August 28, 2019

H. E. Rodrigo Duterte
President of the Republic of the Philippines
Malacañang Complex
J.P. Laurel Street
San Miguel, Manila
1005 Republic of the Philippines

Re: Continuing Attacks on Judges, Prosecutors, Lawyers, and Other Legal Professionals

Dear Mr. President:

The New York City Bar Association writes to express its profound and ongoing concern in the wake of violent attacks on judges, prosecutors, lawyers, and other legal professionals in the Philippines.

The Association is a 148-year-old organization of more than 24,000 members in New York City, throughout the United States, and in more than fifty countries around the globe. Our members include judges, prosecutors, defense counsel, government lawyers, and public interest/non-governmental organization practitioners, as well as legal academics and attorneys representing nearly every major law firm and corporation in the United States. The Association has a long and distinguished history of promoting the rule of law and human rights (including the rights of legal professionals to fulfill their professional obligations), chiefly through the Association’s Committee on International Human Rights, together with its Committee on Asian Affairs (and its other regional committees), as well as its Task Force on the Independence of Lawyers and Judges.

Under the Duterte Administration, legal professionals—which include judges, prosecutors, lawyers, and paralegals—have been harassed, assaulted, and assassinated in connection with your war on drugs (known as Oplan Tokhang).¹ As discussed further in this letter, attacks on Philippine lawyers often correlate with, among others, their representation of

clients who are charged with being members of dangerous drug cartels, attorneys’ accusations of corruption against the police and army, and for promoting due process rights. Similarly, prosecutors and judges are attacked in connection to their decisions involving prosecutorial discretion and the exercise of due process rights, among other issues.

Your Administration’s tacit (often explicit) support for these attacks, your failure to condemn the attacks, and your failure to properly investigate the attacks and bring the perpetrators to justice have fostered a culture of impunity throughout the Philippines. In short, as outlined in greater detail below, your Administration is waging not only a war on drugs, but also a war on legal professionals and human rights defenders, and a war on the justice system and the Rule of Law itself.

I. THE “WAR ON DRUGS” AND CIVILIAN-TARGETED VIOLENCE

Launched when you took office as President in 2016, your war on drugs is assertedly designed to “neutralize” drug dealers and users, to deliver on your campaign promise to eradicate illegal drugs by whatever means necessary. Over the past three years, the implementation of that initiative has been brutal and inhumane. As a result, the Philippines has now been declared the fourth most dangerous country in the world for civilian-targeted violence. Your most recent official announcement puts the war on drugs’ three-year tally at more than 5500 “drug personalities” killed by police, which is, by any measure, a shocking figure. But independent sources—including the Philippines Human Rights Commission—

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You have publicly confessed to your personal responsibility for the executions that have become the hallmark of your Presidency. During an August 2016 news conference, you stated: “Extrajudicial killing? I will do the explanation in public for international release if you want. For the things that really happened during the criminal and the police in operations—punitive operations, police action—I am willing to answer all of them. I assume full responsibility for what happened because I was the one who ordered it.” In a September 2018 speech, your admission of culpability was even more blunt: “My only sin is the extrajudicial killings.”


II. TARGETING OF HUMAN RIGHTS ACTIVISTS, LAWYERS AND JUDGES

On June 30, 2016, mere hours after your Inauguration, you called upon the people of the Philippines to act as vigilantes and to “go ahead and kill” drug addicts. You later threatened to kill human rights activists, accusing them of obstructing your war on drugs. You have made similar threats against rights lawyers and those who represent drug suspects, leading organizations—including the Integrated Bar of the Philippines—to file a report with the United Nations Special Rapporteur on the Independence of Judges and Lawyers charging that your actions “blatantly oppose[]” international principles recognizing and safeguarding the role of lawyers in society. Your “rising rhetoric” and “ongoing intimidation and attacks” against lawyers, among others, have drawn the censure of the U.N. Special Rapporteur and other international human rights experts at the U.N.

The report of the Integrated Bar of the Philippines also documented your attacks on the independence of judges, including, in particular, your campaign of verbal abuse and bullying of Supreme Court Chief Justice Maria Lourdes Sereno.


subsequently denounced your “derogatory statements and threats . . . which have been televised, broadcast on radio, and carried by newspapers” as “a vicious attack on the independence of the judiciary,” expressing “grave concern” that the effect of your remarks has been to send “a chilling message” to all members of the judiciary.\(^{15}\)

In August 2017, you instructed the police to shoot anyone who resists arrest or is otherwise obstructing justice—including activists seeking to document human rights abuses resulting from your war on drugs.\(^{16}\) In line with this exhortation, the Philippine National Police, and members of the Armed Forces of the Philippines and paramilitary groups, as well as vigilantes linked to them,\(^{17}\) have targeted legal professionals, who are apparently deemed to be


\(^{17}\) See, e.g., Report, “They Just Kill”: Ongoing Extrajudicial Executions and Other Violations in the Philippines’ “War on Drugs” at 5, 10, 22, 40 (Amnesty International, July 8, 2019) (reporting, inter alia, that “in many cases the[] unknown armed persons [who carry out executions] have a direct link to the police—they are either paid killers hired by the police or disguised police officers”), https://www.justice.gov/eoir/page/file/1180791/download; UN human rights experts call for independent probe into Philippines violations (Office of the U.N. High Commissioner for Human Rights, June 7, 2019) (stating that “in many incidents the alleged perpetrators of killings are members of the armed forces, paramilitary groups or individuals linked to them”), https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24679&LangID=E; Roudabeh Kishi, Melissa Pavlik, Rico La Vina, & Marian Constantino, Duterte’s War: Drug-Related Violence in the Philippines (Armed Conflict Location & Event Data Project (ACLED), October 18, 2018) (reporting that anti-drug “vigilantes” “are likely supported by or under the control of Duterte’s regime, despite their unofficial status,” and are “emboldened by the current climate”; further stating that “at least some of the extrajudicial killings carried out by vigilantes were outsourced to them by the police, or may even be police in masks and/or are groups relying on police to secure the perimeter in the lead up to such attacks”), https://www.acleddata.com/2018/10/18/dutertes-war-drug-related-violence-in-the-philippines/; Alyssa Mae Clarin, Under Duterte, attacks against Filipino lawyers escalating (Bulatlat, March 16, 2019) (noting evidence that attacks/killings are state-sponsored, or, at a minimum, state-condoned and state-encouraged), https://www.bulatlat.com/2019/03/16/under-duterte-attacks-against-filipino-lawyers-escalating/; Dharel Placido, Duterte: “EJKs’ my only sin” (ABS-CBN News, September 28, 2018) (reporting on a September 27, 2018 speech in which Duterte implicated himself in extrajudicial killings, the first time he had ever publicly acknowledged that killings are state-sponsored; in his remarks, Duterte also acknowledged the involvement of “some so-called ‘ninja cops’”), https://news.abs-cbn.com/news/09/27/18/duterte-ejks-my-only-sin; id. (reporting that, according to human rights groups and government critics—who point to “cases where some policemen were caught in illegitimate operations”—“killings carried out by so-called ‘vigilante groups’ were . . . state-sponsored”); Edu Punay, SC issues writ of amparo on “Tokhang” (Philippine Star, February 1, 2017) (quoting two senators who each independently pointed to the fact of zero deaths on the day after
in league with drug syndicates and drug dealers because they defend those accused of drug-related crimes. Lawyers and others also have been the victims of “red-tagging”—i.e., the “branding” as “left-leaning, subversives, communists or terrorists” of “those perceived to be ‘threats’ or ‘enemies of the State’” by “State agents, particularly law enforcement agencies and the military.”  

