the Revised Penal Code were based on contradictory testimony of the police officers, while Carlos Zarate denied involvement in any form of violence during the demonstration.⁸² It is also worth noting that the Public Assembly Act is in itself problematic, as it requires people to apply for permits with state authorities to organise protests outside certain designated “peace parks”.⁸³ Under international standards, freedom to assemble peacefully should generally not require seeking permission from authorities because this could be misused to suppress legitimate protests.⁸⁴ According to the former UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association Maina Kiai, the right to freedom of peaceful assembly should be “governed at most by a regime of prior notification regarding the holding of peaceful assemblies, in lieu of a regime of authorization.”⁸⁵

police profiling of Alliance of Concerned Teachers members”, 6 January 2019, <http://chr.gov.ph/statement-of-chr-spokesperson-at-ty-jacqueline-ann-de-guia-on-the-alleged-police-profiling-of-alliance-of-concerned-teachers-members/>.

81 Agence France Presse, “Protesters in Manila call for ‘banning’ Trump”, 13 November 2017, <https://www.aljazeera.com/news/2017/11/protesters-manila-call-banning-trump-171113102739919.html>.

82 Resolution by the Office of the City Prosecutor of Manila, 8 May 2018 (copy on file with the authors).

83 Public Assembly Act of 1985, Section 4, available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/2315/102477/F1766505144/PHL2315.pdf>.

84 International Center for Not-for-Profit Law, “Freedom of Assembly Procedures of Permission and Notification” (April 2013), <http://www.icnl.org/research/resources/assembly/Permission-Notification%20article.pdf>; UN Human Rights Council, “Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai” UN Doc. A/HRC/20/27, 21 May 2012, https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf.

85 UN Human Rights Council, “Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai”, UN Doc. A/HRC/23/39, 24 April 2013, https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.39_EN.pdf.

3.3.5 REPRESENTATIVE TEDDY BAGUILAT

Teodoro “Teddy” Baguilat (commonly referred to by his nickname), a member of the Liberal Party, served as the Representative for Ifugao Province’s Lone District between 2010 and 2019. He is a Board Member of APHR. He was among the few Liberal Party lawmakers who did not switch to PDP-Laban following President Duterte’s election; instead, he joined an independent minority bloc in the House. Teddy Baguilat was also embroiled in a contentious dispute with members of PDP-Laban over the House Minority Leadership in June 2016 (see Section 4.3.1) A high-profile critic of the president, Teddy Baguilat had called for a congressional investigation into drug-related killings as early as in July 2016, long before the true extent of the violence was widely known.⁸⁶

The case against Teddy Baguilat dates back to his tenure as Governor of Ifugao province (2001-2004). In 2003, political opponents accused Teddy Baguilat of corruption after he allegedly colluded with two other officials to purchase second-hand vehicles for the Ifugao state government without a public bidding process. On 24 September 2009, six years after the original accusation was made, a formal complaint was filed against him before the Office of the Ombudsman. Despite Teddy Baguilat’s multiple formal requests to the Ombudsman’s office for updates on the case, the case only reached the Sandiganbayan, a special court established to oversee cases involving graft or other corrupt practices of state officials, on 9 February 2018.⁸⁷ The Office of the Ombudsman charged Teddy Baguilat with violations of Section 3(e) and (g) of Republic Act 3019, also known as the Anti-Graft and Corrupt Practices Act. After the case was first filed, Teddy Baguilat had to post a bail of P120,000 (USD2,290) in order to be able to travel abroad to Germany to attend a knowledge-sharing seminar with the German Free Democratic Party.⁸⁸

On 21 April 2018, the Sandiganbayan dismissed the case against Teddy Baguilat, stating in its resolution that “there appears to be no justifiable basis as to why the Ombudsman could not have earlier resolved these cases against the accused.” The Sandiganbayan upheld the dismissal on 21 August 2018 in response to the prosecution filing a motion for partial reconsideration.⁸⁹

Teddy Baguilat told APHR that while he is pleased that the long-running case had finally been dismissed, he suspects it was resurrected as a form of harassment due to his public opposition to the Duterte government.⁹⁰ The timing of the charges filed against Teddy Baguilat, seen in the light of the Duterte administration’s attempts to interfere in the work of the Ombudsman’s Office and to resurrect old charges against other political opponents, appears to indicate that the case was politically motivated.

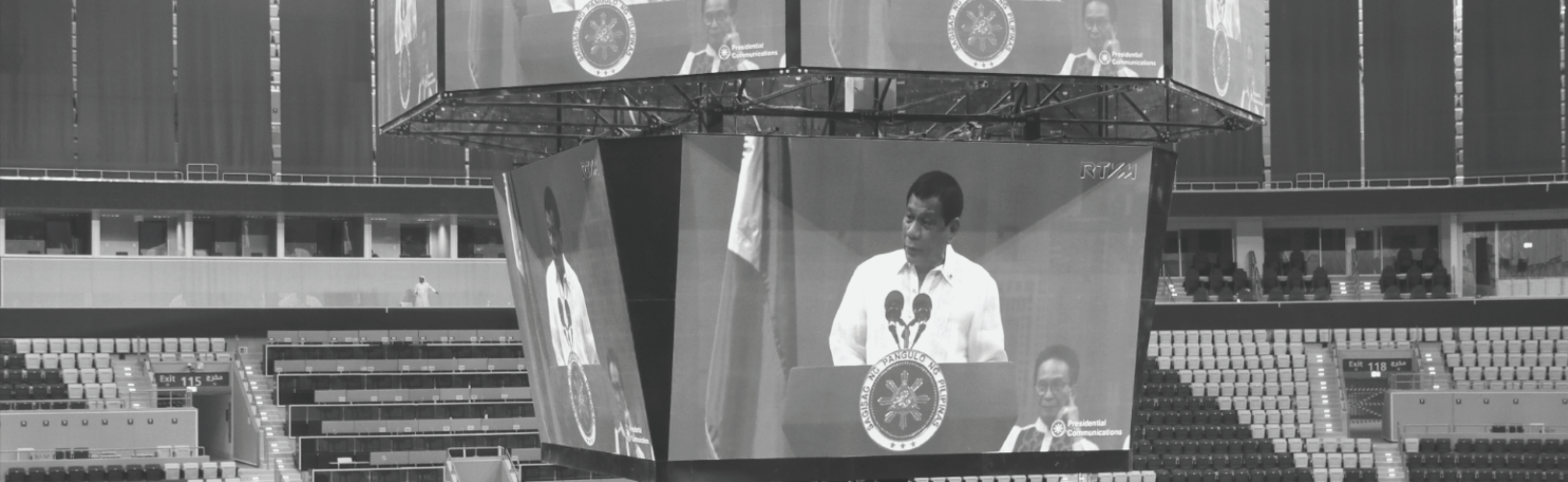
86 Rappler, “Duterte’s war vs drugs has 2 faces – lawmaker”, 14 July 2016, <https://www.rappler.com/nation/139673-duterte-war-drugs-two-faces-baguilat>.

87 Manila Bulletin, “Sandiganbayan clears Ifugao lawmaker of graft charges”, 21 April 2018, <https://news.mb.com.ph/2018/04/21/sandiganbayan-clears-ifugao-lawmaker-of-graft-charges>.

88 ABS-CBN, “Baguilat pleads not guilty in vehicle purchase case”, 26 March 2018, <https://news.abs-cbn.com/news/03/26/18/baguilat-pleads-not-guilty-in-vehicle-purchase-case>.

89 GMA News, “Sandiganbayan rules with finality on dismissal of graft raps vs. Baguilat”, 21 August 2018, <https://www.gmanetwork.com/news/news/nation/664914/sandiganbayan-rules-with-finality-on-dismissal-of-graft-raps-vs-baguilat/story>.

90 Interview with Teddy Baguilat conducted by the authors, Manila, January 2018.



4. THREATS, HARASSMENT AND UNDERMINING DEMOCRACY

President Duterte addressing an audience on live TV. Credit: K Abejuela, Shutterstock.com

While the Duterte administration has made frequent use of trumped-up criminal charges against opponents, the government has also relied on a range of other tools to undermine the opposition. This chapter documents some of the most common tactics, including public threats and harassment, online disinformation or “fake news” to discredit critics, and the manipulation of democratic processes to sideline the opposition in Congress.

4.1 THREATS AND HARASSMENT BY GOVERNMENT OFFICIALS

President Duterte’s time in office has been marked by aggressive rhetoric against opponents, which often includes threats of violence or legal action. The President and his allies have on numerous occasions directed such threatening and disparaging language towards opposition lawmakers.

“NAMING NAMES”: RELEASE OF PUBLIC LISTS

The administration has on at least four occasions publicly released lists of individuals supposedly involved in criminal activities or plotting to overthrow the government. Already in August 2018 the President released a list of 150 people allegedly involved in the drug trade, including judges, police and military personnel, as well as 50 current and former government officials, including at least two Representatives. The President said of the list: “There is no due process in my mouth.”⁹¹ On 9 March 2018, the Department of Justice filed a list of 649 people it sought to declare as “terrorists” under the Human Security Act with a Manila Regional Trial Court. The list included at least one former lawmaker and the Philippine UN Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz.⁹²

In December 2018, the President’s son Paolo (the former Vice-Mayor of Davao City) published a list on social media of dozens of people and organisations allegedly involved in an “Oust Duterte Movement”, including Vice President Leni Robredo and the Makabayan bloc. Paolo Duterte removed the post after the list was widely ridiculed due to numerous factual errors and the inclusion of at

91 Deutsche Welle, “The Philippines’ President Duterte threatens officials with ties to drug trade”, 7 August 2016, <https://www.dw.com/en/the-philippines-president-duterte-threatens-officials-with-ties-to-drug-trade/a-19454158>.

92 Nikkei Asian Review, “UN official fears for safety after Manila lists her as terrorist”, 13 March 2018, <https://asia.nikkei.com/Politics/International-relations/UN-official-fears-for-safety-after-Manila-lists-her-as-terrorist>.

least one prominent supporter of the President.⁹³ On 14 March 2019, in the build-up to the May mid-term elections, President Duterte again released a list of politicians – including mayors and Representatives – allegedly involved in the illegal drug trade.⁹⁴ In none of these cases was any evidence provided to support the accusations, and the lists’ main purpose appears to have been to publicly harass, discredit and intimidate critics.

THREATS OF CRIMINAL PROSECUTION

President Duterte has also threatened to arrest lawmakers who oppose his policies. In July 2017, for example, the President said of opponents to the imposition of Martial Law on Mindanao: “I will arrest you and put you behind bars.”⁹⁵ In August 2016, the President similarly threatened to shut down Congress and arrest lawmakers resisting his plans to rewrite the Constitution: “I will tell them, ‘Don’t push it, because if you do, I will close down Congress. I will arrest of you [sic].’ You choose. I am not kidding.”⁹⁶

MISOGYNIST ATTACKS

Much of the harassment has been highly misogynist, echoing the sexist remarks that President Duterte has become known for during his time in office.⁹⁷ As mentioned above, during the vilification campaign of Senator Leila de Lima, the President referred to her in public as an “immoral woman” while making constant jokes about her sex life. The administration also attempted to show a purported sex video featuring de Lima (which has since been proven to be fake) in both houses of Congress. President Duterte has often also publicly berated Vice-President Leni Robredo, calling her “gentle” but “weak”, claiming she is unfit for the presidency, and accusing her family members of illegal drug trafficking without proof.⁹⁸ He has also made public jokes about the length of her skirts, while repeatedly stating that she and other female officials are not qualified to hold office.⁹⁹ In September 2017, the President called Senator Risa Hontiveros “stupid” for her assertion that there was a state policy to kill drug suspects.¹⁰⁰ In a February 2019 report on women human rights defenders, a UN expert noted how the Duterte administration had targeted women in leadership positions through harassment and politically motivated criminal cases.¹⁰¹

93 Interaksyon, “Listing the inconsistencies in Paolo Duterte’s list of ‘destabilizers’”, 11 December 2018, <http://www.interaksyon.com/rumor-cop/2018/12/11/140210/listing-the-inconsistencies-in-paolo-dutertes-list-of-destabilizers>.

94 Manila Times, “Duterte names poll bets linked to drugs”, 14 March 2019, <https://www.manilatimes.net/duterte-names-poll-bets-linked-to-drugs/525736>.

95 Rappler, “Duterte threatens to jail martial law critics”, 2 July 2017, <https://www.rappler.com/nation/174496-duterte-threatens-jail-martial-law-critics>.

96 Inquirer, “Duterte threatens self-serving lawmakers”, 4 August 2016, <https://newsinfo.inquirer.net/802899/duterte-threatens-self-serving-lawmakers>.