“Red-tagging” puts individuals at great risk, exposing them to threats, responsibility for anti-drug operations was temporarily transferred from the Philippine National Police to the Philippine Drug Enforcement Agency as “strong circumstantial evidence” of police involvement in drug war-related killings). See Ken E. Cagula, Human Rights Lawyers Denounce red-tagging of Political Activists (Ontario Committee for Human Rights in the Philippines, March 4, 2019) (reporting on “red-tagging” of human rights lawyers as members of the Philippine Communist Party and its armed wing, the New People’s Army), https://ochrp.wordpress.com/2019/03/04/human-rights-lawyers-denounce-red-tagging-of-political-activists/; CHR warns of grave implications of red-tagging groups (Philippine Star, April 17, 2019) (quoting the definition of “red-tagging” set forth in “Philippine jurisprudence”); https://verafiles.org/articles/vera-files-fact-sheet-why-red-tagging-is-dangerous (VERA Files, October 11, 2018) (explaining that, “[i]n his dissenting opinion in Zarate vs. Aquino III, Supreme Court Associate Justice Marvic Leonen cited a 2011 journal article that defined red-baiting” (i.e., “red-tagging”) as quoted above), https://verafiles.org/articles/vera-files-fact-sheet-why-red-tagging-dangerous; see also id. (noting that the Philippine Commission on Human Rights has adopted the International Peace Observers Network’s definition of “red-tagging,” i.e., “[a]n act of State actors, particularly law agencies, to publicly brand individuals, groups, or institutions as . . . affiliated [with] communist or enforcement leftist terrorists”); Nick Aspinwall, In the Philippines, activists increasingly face a “living hell” (The Interpreter, February 15, 2019) (explaining that “red-tagging” refers to “the false branding of activists as communist insurgents”), https://www.lowyinstitute.org/the-interpreter/philippines-activists-increasingly-face-living-hell.
harassment, intimidation, physical injury, and even death.\textsuperscript{19} The names of legal professionals are also placed on “drug watch lists,” similar to similar effect.\textsuperscript{20}

Human rights lawyers were further threatened by their inclusion in a “matrix” (hubs-and-spokes) diagram of uncertain origin linking individuals and organizations alleged by the Palace to be working in concert as part of “a plot to discredit the President and destabilize his government.”\textsuperscript{21}

\textsuperscript{19} See VERA Files Fact Sheet: Why “red-tagging” is dangerous (VERA Files, October 11, 2018) (stating that “red-tagging” “in its most extreme can lead to warrantless arrests, torture, enforced disappearances (ED), or worst, extrajudicial killings (EJK)” and that, according to a 2012 study, “many cases of EJK and ED involve [‘red-tagging’]”), https://verafiles.org/articles/vera-files-fact-sheet-why-red-tagging-dangerous; Statement of CHR spokesperson, Atty. Jacqueline Ann de Guia, on the right to organize and alleged red-tagging of worker unions (Philippine Commission on Human Rights, April 17, 2019) (emphasizing that “red-tagging” “may have serious implications [for] the security and movement of individuals and groups involved”), https://chr.gov.ph/statement-of-CHR-spokesperson-atty-jacqueline-ann-de-guiain-on-the-right-to-organize-and-alleged-red-tagging-of-worker-unions/; Teo S. Marasigan, Red Flag vs. The Red Tag (Pinoy Weekly, June 11, 2019) (stating that, “[i]n the Philippines, [‘red-tagging’] has always put lives in danger, especially under the regime of Rodrigo Duterte—which has carried out the extra-judicial killing abduction, arrest and detention, harassment and surveillance of numerous activists who are accused of being Communists or Communist supporters working in legal fronts”), https://www.pinoyweekly.org/2019/06/red-flag-vs-the-redtag/; Nick Aspinwall, In the Philippines, activists increasingly face a “living hell” (The Interpreter, February 15, 2019) (explaining that “red-tagging” “can be fatal in the Philippines”), https://www.lowinstitute.org/the-interpreter/philippines-activists-increasingly-face-living-hell; Filipino lawyers at risk by state tagging (Lawyers for Lawyers, July 10, 2019) (explaining that “the practice of labelling—combined with the culture of impunity—has in the past been identified by national and international fact-finding commissions as one of the main root causes for the spate of extrajudicial killings in the Philippines since 2001,” and that “[m]any lawyers were labelled as ‘communist’ or ‘terrorist’ prior to being attacked”), https://lawyersforlawyers.org/en/filipino-lawyers-at-risk-by-state-tagging/; PJ Orias, Human rights lawyer decry’s community tag (SunStar, June 27, 2019) (reporting on a recent incident of the “red-tagging” of a lawyer/human rights activist, who is concerned that the “red-tagging” “could be a prelude to physical attack” on her family; noting that the “red-tagging” victim—who is “known for representing incarcerated leaders of progressive organizations in court” —was also “among the 24 persons and organizations . . . included in a list publicly distributed as ‘terrorist members . . . responsible for recruiting residents in the city to join the [New People’s Army]’” in February 2019), https://www.sunstar.com.ph/article/1811851; Froilan Gallardo, Red-tagged personalities seek protection of Oro officials (Minda News, August 7, 2019) (reporting on a recent case in which two human rights lawyers, among others, sought authorities’ protection from “red-tagging,” equating it to “a death warrant”), https://www.mindanews.com/top-stories/2019/08/red-tagged-personalities-seek-protection-of-oro-officials/; Nitz Arancon, Red-Tagging Victims to City Hall: Protect Us (Mindanao Gold Star Daily, August 7, 2019) (similar), https://mindanaogoldstardaily.com/red-tagging-victims-to-city-hall-protect-us/; see also IADL Resolution Protestating the Red-tagging of Human Rights Lawyers in the Philippines (International Association of Democratic Lawyers, April 6, 2019), https://iadflaw.org/2019/04/iadl-resolution-protestating-the-red-tagging-of-human-rights-lawyers-in-the-philippines/.

\textsuperscript{20} See, e.g., Report, Killing the lawyers: 43 jurists murdered in the Philippines since 2016 (Lawyers’ Rights Watch Canada, July 5, 2019) at 5 (reporting that “President Duterte utilises ‘drug lists’ to ‘red-tag’ defenders with whom the Duterte administration disagrees, including lawyers,” explaining that “[t]hrough these lists, defenders are publicly named, vilified as public enemies and subjected to a high probability of being assassinated”), https://www.lrwc.org/ws/wp-content/uploads/2019/07/Philippines_Statement.5July2019.F.pdf; Report, “They Just Kill”: Ongoing Extrajudicial Executions and Other Violations in the Philippines’ “War on Drugs” at 6, 26-30, 41, 42 (Amnesty International, July 8, 2019) (describing authorities’ use of “unreliable and illegitimate” “drug watch lists,” drawn up by local officials and police, “as a basis by which people are targeted for unlawful arrest, assault, theft and killings by both state and state-aligned non-state actors,” and explaining that “[t]here is no opportunity for those whose names are included on the lists to be removed”; noting that, of the 20 murders related to the war on drugs which were examined in Amnesty International’s study, 15 of the murder victims had been “watch-listed” prior to their deaths), https://www.justice.gov/eoir/page/file/1180791/download.

\textsuperscript{21} See Dante A. Ang, Oust-Duterte Plot Bared (Manila Times, April 22, 2019), https://www.manilatimes.net/oust-duterte-plot-bared/543609/; see also, e.g., Palace tags journalists, lawyers in


independent, high-level, intensive investigation into the mounting death toll bolsters the conclusion that the murders are, in at least many (if not most) cases, the product of state or state-sanctioned action.24

III. EXTRAJUDICIAL KILLINGS OF LEGAL PROFESSIONALS

A review of the facts of some individual cases serves to put a human face on the grim statistics.

a. Rogelio Bato, Jr.

The first of the extrajudicial killings of legal professionals associated with your war on drugs occurred on August 23, 2016, when attorney Rogelio Bato Jr. and a 15-year-old girl were shot dead by unidentified assailants in Tacloban City.25 Bato was counsel for Albueria Mayor Rolando Espinosa Sr. and his son Kerwin Espinosa,26 who were both accused of drug trafficking and assisting drug lords.27 The Philippine National Police later confirmed that they had classified Bato as a level 2 high-value target, without providing justification, and accused

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24 See, e.g., Alyssa Mae Clarin, Under Duterte, attacks against Filipino lawyers escalating (Bulatlat, March 16, 2019) (noting indicators that attacks are state-sponsored, or, at a minimum, state-condoned, including the fact that “victims were publicly vilified by the President himself; the killings were committed as if the perpetrators were not afraid of being caught; and, there was complete lack of interest to investigate the killings”); https://www.bulatlat.com/2019/03/16/under-duterte-attacks-against-filipino-lawyers-escalating/; Huw Watkin, A Lot of Mini-Dutertes: Drugs War Blamed as Murders Soar (South China Morning Post, June 15, 2019), https://www.scmp.com/week-asia/society/article/3014601/lot-mini-dutertes-drugs-war-blamed-murders-soar-philippines; Alan Robles, One More Death in Duterte’s War on Drugs: Trust in Philippine Police (South China Morning Post, December 19, 2018), https://www.scmp.com/week-asia/politics/article/2178574/one-more-death-dutertes-war-drugs-trust-philippine-police.


him of being a member of the Espinosa Syndicate. Immediately following Bato’s murder, a group of lawyers led by the former President of the Leyte Chapter of the Integrated Bar of the Philippines condemned the attack and called for an in-depth investigation by the authorities. In March of this year, the Integrated Bar of the Philippines renewed its condemnation, and urged the Supreme Court to “conven[e] a dialogue among the Supreme Court, the IBP, State security forces, and other relevant organizations” concerning lawyers’ safety and security.

b. Geronimo Marave, Jr. and Judge Edmundo Pintac

Other legal professionals who have been murdered include retired prosecutor Geronimo Marave Jr. and Judge Edmundo Pintac. Both were shot dead after being involved in cases concerning Reynaldo Parojinog Sr., a former Mayor of Ozamiz City whom your Administration had on an official Government watchlist. On July 30, 2017, the Philippine National Police raided the Parojinog estate, killing 15 members of the Parojinog family, including Reynaldo Parojinog Sr. Attorney Marave represented brother and sister Reynaldo Parojinog Jr. and Nova Princess Parojinog, who were subsequently arrested on drug charges. On May 22, 2018, Marave was gunned down by motorcycle-riding assailants in Ozamiz City, apparently in connection with his representation of the Parojinog siblings.

Subsequently, on October 8, 2018, the judge hearing the Parojinog case—Judge Pintac—was shot and killed by motorcycle-riding attackers as he was heading home from Ozamiz. Following the assassination of Judge Pintac, then-Supreme Court Chief Justice

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28 See id.; see also Report, Killing the lawyers: 43 jurists murdered in the Philippines since 2016 (Lawyers’ Rights Watch Canada, July 5, 2019), at Appendix. “Jurists killed in the Philippines since July 2016 in date order of murder – As of 10 June 2019” (does not include the murders of lawyers Anthony H. Trinidad and Nicolas Gomez Jr.) (noting that Bato served as counsel to Mayor Espinosa in a 2014 murder case and that the Philippine National Police (“PNP”) have confirmed that they had him on a “drugs watch list”), https://www.lrwc.org/ws/wp-content/uploads/2019/07/Philippines.Statement.5July2019.F.pdf.


31 See The Duterte List: Judges, Mayors, Police Officials Linked to Drugs (Rappler, August 7, 2016); https://www.rappler.com/nation/142210-duterte-list-igu-police-officials-linked-drugs.


33 Id.; see also Report, Killing the lawyers: 43 jurists murdered in the Philippines since 2016 (Lawyers’ Rights Watch Canada, July 5, 2019), at Appendix, “Jurists killed in the Philippines since July 2016 in date order of murder – As of 10 June 2019” (does not include the murders of lawyers Anthony H. Trinidad and Nicolas Gomez Jr.) (noting that Marave had served as the prosecutor in “several cases involving the Parojinog family who are currently detained on drug and illegal possession of firearms cases,” that their parents “were among the 15 persons killed in a raid on the Parojinog compound” in July 2017, and that their father was “on the government’s drug watchlist”), https://www.lrwc.org/ws/wp-content/uploads/2019/07/Philippines.Statement.5July2019.F.pdf.

34 See Rambo Talabong, Judge Handling Parojinog Cases Shot Dead in Ozamiz City (Rappler, October 8, 2018), https://www.rappler.com/nation/213825-judge-edmundo-pintac-shot-dead-october-8-2018; see also Report, Killing the lawyers: 43 jurists murdered in the Philippines since 2016 (Lawyers’ Rights Watch Canada, July 5, 2019), at Appendix, “Jurists killed in the Philippines since July 2016 in date order of murder – As of 10 June 2019” (does not include the murders of lawyers Anthony H. Trinidad and Nicolas Gomez Jr.) (indicating that Pintac “was the judge that handled the drug and firearms cases against Ozamiz Vice Mayor Nova Princess Parojinog and her brother Reynaldo Parojinog Jr before the[] cases were transferred to a Quezon City court,” in
Teresita Leonardo-de Castro urged the Philippine National Police to make every effort to arrest the perpetrators.35

c. Jonah John Ungab

Jonah John Ungab is yet another one of the dozens of lawyers and other legal professionals who have lost their lives to this Administration’s war on drugs.36 On February 19, 2018, unidentified assailants shot Ungab in Cebu City.37 At the time, Ungab was driving his car after attending a court hearing in the prosecution of suspected drug lord Kerwin Espinosa, who was acquitted of the charge of illegal possession of firearms.38 According to Ungab’s wife, her husband received death threats just hours before the shooting and was asked to choose between his own life and that of his client.39 She grieves that Ungab was killed for simply “doing his job as a lawyer.”40 When asked about Ungab’s murder, the former police chief of Albuera, Leyte, opined that the Government should “only express condemnation for the killing of lawyers who have done good”—in essence, declaring open season on lawyers like Ungab, who are perceived not to “do good” because they represent those accused of drug offenses.41 Remarks such as these by you and your allies evidence the existing widespread contempt for due process and the rule of law in the Philippines today.

d. Rex Jasper Lopoz and Rolando Lopoz Acido

On March 13, 2019, attorney Rex Jasper Lopoz was executed by unknown assailants in Tagum City.42 According to the Southern Mindanao Police, Lopoz was gunned down by a

addition to “other high-profile cases that [Pintac] was handling prior to his death”), https://www.hrw.org/news/2019/03/15/Philippine.Bureau.of.Customs.


38 See id.; see also Report, Killing the lawyers: 43 jurists murdered in the Philippines since 2016 (Lawyers’ Rights Watch Canada, July 5, 2019), at Appendix, “Jurists killed in the Philippines since July 2016 in date order of murder – As of 10 June 2019” (does not include the murders of lawyers Anthony H. Trinidad and Nicolas Gomez Jr.) (reporting that Ungab “was the lawyer for suspected drug lord Rolando Kerwin Espinosa Jr. and his father Rolando Espinosa Sr., which led [Ungab] to be tagged as a ‘drug protector’ by Albueria police,” and, further, that “Ungab was charged (subsequently dismissed) in respect to his relationship with Espinosa Jr.”; also stating that Ungab “served as counsel [to] suspected Danao City-based drug lord Alvaro ‘Barok’ Alvaro, and controversial businessman Kenneth Dong who was tagged in the P6.4-billion shabu shipment confiscated by the Bureau of Customs”), https://www.lrwc.org/ws/wp-content/uploads/2019/07/Philippines.Statement.5July2019.F.pdf.