97 The Diplomat, “Duterte’s Anti-Women Behavior Sparks the Philippines’ Own #MeToo Moment”, 27 June 2018, <https://thediplomat.com/2018/06/dutertes-anti-women-behavior-sparks-the-philippines-own-metoo-moment>.

98 ABS-CBN, “Robredo hits back at Duterte over ‘weak’ remark”, 5 October 2018, <https://news.abs-cbn.com/news/10/05/18/robredo-hits-back-at-duterte-over-weak-remark>.

99 Rappler, “At Yolanda anniversary, Duterte teases Robredo about short skirt”, 9 November 2016, <https://www.rappler.com/nation/151751-duterte-teases-robredo-yolanda-anniversary>

100 SunStar, “Duterte to Hontiveros: No state policy to kill drug suspects”, 8 September 2017, <https://www.sunstar.com.ph/article/162444>.

101 UN Human Rights Council, “*Situation of women human rights defenders: Report of the Special Rapporteur on the situation of human rights defenders*”, UN Doc. A/HRC/40/60, 10 January 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/004/97/PDF/G1900497.pdf?OpenElement>

“RED-TAGGING”

Another frequent tactic is to accuse critics of ties to armed left-wing groups, a practice known as “red-tagging” in the Philippines. Human rights groups and media outlets have documented how security forces and government officials have long harassed journalists, politicians and activists who work on indigenous rights issues through “red-tagging”.¹⁰² Such tactics have continued under the current administration, in particular against the Makabayan bloc. In December 2017, for example, then Speaker Pantaleon Alvarez claimed that the Makabayan bloc was funding itself through “revolutionary taxes” collected by the armed communist group the New People’s Army (NPA). Mocha Uson, a social media celebrity who served as Assistant Secretary of the Presidential Communications Operations Office (PCOO) from May 2017 to October 2018, has often accused Makabayan members of “terrorist” links.¹⁰³ In the same vein, the President’s daughter and current mayor of Davao City Sara Duterte has frequently claimed that the Makabayan bloc supports the NPA and has called for their removal from the House of Representatives.¹⁰⁴ In December 2018, the Armed Forces Chief of Staff General Carlito Galvez Jr accused Representative France Castro of being an “active member” of the NPA following her arrest in Mindanao (see Chapter 3).¹⁰⁵

**“OUR ABILITY TO HOLD THE EXECUTIVE TO ACCOUNT HAS DIMINISHED. THESE ARE DEFINITELY UNUSUAL TIMES”
- SENATOR TRILLANES**

However it is not only members of the far left that have been accused of ties to armed groups. In June 2017 Justice Secretary Vitaliano Aguirre implied that opposition Senators Bam Aquino and Antonio Trillanes, and Representative Gary Alejano were linked to the siege of Marawi by the Islamic State-affiliated armed Maute group. The Justice Secretary later retracted his remarks after media pointed out that a picture he used as supposed proof had been taken in 2015 and not

in June 2017 as he had claimed.¹⁰⁶ In October 2018, then Presidential spokesperson Harry Roque and army officials claimed that opposition politicians – including the Liberal Party, Antonio Trillanes’ Magdalo party and the Communist Party of the Philippines – were involved in a so-called “Red October” plot to bring down the government.¹⁰⁷

Lawmakers told APHR how the aggressive rhetoric coupled with the threat of arrest has stifled debate in Congress and undermined the legislature’s role in holding the government to account. Several lawmakers spoke of how the administration’s tirades and harassment have had a chilling effect, often mentioning the detention of Senator de Lima as having had a marked impact. “The cases against me and de Lima have absolutely had a chilling effect. It has forced other politicians to abdicate their role in providing checks and balances on the presidency. It has wsent a signal that anything can be done on trumped up charges. Our ability to hold the executive to account has diminished. These are definitely unusual times,” Senator Trillanes told APHR.¹⁰⁸ One Representative

102 VERA Files, “Red-tagging a vicious form of fake news”, 25 February 2019, <http://verafilms.org/articles/red-tagging-vicious-form-fake-news>; The Lowy Interpreter, “In the Philippines, activists increasingly face a ‘living hell’”, 15 February 2019, <https://www.loyyinstitute.org/the-interpreter/philippines-activists-increasingly-face-living-hell>.

103 ABS-CBN, “Mocha Uson joins party-list, wants to pester Makabayan bloc in Congress”, 15 October 2018, <https://news.abs-cbn.com/news/10/15/18/mocha-uson-joins-party-list-wants-to-pesther-makabayan-bloc-in-congress>.

104 Rappler, “Sara Duterte wants Makabayan bloc expelled from Congress”, 9 October 2018, <https://www.rappler.com/nation/213846-sara-duterte-expel-makabayan-bloc-congress>.

105 Inquirer, “AFP chief tags Ocampo, Castro as ‘active members’ of CPP-NPA”, 3 December 2018, <http://newsinfo.inquirer.net/1059381/afp-chief-tags-ocampo-castro-as-active-members-of-cpp-npa>.

106 CNN Philippines, “Justice Secretary tags opposition senators to Marawi crisis, Resorts World attack”, 13 June 2017, <http://cnnphilippines.com/news/2017/06/07/justice-secretary-vs-opposition-senators.html>.

107 South China Morning Post, “Philippines’ hunt for Red October communist plot: a Duterte hoax?”, 3 October 2018, <https://www.scmp.com/week-asia/politics/article/2166737/philippines-hunt-red-october-communist-plot-duterte-hoax>.

108 Interview with Antonio Trillanes conducted by the authors, Manila, January 2019.

stated: “Duterte’s attacks have definitely had an effect of silencing debate. There is less debate now, both on the House floor and in committees.”¹⁰⁹ Another lawmaker said there was a “climate of fear and self-censorship” in the House of Representatives.¹¹⁰

The right to freedom of expression is protected under both the Philippine Constitution and international treaties to which the Philippines is a state party, including the ICCPR. The IPU and the UN Development Program have stressed how it is vital for lawmakers to be able to speak freely in order to exercise their mandates, including to protect human rights: “Parliament can fulfil its role only if its members enjoy the right to freedom of expression so that they can speak on behalf of the people they represent. Members of parliament must be free to seek, receive and impart information and ideas without fear of reprisal.”¹¹¹

“DUTERTE’S ATTACKS HAVE DEFINITELY HAD AN EFFECT OF SILENCING DEBATE. THERE IS LESS DEBATE NOW, BOTH ON THE HOUSE FLOOR AND IN COMMITTEES.”