40 Id.

41 Id.

sniper located a few meters away from where Lopoz parked his vehicle. At the time of the killing, Lopoz was representing defendants in drug cases. Lopoz’s brother, attorney Arvin Dexter Lopoz, attributes his death to your war on drugs. Both Supreme Court Chief Justice Lucas Bersamin and the Integrated Bar of the Philippines condemned the murder. In addition, more generally, the Integrated Bar of the Philippines called on the Supreme Court to launch a “thorough and impartial investigation into all the killings” by opening a dialogue between the Supreme Court, the Integrated Bar of the Philippines, and the state. Neither of these actions have occurred.

Attorney Rex Jasper Lopoz was the second lawyer in the Lopoz family to lose his life as a result of your war on drugs. Lopoz’s cousin, Rolando Lopoz Acido, was shot dead by gunmen in front of the Mati City Hall of Justice on October 26, 2016. Acido had withstood unrelenting pressure by Government agents following his appointment as a public prosecutor and is just one of a number of prosecutors who have been slain during your Presidency. In an interview, Arvin Lopoz described the members of his family as victims of your Administration’s culture of impunity.


45 See Mart Sambalud, Slain Tagum lawyer was victim of impunity, says brother (Philippine Daily Inquirer, March 15, 2019), https://newsinfo.inquirer.net/1096048/slain-tagum-lawyer-was-victim-of-impunity-says-brother.


48 Id.


50 See Mart Sambalud, Slain Tagum Lawyer was Victim of Impunity, Says Brother (Philippine Daily Inquirer, March 15, 2019), https://newsinfo.inquirer.net/1096048/slain-tagum-lawyer-was-victim-of-impunity-says-brother; see also Report, Killing the lawyers: 43 jurists murdered in the Philippines since 2016 (Lawyers’ Rights Watch Canada, July 5, 2019), at Appendix, “Jurists killed in the Philippines since July 2016 in date order of murder – As of 10 June 2019” (does not include the murders of lawyers Anthony H. Trinidad and Nicolas Gomez Jr.) (stating that “[i]t is believed that Acido stepped on some powerful person’s toes as a prosecutor or as a [Department of Agrarian Reform] lawyer”), https://www.lrwc.org/ws/wpcontent/uploads/2019/07/Philippines.Statement.5July2019.F.pdf.

51 See Mart Sambalud, Slain Tagum Lawyer was Victim of Impunity, Says Brother (Philippine Daily Inquirer, March 15, 2019), https://newsinfo.inquirer.net/1096048/slain-tagum-lawyer-was-victim-of-impunity-says-brother.
Mary Ann Castro and Josephine Caranzo Olivar

Including Acido, a total of 11 prosecutors or former prosecutors have been slain during your Presidency. The most recent is Mary Ann Castro, who served as an Assistant Prosecutor in the cities of Cebu and Talisay for nearly 20 years before transferring to the Office of the Provincial Prosecutor in Masbate.

Castro was fatally shot in Cebu City while driving home alone at approximately 10:00 p.m. on January 17, 2019. The motorcycle-riding gunman ambushed her, pulling up alongside her car and firing through the driver’s side window. Castro was shot five times in the jaw and neck. Her caseload included the prosecution of drug cases, and she was a close friend of the late attorney Jonah John Ungab, who was assassinated earlier, in February 2018.

In addition, Provincial Prosecutor Josephine Caranzo Olivar was left fighting for her life after being ambushed in broad daylight on the morning of June 10, 2019, as she was about


56 See id.

57 See id. (reporting that police identified “Castro’s job as a prosecutor as one of the major motives for her killing,” but had not yet ruled out “the involvement of drugs with Castro’s past affiliation with [a] controversial cop?”) Ex-Cebu City prosecutor shot dead (GMA News, January 19, 2019) (indicating that “possible angles” included not only “personal grudge,” but also “work-related issues since Castro [had] actively prosecuted drug cases in the past”), https://www.gmanetwork.com/news/news/regions/681858/ex-cebu-city-prosecutor-shot-dead/story/. (Does not include the murders of lawyers Anthony H. Trinidad and Nicolas Gomez Jr.) (stating that, according to police, “possible motives ranged from personal grudge, family conflict, [Castro’s] work as a prosecutor or her involvement with a person linked to illegal drugs”), https://www.lrwc.org/ws/wp-content/uploads/2019/07/Philippines.Statement.5July2019.F.pdf.

to enter her home in Calapan City.\textsuperscript{59} She survived the attack but suffered a total of five gunshot wounds, including two in the head.\textsuperscript{60} Authorities believe that the assault is tied to her work.\textsuperscript{61}

\textbf{f. Benjamin Ramos}

One of the more high profile assassinations of legal professionals during your tenure is the November 6, 2018 murder of prominent human rights lawyer Benjamin Ramos, a founding member of the National Union of People’s Lawyers and the Secretary General of the organization’s Negros Occidental chapter.\textsuperscript{62} Ramos had just finished drafting a motion in one of his cases and was taking a break at about 10:30 p.m., smoking a cigarette and talking with a shopkeeper, when he was gunned down by two assailants riding in tandem on a motorcycle, in Kabankalan City.\textsuperscript{63} Hit three times in the chest, at close range, Ramos was pronounced dead on arrival at the hospital.\textsuperscript{64} The shopkeeper was unharmed.\textsuperscript{65}

A lifelong advocate for the poor and disenfranchised, political prisoners, environmentalists, activists, dissidents, and civil rights and human rights organizations (especially those involved in land/agrarian reform), at the time of his death Ramos was handling two particularly high-profile matters which are believed to have led to his murder.\textsuperscript{66}


Specifically, Ramos was advising farmers and the families of the victims in connection with the infamous “Sagay 9 Massacre,” in which armed gunmen opened fire and fatally shot nine sugarcane farm workers (including three women and two minors) while they were eating supper inside their tents, in late October 2018, less than three weeks before Ramos’ murder.67 At the time of the Massacre, the workers were engaged in the traditional collective farming practice known as bungkalan, planting vegetables and root crops on sugar land that would otherwise be left idle after the sugarcane harvest.68 Similarly, in the “Mabinay 6” case, Ramos was defending six young activists who were arrested by the Philippine military in March 2018, as the activists were peacefully investigating the plight of local farmers.69 The military claimed that the young activists were heavily-armed members of the New People’s Army (the armed wing of the Communist Party) and purportedly seized assault weapons and explosives from the six, although there was no evidence of any such affiliation and all six tested negative for gunpowder residue.70


69 See House Resolution No. 1801, Resolution Directing the House Committee on Human Rights to Investigate, in Aid of Legislation, the Illegal Arrest of the Mabinay 6 and Harassment of Their Counsel and Relatives (Republic of the Philippines House of Representatives, filed March 21, 2018), http://www.congress.gov.ph/legisdocs/basic_17/HR01801.pdf.

In the days before his assassination, Ramos had been tailed by men on a motorcycle, and had received death threats via text message. Earlier in 2018, he had been targeted in a major “poster-hit-tagging” campaign, widely attributed to police. In what amounted to a “poster-hit-list,” Ramos’ name and face were included together with those of 60 others identified as alleged members of the Communist Party-New People’s Army-National Democratic Front, effectively inviting reprisals against them. His murder drew condemnation throughout the Philippines and beyond, from the European Union, Human Rights Watch, the International Commission of Jurists, the New York State Bar Association, the European Association of Lawyers for Democracy and World Human Rights, the International Association of Democratic Lawyers, Lawyers for Lawyers, and The Observatory for the

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Benjamin Ramos shot and killed (Lawyers for Lawyers, Nov. 26, 2018),


g. Judge Reymar Lacaya, Adilberto Golla, Jr. and Val Crisostomo

Recent developments have only intensified concerns about the independence, safety, and security of legal professionals in the Philippines. Two of the latest assassinations—the May 2019 murders of Judge Reymar Lacaya and lawyers Adilberto Golla Jr. and Val Crisostomo—demonstrate that the culture of impunity is now spreading beyond the war on drugs.92

On the afternoon of May 9, 2019, Judge Lacaya became the fifth judge to be executed during your Administration.93 As the judge left the courthouse in Liloy, a shooter emerged from a nearby vacant building, stalked him, and then fired two bullets from behind—one at the judge’s back and a second at the base of his skull.94 Local sources suggest the murder was likely related to the judge’s decisions revoking bail and reinstating arrest warrants in a number of cases.95

Mere days later, on May 17, 2019, attorneys Adilberto Golla Jr. and Val Crisostomo were both shot dead by unidentified gunmen in separate attacks.96 Gunmen shot Golla as he was on his way to his office in Barangay San Isidro Rodriguez, Rizal.97 At the time of his death, Golla was representing a group of police officers being prosecuted for alleged links to the 2009 Maguindanao massacre, the country’s worst case of election-related violence.98

That same day, Crisostomo was found dead in front of the Hall of Justice in Barangay Bonuan Tondaligan, shot several times by an unknown assailant.99 At the time of his murder, Crisostomo had been representing gaming technology firm Globaltech Mobile Online


Corporation in a case concerning Peryahan ng Bayan, one of Globaltech’s games.\textsuperscript{100} Crisostomo was pursuing action against agents of the National Bureau of Investigation and other law enforcement officers who allegedly engaged in illegal raids on Globaltech facilities and unlawfully arrested Globaltech staff operating the games at issue.\textsuperscript{101} Per Globaltech’s head of legal operations, “[t]he attack was not just on [Crisostomo] and [Globaltech and its gaming operations], but also on the country’s justice system as it seemed to send a message that [their] enemies . . . do not subject themselves to the laws of men, and the Rule of Law.”\textsuperscript{102}

h. Anthony H. Trinidad and Nicolas Gomez, Jr.

The two latest legal professionals to fall to assassinations are lawyers Anthony H. Trinidad and Nicolas Gomez Jr.

Gomez was gunned down in Valencia City, Bukidnon, at 6:30 p.m. on July 28, 2019, as he was walking alone on the street near a bakery.\textsuperscript{103} Masked motorcycle-riding men fired at him at least five times.\textsuperscript{104} He sustained multiple gunshot wounds and was declared dead on

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\textsuperscript{100} See Christopher Lloyd Caliwan, \textit{PNP Forms Task Group to Probe Killing of Lawyers} (Canadian Daily Inquirer, May 20, 2019), \url{http://www.canadianinquirer.net/2019/05/20/pnp-forms-task-group-to-probe-killing-of-lawyers/}.
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\textsuperscript{101} Id.; see also Sofia Tomacruz, \textit{De Lima seeks Senate probe into killings of lawyers, judges under Duterte gov’t} (Rappler, July 27, 2019) (noting that “Crisostomo was among the lawyers who fled a case against the National Bureau of Investigation over supposedly illegal raids in Peryahan ng Bayan games in Pangasinan”), \url{https://www.rappler.com/nation/236438-gov't-lawyers/}.\end{flushright}

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\textsuperscript{102} See Christopher Lloyd Caliwan, \textit{PNP Forms Task Group to Probe Killing of Lawyers} (Canadian Daily Inquirer, May 20, 2019), \url{http://www.canadianinquirer.net/2019/05/20/pnp-forms-task-group-to-probe-killing-of-lawyers/}.
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arrival at the hospital.105 He had been scheduled to attend a hearing in Malaybalay Regional Trial Court the following day.106

Although authorities believe that Gomez’s death was related to a dispute involving land that he owned,107 media coverage pointed out that his murder nevertheless “serve[s] to underscore the phenomenon of extrajudicial killings [that now includes] lawyers among the fatalities—a public concern also expressed by the country’s bar.”108

Less than a week before Gomez’s death, Trinidad was slain in broad daylight on the afternoon of July 23, 2019, in Guihulngan City, Negros Oriental.109 Trinidad had just left a court hearing in La Libertad and was on the highway with his wife en route to their home in

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San Carlos City, when a gunman riding in tandem on a motorcycle pulled up alongside the couple’s SUV and fired at least nine times at close range. Trinidad sustained mortal wounds to his head and neck, and was pronounced dead on arrival at the hospital. His wife was seriously injured with a gunshot wound to the shoulder. Also injured was a pedicab driver, whose vehicle was clipped when Trinidad lost control of his SUV after being shot.

Like the assassinations of so many other Philippine legal professionals, Trinidad’s execution is attributed directly to his work as a lawyer. One of the few practicing attorneys in the Guihulngan City area, Trinidad was known for representing the poor and the socially-marginalized, often accepting chickens in payment for his services. As a human rights lawyer, his work was often in the forefront of social and political issues.


lawyer,” he also served as counsel for political prisoners and others who had suffered human rights violations; and he handled sensitive drug cases as well.

Trinidad’s high-profile, controversial former clients included peasant leaders/siblings Maricris, Emilia, and Rene Quirante. Emilia was municipal chair of Kaugaon, a peasant organization affiliated with the militant movement KMP, while her brother Rene was head of the local chapter of Anakpawis Party-list (the national party founded in 2002 “whose goal is to promote the patriotic and democratic aspirations of the toiling masses”). Rene was shot dead in Guihulngan in 2010. At the time of his death, Trinidad was representing Arthur Bayawa (a school principal) and his sister Ardall (a Department of Education official) in a land dispute. Both were assassinated in their Negros Oriental home on July 25, 2019, just two days after Trinidad, and both had previously been “red-tagged.”


handling. 125 Trinidad’s uncle Mario, a judge, survived an assassination attempt in November 2008, also in Guihulngan City. 126 The judge’s companion, however, was killed. 127

IV. CONDEMNATION BY DOMESTIC AND INTERNATIONAL RIGHTS ORGANIZATIONS

The cases that are highlighted here are merely a sampling of the dozens of attacks on legal professionals that have occurred on your watch over the past three years. Each of those dozens of cases is individually compelling. Each case is a devastating loss to the victim’s family, friends, and colleagues, as well as the legal profession and the law as a whole. But, in addition, each case represents a loss to those who turn to legal professionals for justice.

As Human Rights Watch has aptly put it: “The killing of lawyers who represent the poorest, most marginalized parts of Philippine society, including many of the victims of the ‘drug war’ and their families, has a devastating impact on access to justice in the Philippines. By silencing a lawyer, many victims are also silenced. But then perhaps that is the


127 See id.
purpose.”\textsuperscript{128} It is no secret: Autocrats and strongmen the world over know that silencing lawyers and other legal professionals is one of the most effective and efficient means of silencing opposition voices and forces. The ongoing attacks are thinning the ranks of lawyers who handle drug cases and other politically-sensitive matters; and the attacks have a chilling effect on some (if not many) legal professionals who might otherwise step into the shoes of their fallen colleagues.