4.2 “DUTERTROLLS”: ONLINE ABUSE AND DISINFORMATION

FACEBOOK AND THE INTERNET IN THE PHILIPPINES

The Philippines is ripe for online disinformation, in particular through Facebook, the by far most popular social media platform. The company has expanded rapidly in the Philippines since 2013 through partnerships with local telecommunications companies that offer free or discounted internet packages that come pre-packaged with Facebook accounts. In 2018, there were some 67 million active Facebook users in the Philippines, more than 95 per cent of all Internet users and the sixth largest group of Facebook users in the world.¹¹² Since Facebook is offered for free to mobile Internet users while news sites incur data charges, the platform has become the most important, and sometimes the only, source of online news for many Filipinos.

Facebook’s growth has led to a plethora of online disinformation, or “fake news”, and unchecked abuse – including threats and insults – targeting politicians, among others. The company has been widely criticised by Philippine media, human rights activists and politicians for failing to put in place adequate mechanisms to stem the abuse.¹¹³ In response to criticism, Facebook has partnered with media organizations to fact check online content while also taking steps to remove pages and accounts promoting disinformation.¹¹⁴

109 Interview with Antonio Tinio conducted by the authors, Manila, January 2019.

110 Interview with Carlos Zarate conducted by the authors, Manila, January 2019.

111 IPU and UN Development Program, *Global Parliamentary Report 2017 – Parliamentary oversight: Parliament’s power to hold government to account* (October 2017), <https://www.ipu.org/file/3502/download?token=MLXYMu51>, p. 91

112 We Are Social, *Global Digital Report 2018* (January 2018), <https://digitalreport.wearesocial.com/download>.

113 Bloomberg, “What Happens When the Government Uses Facebook as a Weapon?”, 7 December 2017, <https://www.bloomberg.com/news/features/2017-12-07/how-rodrico-duterte-turned-facebook-into-a-weapon-with-a-little-help-from-facebook>; Buzz-Feed News, “How Duterte Used Facebook To Fuel the Philippine Drug War”, 4 September 2018, <https://www.buzzfeednews.com/article/daveyalba/facebook-philippines-dutertes-drug-war>.

114 Straits Times, “Facebook takes down more sites in the Philippines, including several that are pro-Duterte”, 23 October 2018, <https://www.straitstimes.com/asia/se-asia/facebook-takes-down-more-sites-in-the-philippines-that-are-pro-president-duterte>; Agence France Presse, “AFP extends Facebook fact-checking collaboration to three more countries”, 27 June 2018, <https://www.afp.com/en/agency/press-releases-newsletter/afp-extends-facebook-fact-checking-collaboration-three-more-countries>.

During the presidential election campaign in 2016, Rodrigo Duterte was comprehensively outspent by rivals, but his office's use of social media is widely credited with playing an important role in his victory. During the campaign, Duterte supporters online – dubbed “Dutertrolls” by critics – gained infamy for zealously promoting their candidate while aggressively harassing and threatening opponents, often with violence.¹¹⁵

ONLINE HARASSMENT AND DISINFORMATION

The systematic use of online disinformation for political purposes has become ingrained in the Philippines. One study from February 2018 charts how Philippine politicians and parties outsource disinformation campaigns to public relations agencies, which in turn subcontract to anonymous influencers that manage accounts with substantive followings, or individual fake account operators. The study emphasises that this has become common practice by parties from across the political spectrum and not just PDP-Laban.¹¹⁶

The extent to which the Duterte administration itself has contracted with online supporters to vilify opponents is contested. President Duterte himself has admitted to paying “trolls” during his election campaign but claims to not have used them since then.¹¹⁷ The President's social media strategists have said further that the vast majority of online support for the government is “organic” and “volunteer-driven”.¹¹⁸

However, online disinformation for political purposes has increased sharply since the 2015-16 presidential election campaign,¹¹⁹ while a 2017 study from researchers from Oxford University found evidence of the current government relying on paid “trolls” online.¹²⁰ An investigation by Rappler in 2017 revealed how the administration, through the PCOO, had rewarded some of the most influential pro-Duterte bloggers with government positions, access to high-level officials, or stipends and consultancy contracts paid for through public funds. These bloggers have to a large extent gained influence through tirades and disinformation against the President's opponents in politics or the media.¹²¹ The investigative journalism outfit VERA Files has furthermore proved links between seemingly unconnected websites promoting pro-Duterte “fake news” content, highlighting the orchestrated nature of their campaigns.¹²²

Opponents of the President are the most frequent targets of disinformation online, where a plethora of pro-Duterte websites and social media accounts produce a steady flow of false or misleading content. An analysis by VERA Files of “fake news” content in 2018 showed that such posts are almost

115 Bloomberg, “What Happens When the Government Uses Facebook as a Weapon?”, 7 December 2017, <https://www.bloomberg.com/news/features/2017-12-07/how-rodrigo-duterte-turned-facebook-into-a-weapon-with-a-little-help-from-facebook>.

116 Jonathan Corpus Ong and Jason Cabanes, *Architects of Networked Disinformation: Behind the Scenes of Troll Accounts and Fake News Production in the Philippines* (June 2018), <https://newtontechfordev.com/wp-content/uploads/2018/02/ARCHITECTS-OF-NETWORKED-DISINFORMATION-FULL-REPORT.pdf>.

117 Manila Times, “Duterte on use of ‘troll’ army: I have followers”, 25 July 2017, <https://www.manilatimes.net/duterte-on-use-of-troll-army-i-have-followers/340560/>.

118 Rappler, “Duterte's P10M social media campaign: Organic, volunteer-driven”, 1 June 2016, <https://www.rappler.com/newsbreak/rich-media/134979-rodrigo-duterte-social-media-campaign-nic-gabunada>.

119 VERA Files, “Duterte, allies reap the most benefits from disinformation”, 19 December 2018, <http://verafiles.org/articles/duterte-allies-reap-most-benefits-disinformation>.

120 Samantha Bradshaw and Philip N. Howard, “Troops, Trolls and Troublemakers: A Global Inventory of Organized Social Media Manipulation”, 17 July 2017, <https://comprop.oii.ox.ac.uk/research/troops-trolls-and-trouble-makers-a-global-inventory-of-organized-social-media-manipulation>.

121 Rappler, “State-sponsored hate: The rise of the pro-Duterte bloggers”, 18 August 2017, <https://www.rappler.com/newsbreak/in-depth/178709-duterte-die-hard-supporters-bloggers-propaganda-pcoo>.