As U.N. human rights officials pointed out in early June, there have been “[v]ery few independent and effective investigations” of the extrajudicial killings during your term in office.\textsuperscript{129} That is even more true vis-à-vis the executions of legal professionals. As recently as March 2019, the Chairman of the National Union of People’s Lawyers expressed frustration


\textsuperscript{129} \textit{UN human rights experts call for independent probe into Philippines violations} (Office of the U.N. High Commissioner for Human Rights, June 7, 2019), \url{https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24679&LangID=E}; see also \textit{High Commissioner Bachelet calls on States to take strong action against inequalities} (Office of the U.N. High Commissioner for Human Rights, March 6, 2019) (quoting the U.N. High Commissioner’s remarks to the U.N. Human Rights Council, stating that “[d]espite serious allegations of extra-judicial killings, only one case—the widely reported killing of a teenage boy—has been subject to investigation and prosecution”), \url{https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24265&LangID=E}; \textit{Report, Killing the lawyers: 43 jurists murdered in the Philippines since 2016} (Lawyers’ Rights Watch Canada, July 5, 2019) at 5 (stating that “[t]he Duterte administration has made failure to investigate a matter of policy,” and noting that, as of July 2018, “President Duterte stated he would not allow the Commission on Human Rights or Ombudsman to investigate alleged human rights violations committed by police or military without his permission,” which “impairs the ability of authorities to conduct prompt, effective, independent[,] . . . impartial, and transparent investigations”), \url{https://www.lrcw.org/wpcontent/uploads/2019/07/Philippines_Statement_5July2019_F.pdf}; \textit{Philippines: “They Just Kill”: Ongoing Extrajudicial Executions and Other Violations in the Philippines” “War on Drugs”} (Amnesty International, July 8, 2019) (stating that “only one unlawful killing, that of a 17 year old, has resulted in the prosecution and conviction of police officers”), \url{https://www.amnesty.org/en/documents/asa35/0578/2019/en/}; \textit{Report, “They Just Kill”: Ongoing Extrajudicial Executions and Other Violations in the Philippines’ “War on Drugs”} at 33 (Amnesty International, July 8, 2019) (stating that, “[d]espite at least 6,600 killings in police operations, few if any effective investigations are believed to have taken place since the ‘war on drugs’ began in 2016”), \url{https://www.justice.gov/oir/page/file/1180791/download; id. at 6} (reporting that “[t]here has been no meaningful accountability at the national level for the thousands of extrajudicial executions,” and that “[o]nly a single case—caught on video—has been brought to justice, leading to the conviction in November 2018 of three police officers who murdered 17 year old Kian delos Santos”); \textit{id. at 32} (stating that “just one case among thousands has been brought to justice, resulting in the conviction in November 2018 of the three police officers who murdered 17-year-old Kian delos Santos,” and that “Amnesty International knows of no other conviction of a police officer for a murder related to the ‘war on drugs’”); Lian Buan, Rambo Talabong, & Jodesz Gavilan, \textit{Duterte gov’t allows ‘drug war’ deaths to go unsolved} (Rappler, January 14, 2019), \url{https://www.rappler.com/newsbreak/in-depth/220595-duterte-government-drug-war-deaths-unsolved}. Cf. Elizabeth Witchel, \textit{Getting Away with Murder} (Committee to Protect Journalists, October 2018) (reporting that, on the 2018 Global Impunity Index (calculating the number of unsolved murders of journalists over a 10-year period as a percentage of a country’s population), the Philippines ranks fifth worst in the world—ahead of only Somalia, Syria, Iraq, and South Sudan), \url{https://cpj.org/reports/2018/10/impunity-index-getting-away-with-murder-killed-justice.php}. 

Moreover, absent successful investigations, there can be no prosecutions. An international delegation’s March 2019 report on the assassination of legal professionals found that “only a few identified perpetrators have been prosecuted,” which contributes to the culture of impunity toward the legal profession.\footnote{See National Union of People’s Lawyers, *On the murder of Atty. Anthony Trinidad* (Panay News, July 29, 2019), \url{https://www.panaynews.net/on-the-murder-of-atty-anthony-trinidad/}.

To date, none of those perpetrators has been brought to justice.\footnote{See Lian Buan, *1st petition vs Oplan TokHang filed at SC* (Rappler, January 27, 2017), \url{https://www.rappler.com/nation/159549-first-petition-oplan-tokhang-filed-supreme-court}.

V. THE WAR ON DRUGS AND THE PHILIPPINES SUPREME COURT

In stark contrast to the hostility exhibited by your Administration, the decisions of the Philippines’ Supreme Court have marked a single avenue of relief for embattled legal professionals and rights defenders more generally.


The Free Legal Assistance Group argued that the PNP’s
use of terms such as “neutralize” and “negate” in the command memorandum are without legal effect as they “expressly authorize the police to kill . . . ‘illegal drug personalities’ in the guise of ‘neutralizing’ or ‘negating’ them” rather than gathering evidence and building solid cases against suspects.136 The petition also requested that the Philippine National Police and the National Police Commission report monthly to the Supreme Court on the status of investigations into nanlaban cases—cases in which a suspect allegedly “fought back” against the police and was killed as a result.137 Raising similar concerns, the Philippine Commission on Human Rights has also urged further investigation into such killings, rejecting authorities’ stock assertions of “self-defense” as nothing more than “[a]n overused narrative claimed by state agents in the middle of the campaign against illegal drugs.”138

Following public hearings on the two petitions, the Supreme Court ordered Solicitor General Jose Calida to submit all records related to police anti-drug operations for the period from July 1, 2016 through November 30, 2017.139 While the Solicitor General initially agreed to provide the documents, he later appealed citing national security concerns.140 The Solicitor General’s Office subsequently classified the documents into two categories: category (1) includes the list of individuals and operations recorded during the relevant period, and category (2) covers information on cases which the two petitions have cited.141 The Solicitor General

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138 Id.; see also Report, “They Just Kill”: Ongoing Extrajudicial Executions and Other Violations in the Philippines’ “War on Drugs” at 6, 12-18 (Amnesty International, July 8, 2019) (analyzing and decimating the pattern of alleged “self-defense” claims by authorities in nanlaban cases, concluding that the authorities’ assertions of “self-defense” do not “meet the feeblest standards of credibility,” and noting that—as one forensic expert put it—the claims are “so consistent, it’s a script”), https://www.justice.gov/eoir/page/file/1180791/download; Patricia Denise M. Chiu, Unique killings, same language, lawyers say of Philippines drug war reports ( Philippine Daily Inquirer, April 5, 2019) (reporting that “[t]he language used in the [official/police] reports on the killings of suspects who alleged resisted arrest is ‘nearly identical’”), https://newsinfo.inquirer.net/1103440/unique-killings-same-language-lawyers-say-of-drug-war-reports.


agreed to submit both categories of documents to the Supreme Court but refused to share the category (1) documents with the petitioners.\textsuperscript{142}

On April 2, 2019, the Supreme Court reaffirmed its earlier decision and again ordered the Solicitor General to release all police reports on anti-drug operations from July 1, 2016, through November 30, 2017, to both the Center for International Law and the Free Legal Assistance Group.\textsuperscript{143} In its decision, the Supreme Court emphasized that it is an “undeniable fact” that thousands of ordinary citizens have been killed during police drug operations and that it is a matter of “grave public concern” requiring public transparency under Article III, Section 7 of the Philippines Constitution.\textsuperscript{144}

The head of the Free Legal Assistance Group has hailed the Supreme Court’s decision as “a big step forward for transparency and accountability” which will help human rights defenders better scrutinize police operations in connection with your war on drugs and the resulting human carnage.\textsuperscript{145} The President of the Center for International Law has similarly praised the decision as sending a clear message that the Supreme Court will not permit your Administration’s war on drugs to triumph over the rule of law.\textsuperscript{146}

In another recent lawsuit filed by the National Union of People’s Lawyers seeking a writ of amparo on behalf of Philippines human rights lawyers generally, your Administration has continued to insist that there have been “no extralegal killing[s] and [no] enforced disappearances” in the ranks of the country’s legal professionals.\textsuperscript{147} Suffice it to say that all evidence is to the contrary. The Supreme Court granted the requested writ and referred the

\textsuperscript{142} Id.

\textsuperscript{143} Id.; see also Report, “They Just Kill”: Ongoing Extrajudicial Executions and Other Violations in the Philippines’ ‘War on Drugs’ at 35 (Amnesty International, July 8, 2019) (explaining that “[t]he problem of obtaining police or other reports to file cases has gone all the way to the Supreme Court”); that, [i]n April 2019, legal organisations Free Legal Assistance Group and CenterLaw Philippines won a victory when the Solicitor General’s Office was ordered to furnish both with copies of police reports relating to victims they are representing, following a battle which lasted almost two years”; and that “FLAG and CenterLaw are still waiting to be provided copies of documents [in] over 20,000 cases believed to be related to the ‘war on drugs,’ which[,] according to them, the Solicitor General’s office[,] is delaying”), \url{https://www.justice.gov/eoir/page/file/1180791/download}.


\textsuperscript{146} Id.

matters to the Court of Appeals for further proceedings. The NUPL is seeking Supreme Court review of the appellate court’s July 26, 2019 ruling denying additional relief.

VI. THE 2019 ELECTION SHOULD NOT BE CONSTRUED AS AN ENDORSEMENT OF THE DUTERTE ADMINISTRATION’S TACTICS

Some observers have expressed fear that the results of the May 13, 2019 national elections—which gave your allies control of both houses of Congress—may be read as an endorsement of the scorched earth tactics of your war on drugs that have made victims of so many, including scores of legal professionals and human rights defenders. Any such interpretation, however, would be a serious miscalculation.

a. Standing of the Philippines in the Global Community

As a threshold matter, the standing of the Republic of the Philippines in the global community has plummeted since you took office, as evidenced most recently by the June 7, 2019 statement by 11 U.N. international human rights experts, the June 24, 2019 remarks of the U.N. High Commissioner for Human Rights opening the 41st session of the U.N. Human Rights Council, the resolution calling for a report on the human rights situation in the Philippines, adopted by the U.N. Human Rights Council on July 11, 2019, and the July 25, 2019 U.S. Congressional subcommittee hearing addressing human rights in the Philippines.


154 See Hearing, Human Rights in Southeast Asia: A Regional Outlook (including a link to video of the hearing) (Subcommittee on Asia, the Pacific, and Non-Proliferation, U.S. House of Representatives Committee on Foreign Affairs, July 25, 2019), https://foreignaffairs.house.gov/2019/7/human-rights-in-southeast-asia-a-
In addition, in February 2018, Prosecutor Fatou Bensouda of the International Criminal Court (ICC) announced that her office was opening a preliminary examination into deaths linked to your war on drugs,\(^\text{155}\) to determine whether there is a reasonable basis for charges that your Government is complicit in crimes against humanity.\(^\text{156}\) In protest, you issued a declaration withdrawing from the Rome Statute (which governs the ICC), accusing the Court of “baseless, unprecedented and outrageous attacks” on your Administration.\(^\text{157}\) Notwithstanding your withdrawal, however, the ICC retains the authority to probe actions taken by your Administration in conjunction with the war on drugs through March 17, 2019, when the withdrawal became effective.\(^\text{158}\)

More broadly, other governments, international institutions, and human rights organizations worldwide have roundly condemned your Administration’s murderous policies and practices, including your attacks on legal professionals and on human rights defenders more generally.\(^\text{159}\)


\(^\text{156}\) Id.

\(^\text{157}\) Id.


b. Domestic Public Opinion and Legislative Action

Even domestically, there is compelling evidence that—whatever they may think of your war on drugs in general—the Philippine people recognize the unique and vital role that legal professionals and other human rights defenders play in society, and recognize the importance of affording them special protections to help ensure their independence, safety, and security.

Specifically, three weeks after the May 13, 2019 elections, on June 3, 2019, the Philippine House of Representatives unanimously approved House Bill No. 9199, the proposed Human Rights Defender Protection Act (with 183 voting in favor, no votes in opposition, and no abstentions). The legislation largely parallels the U.N. Declaration on Human Rights Defenders and, in essence, would codify key provisions of the U.N. Declaration as the national, domestic law of the Philippines. In particular, the legislation defines a wide range of rights for human rights defenders and, in addition, obligates the Government to respect and protect human rights defenders and to facilitate their work, to penalize intimidation and reprisals, and to refrain from “red-tagging” and other derogatory labeling.

Although the proposed legislation’s ultimate fate is uncertain, the House of Representatives’ unanimous vote in favor of the bill refutes any suggestion that the recent national elections reflect a mandate for your Administration’s targeted persecution of legal professionals and human rights defenders.

release of organization’s World Report 2019, which documents, *inter alia*, “violent attacks against human rights activists[] [and] lawyers”), [https://www.hrw.org/news/2019/01/17/philippines-crackdown-against-critics-intensifies#](https://www.hrw.org/news/2019/01/17/philippines-crackdown-against-critics-intensifies#); **Philippines: Murder of prominent human rights lawyer ‘a new low’** (Amnesty International, November 7, 2018) (condemning the November 6, 2018 assassination of Benjamin Ramos and calling on the Philippine Government “to swiftly launch a thorough and impartial investigation into the killing of Ramos, as well as [the killings] of the numerous other lawyers and judges since the beginning of the [Duterte] administration”); **Preliminary Findings of International Delegation of Lawyers** (International Association of Democratic Lawyers (IADL), International Association of Lawyers (UIA), & Day of the Endangered Lawyer Foundation (DELF), March 18, 2019) (finding that lawyers and other legal professionals are being subjected to “[s]evere human rights violations,” that such violations—particularly extrajudicial killings—have increased sharply under the current Administration, that the violations go unpunished in the prevailing “culture of impunity,” and that “the killings, harassment, surveillance and criminalization of lawyers prevent them from fully and freely exercising their profession”), [https://www.rianet.org/sites/default/files/preliminary_findings_march182019_the_philippines.pdf](https://www.rianet.org/sites/default/files/preliminary_findings_march182019_the_philippines.pdf).


162 See id.
c. Continuing Condemnation by the United Nations

Significantly, June 19, 2019 marked the first anniversary of the removal of Chief Justice Maria Lourdes Sereno from the Supreme Court of the Philippines.\textsuperscript{163} Chief Justice Sereno was removed from office by a controversial 8-6 decision of the Supreme Court, ruling on a quo warranto petition filed by Solicitor General Calida.\textsuperscript{164} As noted by the U.N. Special Rapporteur on the Independence of Judges and Lawyers, the Chief Justice was removed a mere two days after you publicly declared her to be your “enemy” and threatened that “she should be removed from her job or resign.”\textsuperscript{165} Moreover, the ouster came amidst a series of politically-motivated allegations of corruption leveled after the Chief Justice publicly criticized your attacks on the legal profession and the judiciary, describing “[t]he current state of the nation” as “one where perceived enemies of the dominant order are considered fair game for harassment, intimidation and persecution.”\textsuperscript{166}

In the year since Chief Justice Sereno’s removal, there have been continued attacks on legal professionals involving lawyers’ representation of defendants in drug-related cases,\textsuperscript{167} prosecutors investigating and charging defendants in drug-related crimes,\textsuperscript{168} and judges’ rulings in drug-related cases, as well as other politically-sensitive (but non-drug-related) matters.\textsuperscript{169} In the words of the President of the Integrated Bar of the Philippines, the growing number of unsolved crimes against legal professionals has created “a dark halo of fear that has paralyzed the most important pillars of the justice system.”\textsuperscript{170}

The virtually unprecedented June 7, 2019 statement issued jointly by 11 of the U.N.’s top international human rights officials speaks volumes to the gravity of the situation.\textsuperscript{171} Citing


\textsuperscript{164} \textit{Id.}


\textsuperscript{166} \textit{See Jim Gomez, Filipino chief justice asks people to fight authoritarianism} (Associated Press, March 7, 2019), \url{https://www.apnews.com/9421874241e64b73bc8bae9526853bb9}.