122 VERA Files, “Fact Check Yearender: Ads reveal links between websites producing fake news”, 30 December 2018; VERA Files, “Duterte, allies reap the most benefits from disinformation”, 19 December 2018, <http://verafiles.org/articles/duterte-allies-reap-most-benefits-disinformation>.

always explicitly political, almost always attack critics of the Duterte administration or promote or support the President or his policies.” The most frequent targets include opposition politicians Vice President Leni Robredo and Senators Risa Hontiveros, Antonio Trillanes and Leila de Lima.¹²³

Regardless of its origin, it is notable that the Duterte government has failed to condemn online abuse or disinformation in public. Nor has it, as far as APHR is aware, made any efforts to investigate and hold to account “fake news” purveyors. If anything, the administration has often relied on online disinformation to fuel abuse and harassment of its opponents. A stark example is President Duterte’s frequent public references to a fraudulent video purporting to show Senator De Lima having sex with her former bodyguard, which had gone viral through pro-Duterte websites (see Section 3.11). Several other government officials, including Justice Secretary Aguirre and Mocha Uson in the PCOO, have also been widely criticised for spreading disinformation against political opponents online. David Kaye, the UN Special Rapporteur on freedom of opinion and expression has stressed that states should avoid disseminating and spreading “fake news” and noted how this is “most relevant” in the Philippine context.¹²⁴

Most opposition lawmakers APHR interviewed said that dealing with a barrage of abusive comments online had become a daily reality since 2016. They stressed not only the psychological effects of the abuse on themselves and their staff, but also how it was a drain on resources. They described having to devote significant time to combating abuse and “fake news”, including by developing security protocols, blocking or reporting abusive users online, and debunking or responding to disinformation.¹²⁵ One lawmaker told APHR: “This is something new under Duterte. He is weaponizing the power of the presidency, in particular the use of social media. It has a chilling effect, to be in the crosshairs of the Presidency.”¹²⁶

“THIS IS SOMETHING NEW UNDER DUTERTE. HE IS WEAPONIZING THE POWER OF THE PRESIDENCY, IN PARTICULAR THE USE OF SOCIAL MEDIA. IT HAS A CHILLING EFFECT, TO BE IN THE CROSSHAIRS OF THE PRESIDENCY.”

¹²³ Ibid.

¹²⁴ ABS-CBN, “UN official to governments: ‘Avoid spreading Fake News’”, 27 November 2017, <https://news.abs-cbn.com/blogs/opinions/11/27/17/opinion-un-official-to-governments-avoid-spreading-fake-news>; UN Office of the High Commissioner for Human Rights, “Freedom of Expression Monitors Issue Joint Declaration on ‘Fake News’, Disinformation and Propaganda”, 3 March 2017, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21287&LangID=E>.

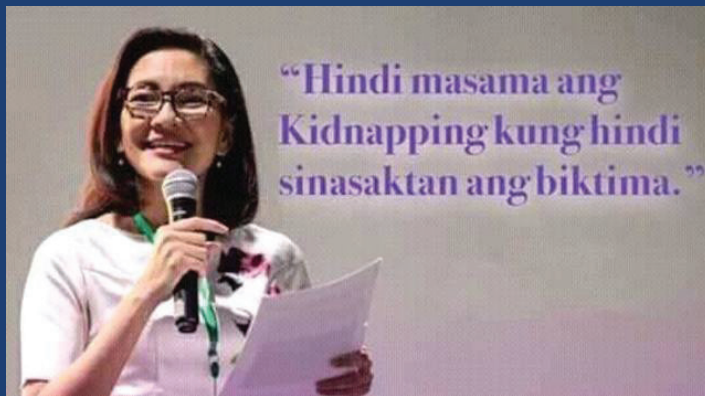
¹²⁵ Interviews with lawmakers and their staff conducted by the authors, Manila, January 2019.

¹²⁶ Interviews with lawmakers and their staff conducted by the authors, Manila, January 2019.



On 30 July 2018, the website dutertards.info falsely claimed that Senator Trillanes had failed a drug test in the Senate. The Senator has accused President Duterte’s son Paolo of involvement in the illegal drug trade.

Background: Rappler, “HOAX: ‘Trillanes positive in Sotto’s surprise drug test in Senate’”, 17 August 2018, <https://www.rappler.com/newsbreak/fact-check/209779-hoax-trillanes-tested-positive-during-surprise-drug-test-senate>.



A pro-Duterte Facebook user on 29 August 2017 posted a picture falsely claiming that Senator Hontiveros had said: “Kidnapping is not wrong if the victim was not harmed.” Senator Hontiveros was charged with “kidnapping” not long after for her role in sheltering witnesses to a police murder in the “war on drugs”.

Background: MemeBuster, “Busted: Hontiveros said kidnapping is not bad as long as victim is unharmed? It’s a fake meme!”, 29 August 2017.

ANATOMY OF “FAKE NEWS”



The pro-Duterte Facebook page Showbiz Government, which has more than 200,000 followers, posted a photo of Representative Sarah Elago from the Makabayan bloc on 9 April 2018. The post falsely claimed that the picture showed Sarah Elago recruiting members for the NPA.

Background: Pinoy Trending News, 9 April 2019, <http://pinoytrendingnews.net/fb-page-claims-photo-kabataan-partylist-rep-sarah-elago-satur-ocampo-recruiting-students-join-npa-goes-viral/>



4.3 ABUSING PARLIAMENTARY PROCEDURE

Malacañang Palace.
Credit: Government of the Philippines

Apart from criminal cases and rhetorical threats, the current government has also relied on more subtle tactics to undermine the opposition. This has often involved manipulating or abusing democratic processes in Congress to side-line opposition members from the legislative process. This section outlines three specific examples: manipulating the House Minority, removing opponents from Congress committees, and arbitrarily reducing budget allocations.

4.3.1 ENSURING A COMPLIANT HOUSE MINORITY

The Duterte administration's time in office has been marked by controversy around the composition of the official Minority bloc in the House of Representatives. Membership of the official Minority (the equivalent of the official opposition bloc) is significant because it grants Representatives additional resources for staff and guaranteed seats on House committees (in proportion to the size of the bloc). The Minority Leader also automatically becomes an ex-officio member with voting rights in all standing Committees.¹²⁷

In the vote for the Speaker of the House of Representatives on 25 July 2016, Pantaleon Alvarez (PDP-Laban) emerged as the clear winner, with 251 votes compared to eight for the runner-up Teddy Baguilat (Liberal Party). Per House tradition since the return to democracy in 1986, the runner-up in the Speaker vote has been made the Leader of the Minority. However, the new Majority Leader Rudy Fariñas instead announced a reinterpretation of House rules and called a second vote to elect the Minority Leader on 27 July. Rudy Fariñas interpreted House of Representatives Rule II, Section 8 to mean that members of the Minority should hold a separate vote to elect its Leader: "The Minority Leader shall be elected by the Members of the Minority and can be changed, at any time, by a majority vote of all the Minority Members."

As a result, a new vote was called on 27 July to elect a Minority Leader, in which those Representatives who had voted against Pantaleon Alvarez and those who abstained in the original vote were allowed to take part (39 in total). Danilo Suarez (a member of the Duterte-aligned Lakas Party who had initially voted for Pantaleon Alvarez as Speaker) was elected Leader of the Minority with 22 votes (17 Representatives either abstained or chose not to attend the vote in protest).

¹²⁷ Rules of the House of Representatives for the 17th Congress, Rule IX, Section 30, <http://www.congress.gov.ph/download/docs/hrep.house.rules.pdf>.

Several lawmakers criticised the re-interpretation of the House Rule. They argued that this not only broke a well-established House tradition, but that Danilo Alvarez should be disqualified from the Minority leadership because he voted for Pantaleon Alvarez as Speaker, while those Representatives who abstained in the Speaker vote are technically not part of the official Minority but have declared themselves independents.¹²⁸

Teddy Baguilat and six other lawmakers opted not to join the official Minority bloc and instead formed an independent group in the House, which became known in media as the “Magnificent Seven”.¹²⁹ The lawmakers filed a petition with the Supreme Court questioning Danilo Suarez’s appointment as Minority Leader, although it was rejected by the Court in July 2017.¹³⁰

Analysts and lawmakers have criticised the administration’s moves as a way of manipulating House rules to ensure a Minority that is supportive of the government. One lawmaker told APHR: “The official House Minority’s legislative agenda is completely in line with the government. It is a ridiculous situation.”¹³¹ In August 2018, Vice President Leni Robredo said that Danilo Suarez’s continued Minority leadership means that the “entire House of Representatives is tarnished anew with the image of being fake, subservient, and uncritical. Instead of a vibrant and deliberative chamber, we will continue to have a mutual admiration club.”¹³²

In July 2018, Pantaleon Alvarez was replaced as Speaker by former President Gloria Macapagal Arroyo in a move widely believed to have been supported by Sara Duterte.¹³³ Following the change in Speaker, a group of Representatives – including members of the “Magnificent Seven”, the Liberal Party and the left-wing Makabayan bloc – petitioned to be recognised as the official Minority bloc. A viva voce vote (an oral vote of ayes and nays) in the House on 7 August, in which the Majority members took part, however confirmed Danilo Suarez’s continued leadership of the official Minority. This prompted the breakaway group of 23 Representatives to form an independent bloc in the House, calling themselves the “People’s Minority”.

128 Interview with Teddy Baguilat conducted by the authors, Manila, January 2019; Rappler, “House supermajority rejects Baguilat’s claim as minority leader”, 26 July 2016, <https://www.rappler.com/nation/141032-house-supermajority-rejects-baguilat-minority-leader>.

129 GMA News, “Magnificent 7 to actively vie for House minority bloc leadership –Lagman”, 25 July 2018 <https://www.gmanetwork.com/news/news/nation/661733/magnificent-7-to-actively-vie-for-house-minority-bloc-leadership-lagman/story>.

130 ABS-CBN, “SC junks plea asserting ‘real minority’ in House of Representatives”, 25 July 2017, <https://news.abs-cbn.com/news/07/25/17/sc-junks-plea-asserting-real-minority-in-house-of-representatives>.

131 Interview conducted by the authors, Manila, January 2019.

132 Rappler, “No genuine House minority under Danilo Suarez, says Robredo”, 7 August 2018, https://www.rappler.com/nation/209065-robredo-statement-danilo-suarez-house-minority-leader#cxrecs_s.

133 For background, see Rappler, “The women behind the fall of Alvarez”, 27 July 2018, <https://www.rappler.com/newsbreak/in-depth/208287-women-behind-fall-pantaleon-alvarez-speaker-house-representatives>.

4.3.2 UNDERMINING CONGRESS COMMITTEES

Both houses of Congress feature a number of Standing and Special (ad hoc) Committees. Committees hold significant influence in the legislative process as they have the power to approve, reject or substantially revise bills before they are tabled for a final vote, and to determine whether to conduct public hearings over specific bills. Lawmakers who hold Committee Chairmanships are also granted additional resources for their offices, including to hire more staff.¹³⁴

A concerning aspect of the Duterte administration is the manipulation of Committee memberships, especially in the House. The government has on several occasions arbitrarily stripped lawmakers, including those belonging to the Majority, of Committee Chairmanships after they opposed policy initiatives of the government. Lawmakers and political analysts interviewed by APHR said that although the practice to some extent had been a feature of Philippine politics since the return to democracy in 1986, it has been significantly scaled up under the Duterte administration.

A stark example occurred around the government's failed attempts to reinstate the death penalty. President Duterte had promised to restore capital punishment during his presidential campaign, and the first bill introduced after the new government took office proposed the introduction of lethal injection for a range of crimes.¹³⁵ On 7 March 2017, the House passed Bill 4727 to reinstate the death penalty. While 216 Members voted in favour, the bill was opposed by 54 Representatives including members of the Majority coalition belonging to the Liberal Party and the Makabayan bloc.¹³⁶ The Speaker Pantaleon Alvarez had openly threatened Representatives who opposed the bill with removal from key positions.¹³⁷ On 15 March, the Speaker announced that eleven lawmakers who opposed Bill 4727 had been removed as committee chairpersons, while Gloria Macapagal-Arroyo was stripped of her role as Deputy Speaker.¹³⁸

The administration has used the same retaliatory tactics in the Senate. In late February 2017, the Senate removed Risa Hontiveros (Akbayan) and three Liberal Party Senators from their positions as committee chairpersons. The move appeared to be in retaliation against the four Senators' vocal support of Senator Leila de Lima, who had been arrested a few days earlier, and their attendance at a rally to mark the anniversary of the ouster of former President Ferdinand Marcos. The move prompted the Liberal Party Senators to leave the Senate Majority and join the Minority. One of the ousted lawmakers, Senator Pangilan from the Liberal Party, said: "After Senator de Lima's

134 Interviews with lawmakers and their staff conducted by the authors, Manila, January 2019; Rules of the Senate of the Philippines available at <https://www.senate.gov.ph/about/Rules%20of%20the%20Senate.pdf>; and Rules of the House of Representatives of the Philippines for the 17th Congress available at <http://www.congress.gov.ph/download/docs/hrep.house.rules.pdf>. Rules governing committees in both Houses are roughly similar. Standing Committees are overseen by one Chairperson and at least two Vice-Chairpersons, while membership numbers vary depending on the importance, workload and influence of each Committee. In the House, for example, the largest Committee (Appropriations) has 125 members while the smallest (Welfare of Children) has 20 members. Committee membership is determined on the basis of proportional representation of the Majority and the Minority, with the Majority and Minority Leaders assigning members (House Rule IX, Section 27). Committee decisions are generally taken on the basis of a majority vote by its members. In the House, the Speaker and the Deputy Speakers as well as the Leaders and Deputy Leaders of the Majority and Minority blocs have voting rights on every standing committee (House Rule IX, Section 30). In the Senate, this right is held by the President, the President Pro-Tempore and the Majority and Minority Leaders. (Senate Rule X, Section 20)

135 PhilStar.com, "House Bill No. 1: Restore the death penalty", 7 July 2016, <https://www.philstar.com/headlines/2016/07/07/1600371/house-bill-no-1-restore-death-penalty>; ABS-CBN, "Death penalty is for retribution: Duterte", 23 June 2016, <https://news.abs-cbn.com/nation/06/22/16/death-penalty-is-for-retribution-duterte>.

136 Bill 4247 has since remained in limbo in Congress as it has yet to be tabled for a vote in the Senate. Although a number of Senators have publicly backed reinstating the death penalty, the government has not been able to secure enough support in the upper house to ensure the Bill's passing. Interviews with Senators and their staff conducted by the authors, Manila, January 2019; and PhilStar.com, "Palace: Fate of death penalty in the hands of senators", 3 August 2018, <https://www.philstar.com/headlines/2018/08/03/1839329/palace-fate-death-penalty-hands-senators>.

137 ABS-CBN, "Speaker threatens to remove House leaders who block death penalty revival", 8 February 2017, <https://news.abs-cbn.com/news/02/08/17/speaker-threatens-to-remove-house-leaders-who-block-death-penalty-revival>.

138 Rappler, "House ousts Arroyo, 11 committee chairpersons", 15 March 2017, <https://www.rappler.com/nation/164295-house-ousts-gloria-arroyo-committee-chairpersons-death-penalty-vote>.

arrest, they are going after us in the [Liberal Party] coalition. This is part of their plan because the administration is not comfortable with our criticism. They want us to be all for the administration, right or wrong. We will not allow that.”¹³⁹ As noted above, the Senate also voted to remove Senator de Lima as chairperson of the Committee on Justice and Human Rights in September 2016 after she had announced an investigation into killings in the “war on drugs”.

A recent report by the IPU stressed the importance of the opposition’s ability to take part in and chair committee proceedings: “In its modern form, the committee is probably the single most significant and agile instrument of parliamentary oversight.”¹⁴⁰ Several lawmakers told APHR how efforts to sideline the opposition in committees had undermined democratic debate and the ability to hold the government to account. One lawmaker said: “One concrete example is the lack of investigations. The Duterte administration has stacked committees with loyalists who have blocked investigations into the drug war. The government is insulated from checks and balances through its scare tactics against politicians.”¹⁴¹ The staff of one lawmaker also told APHR that their salaries had been paid out of pocket by the lawmaker since they were stripped of a committee chairmanship.¹⁴²

4.3.3 REMOVING BUDGET ALLOCATIONS

The current government has also used sharply reduced budget allocations to punish lawmakers opposing its agenda. In December 2017, the Speaker Pantaleon Alvarez announced that the infrastructure allocations for 24 lawmakers would be completely removed from the 2018 fiscal budget (The General Appropriations Act for 2018). The lawmakers included the “Magnificent Seven”, the Makabayan bloc and some members of the Liberal Party, all of whom had opposed the reintroduction of the death penalty and other major policies of the government.¹⁴³

Pantaleon Alvarez admitted that the administration had made a decision to allocate no budget funds to political opponents, but claimed the move was part of standard democratic process. He said the funds had been reallocated to support a program to provide free college tuitions and salary increases for soldiers and policemen. While the President’s office claimed that the decision was taken by Congress leaders, President Duterte signed the 2018 budget into law on 19 December 2017.¹⁴⁴

Opposition lawmakers criticised the move as vindictive and unprecedented in Philippine politics. Analysts said that while infrastructure budget allocations had been politicised to some extent under previous administrations, allocating no money at all for opposition districts was unheard of.¹⁴⁵ Teddy Baguilat, one of the affected Representatives, said the move was “an assault on democracy”, while another affected lawmaker said the decision marked a “warning to the rest of the House members that all must obey and support” the government’s policy initiatives.¹⁴⁶

139 Rappler, “Senate ousts Drilon, LP senators from key posts”, 27 February 2017, <https://www.rappler.com/nation/162710-senate-re-vamp-ouster-liberal-party-senators>.

140 IPU and UN Development Program, *Global Parliamentary Report 2017 – Parliamentary oversight: Parliament’s power to hold government to account* (October 2017), <https://www.ipu.org/file/3502/download?token=MLXYMu51>, p. 46.

141 Interview with Senator Antonio Trillanes conducted by the authors, Manila, January 2019.

142 Interview conducted by the author, Manila, January 2019.

143 CNN Philippines, “Alvarez: Infra budget of opposition solons realigned to fund free tuition, police salary”, 21 December 2017, <http://nine.cnnphilippines.com/news/2017/12/21/2018-budget-opposition-congressmen.html>.

144 BusinessWorld, “Opposition lawmakers decry zero infra budget”, 21 December 2017, <https://www.bworldonline.com/opposition-lawmakers-decry-zero-infra-budget>.

145 Interviews with political analysts conducted by the authors, Manila, January 2019.

146 Rappler, “Opposition congressmen get zero budget in 2018”, 20 December 2017, <https://www.rappler.com/nation/191810-budget-cut-opposition-congressmen-2018>.



5. CONCLUSION AND RECOMMENDATIONS

*The Philippine House of Representatives in session, Manila, January 2019.
Credit: APHR.*

The targeted attacks on the opposition in the Philippines should be seen in the light of the Duterte administration's wider efforts to muzzle criticism of the "war on drugs" and undermine democratic institutions.

The IPU has stressed the importance of the opposition's ability to participate in a meaningful manner in the democratic process to build an inclusive state that provides for all citizens, regardless of their political leanings.¹⁴⁷ Lawmakers can play a crucial role in upholding and protecting human rights in a functioning democracy, including by promoting human rights-friendly legislation and budgets, and by building a culture of respect for human rights. In order to do so, they must be able to exercise their mandates without fear of retaliation, whether through judicial harassment, threatening rhetoric, or the arbitrary manipulation of democratic processes.

For many lawmakers in the Philippines today, this is not possible. The targeted attacks by the current administration have undermined the role of Congress to uphold the principle of checks and balances on the executive. It has also made it increasingly difficult to advocate for a policy agenda different to that of the government. This is particularly worrying in the Philippines context, where official policy under President Duterte has often led to human rights violations on an unprecedented scale, which may amount to crimes against humanity under international law. As highlighted in this report, it is often precisely those lawmakers who have used their public roles to advocate for human rights and against the administration's excesses that have been singled out in attacks.

The attempts to undermine the opposition in the Philippines must end. This is crucial not only to stop the rapidly growing human rights crisis in the country, but also to avoid further damage to democratic institutions. APHR urges the Philippine government to immediately end all attacks on opposition lawmakers, and to drop all politically motivated criminal cases documented in this report. The government must build an inclusive state where there is space for opposition members to make their voices heard and to exercise their democratic mandates. APHR further urges regional and international actors to factor the democratic backsliding in the Philippines into account in dealing with the government, and insist on a dramatic improvement in respect for human rights and the rule of law.

¹⁴⁷ IPU, Guidelines on the rights and duties of the opposition in parliament (May 1999), <http://archive.ipu.org/dem-e/opposition.pdf>

RECOMMENDATIONS

TO THE GOVERNMENT OF THE PHILIPPINES

- Immediately end all forms of politically motivated attacks on opposition lawmakers, including through the use of criminal charges, threatening rhetoric, or the manipulation of democratic processes;
- Ensure that democratic principles are respected so that all lawmakers can exercise their mandates, including to hold the government to account, without fear of retaliation;
- Ensure that the rights to freedom of expression, association and peaceful assembly are respected and protected for all lawmakers, as guaranteed in the Constitution of the Philippines and international treaties including the International Covenant on Civil and Political Rights;
- Drop all politically motivated criminal charges against lawmakers, including those documented in this report;
- Immediately and unconditionally release Senator Leila de Lima from detention and drop all criminal charges against her;
- Ensure that all institutions including the judiciary, the Office of the Ombudsman and the Commission on Human Rights can exercise their mandates without retaliation or political interference;
- End all use of threatening and misogynist rhetoric against opposition lawmakers, including threats to criminalise or otherwise punish lawmakers who oppose the government's legislative agenda;
- Duly investigate all threats against opposition lawmakers online;
- Publicly condemn online abuse and “disinformation” targeting opposition lawmakers online, and develop a comprehensive plan to curb such harassment through collaboration with media outlets and social media platforms;
- In the House of Representatives, ensure that the House Minority, including its leaders, is genuinely independent and can fulfil its mandate to ensure the integrity of the democratic process; and
- In both houses of Congress, ensure that chairmanships and membership of Standing and Special Committees are distributed proportionally between the Majority and Minority, and refrain from punitively removing lawmakers from Committees who oppose the administration's policies.

TO THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN) AND ITS MEMBER STATES

- Encourage the Philippines, as a Member State of ASEAN, to adhere to the concept of rule of law in line with the ASEAN Charter and in accordance with ASEAN's broader commitment to democracy, good governance, and the promotion and protection of human rights;
- Encourage the ASEAN Intergovernmental Commission on Human Rights (AICHR) to request information from the government of the Philippines on the human rights violations documented in this briefing and how it is planning to address them, and to carry out its own investigation into human rights violations in the Philippines under its mandate to carry out "studies on thematic issues of human rights in ASEAN" as defined in the AICHR Terms of Reference; and
- Political leaders in ASEAN member states should use their diplomatic leverage to publicly and privately condemn human rights violations in the Philippines, including in the context of the "war on drugs" and attacks against opposition lawmakers.

TO INTERNATIONAL DONORS, INCLUDING JAPAN, THE UNITED STATES OF AMERICA AND THE EUROPEAN UNION

- Use all available means to persuade the Philippine government to respect human rights and democratic principles, including by ending all politically motivated attacks on lawmakers; and
- Ensure that a respect for human rights and democratic principles is a core part of negotiations with the Government of the Philippines Condition over development aid and trade concessions, including in the European Union's case through the Generalised System of Preferences Plus.

ASEAN PARLIAMENTARIANS FOR HUMAN RIGHTS (APHR) IS A NETWORK OF CURRENT AND FORMER PARLIAMENTARIANS FROM SOUTHEAST ASIA, WHO USE THEIR UNIQUE POSITIONS AND INNOVATIVE MEANS TO PREVENT DISCRIMINATION, UPHOLD POLITICAL FREEDOM, AND PROMOTE DEMOCRACY AND HUMAN RIGHTS THROUGHOUT THE REGION. APHR SUPPORTS THE WORK OF CIVIL SOCIETY AND HUMAN RIGHTS DEFENDERS AND ENCOURAGES SUSTAINABLE SOLUTIONS THAT INCREASE PRESSURE ON GOVERNMENTS AND MULTILATERAL BODIES TO ENSURE ACCOUNTABILITY AND UPHOLD AND ENFORCE INTERNATIONAL HUMAN RIGHTS LAWS.

APHR'S MEMBERS ARE CURRENT AND FORMER MEMBERS OF PARLIAMENT (MPS) FROM ASEAN COUNTRIES AND TIMOR-LESTE. THE ORGANIZATION'S MEMBERSHIP HAS GROWN EXPONENTIALLY OVER THE LAST FEW YEARS AND AS OF 1 JUNE 2019 STANDS AT 94 MEMBERS. APHR ALSO HAS ASSOCIATE MEMBERS WHO ARE CURRENT AND FORMER MPS FROM NON-ASEAN STATES WHO ARE CAPABLE OF INFLUENCING POLICY DECISIONS OF ASEAN GOVERNMENTS AND ASEAN ITSELF FROM OUTSIDE THE REGION



**ASEAN PARLIAMENTARIANS
FOR HUMAN RIGHTS**