\textsuperscript{167} \textit{See, e.g., Alyssa Mae Clarin, Under Duterte, attacks against Filipino lawyers escalating} (Bulatlat, March 16, 2019) (reporting that the President of the Integrated Bar of the Philippines stated that “new lawyers are afraid to handle drug cases for fear of being subjected to the same treatment as their clients”), \url{https://www.bulatlat.com/2019/03/16/under-duterte-attacks-against-filipino-lawyers-escalating/}.

\textsuperscript{168} \textit{See, e.g., id.} (reporting that “[t]he] president of the Philippine Judges Association . . . admitted that some prosecutors, for fear of antagonizing police officers, proceed with filing drug cases even without probable cause”).

\textsuperscript{169} \textit{See, e.g., Joseph Hincks, Duterte is Assassinating Opponents Under the Cover of the Drug War, Philippine Rights Groups Say} (Time, July 5, 2018) (reporting that Duterte is using the war on drugs to settle political scores and to silence critics), \url{https://time.com/5330071/philippines-mayors-political-assassination-duterte/}.


a staggering number of unlawful deaths and police killings in the context of the so-called war on drugs, as well as killings of human rights defenders,” the U.N. experts called on the U.N. Human Rights Council “to establish an independent investigation into the human rights violations in the Philippines.” The experts specifically noted the many “attacks against the independence of judges and lawyers” and the “ongoing intimidation and attacks against voices who are critical of the Government, including . . . human rights defenders[ and] lawyers.” The experts further observed that “in many incidents the alleged perpetrators of killings are members of the armed forces, paramilitary groups or individuals linked to them.” Decrying the “apparent climate of official, institutional impunity,” the experts emphasized that “[v]ery few independent and effective investigations have taken place” and that “[t]he Government has shown no indication that they will step up to fulfill their obligation to conduct prompt and full investigations . . . , and . . . hold perpetrators accountable.” Noting that—to no avail—“[i]ndependent human rights experts appointed by the Human Rights Council have raised their concerns with the Government of the Philippines on 33 occasions” since you took office as President, the 11 experts concluded that, as a last resort, “[i]t is time for the Human Rights Council to take action.”

In her remarks opening the U.N. Human Rights Council’s session on June 24, 2019, the U.N. High Commissioner for Human Rights “welcome[d]” the 11 U.N. experts’ call for action by the Council, stating that her office is following the human rights situation in the Philippines “very closely.” She noted that “[h]uman rights defenders . . .; . . . lawyers; . . . and others who have spoken out . . . have received threats, sometimes publicly, from senior Government officials . . . creat[ing] a very real risk of violence against them” and “undermin[ing] rule of law.” The High Commissioner urged your Administration to provide “comprehensive and transparent information . . . on the circumstances around the deaths [resulting from your war on drugs], and investigations related to allegations of [human rights] killings.


173 Id.

174 Id.

175 Id.

176 Id.


violations,” emphasizing that such information “could dispel any false allegations and help regain trust for the authorities.”

Heeding the concerns voiced by the U.N. High Commissioner and the 11 U.N. international human rights experts, the U.N. Human Rights Council’s July 11, 2019 resolution requests that the High Commissioner “prepare a comprehensive written report on the situation of human rights in the Philippines,” to be reviewed, “followed by an enhanced interactive dialog,” at the Council’s 44th session in June 2020.\(^{160}\) As to your Administration, the resolution

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\(^{179}\) See id.

urges the Government “to take all necessary measures to prevent extrajudicial killings and enforced disappearances, to carry out impartial investigations and to hold perpetrators accountable, in accordance with international norms and standards, including on due process and the rule of law.”\textsuperscript{181} In addition, the resolution “[c]alls upon [your] Government . . . to cooperate with the Office of the . . . High Commissioner . . . and the mechanisms of the Human Rights Council,” by, inter alia, “facilitating country visits and preventing and refraining from all acts of intimidation or retaliation.”\textsuperscript{182}

\textbf{VII. THE ADMINISTRATION’S ACTIONS ARE IN VIOLATION OF DOMESTIC AND INTERNATIONAL LAW}

Under both domestic law and international law, the Philippines is obligated to do no less.

Article II, Section 2 of the 1987 Constitution of the Republic of the Philippines expressly “adopts the generally accepted principles of international law as part of the law of the land” and states that the Philippines “adheres to the policy of . . . cooperation[] and amity with all nations”\textsuperscript{183}; and Section 11 establishes that “the State values the dignity of every human person and guarantees full respect for human rights.”\textsuperscript{184}

Article III of the Constitution sets out the Bill of Rights. As a threshold matter, pursuant to Article III, Section 19(1), the Philippines has abolished the death penalty.\textsuperscript{185} Thus, even as

\begin{footnotesize}
\begin{itemize}
  \item \textsuperscript{182} See id.
  \item \textsuperscript{184} See id., Art. II, § 11.
  \item \textsuperscript{185} See id., Art. III, § 19(1); see also Hannah Ellis-Petersen, \textit{Philippines: mid-terms clear way for Duterte to reinstate death penalty} (The Guardian, May 22, 2019) (explaining that “[t]he Philippines outlawed capital punishment in 1987, reinstated it six years later and then abolished it again in 2006”),
\end{itemize}
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to an accused who has been properly tried and convicted of the most heinous crime imaginable, execution is constitutionally prohibited. Sections 19(1) and (2) similarly proscribe the infliction of “cruel, degrading or inhuman punishment,” as well as “physical, psychological, or degrading punishment.”

Section 1 of Article III of the Constitution mandates that “[n]o person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws”—a commitment that is underscored by Article III, Section 14(1), which provides that “[n]o person shall be held to answer for a criminal offense without due process of law.” Section 12(1) of Article III establishes that “[a]ny person under investigation for the commission of an offense” has the right to counsel. Sections 12(2) and (3) prohibit the use of “torture, force, violence, threat, intimidation, or any other means which vitiate the free will” and provide that any confession or admission so obtained is inadmissible. Section 12(4) further provides that any violation of the prohibition is punishable by “penal and civil sanctions,” and, indeed, specifically provides for “compensation to and rehabilitation of victims of torture or similar practices, and their families.”

And Section 14(2) guarantees the presumption of innocence and entitles an accused to an impartial, public trial, with protections including the right to be heard (personally and by counsel) and the right to present and confront witnesses.

The Philippine Constitution also establishes the national Commission on Human Rights, in Article XIII. Article XIII, Section 18 sets forth the powers and functions of the Commission, which include investigating “all forms of human rights violations involving civil and political rights” and “provid[ing] for preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection.” In addition, notably, Section 18(7) charges the Commission with “[m]onitor[ing] the Philippine Government’s compliance with international treaty obligations on human rights.”

Quite apart from the provisions of its Constitution, the Philippines, like all nations, has an independent obligation to respect and to ensure for all of its people the fundamental rights and freedoms set forth in the Universal Declaration of Human Rights, which, in relevant part, “enshrines . . . the principles of equality before the law, of the presumption of innocence and of the right to a fair and public hearing by a competent, independent and impartial tribunal.”

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188 See id., Art. III, § 14(1).
189 See id., Art. III, § 12(1).
190 See id., Art. III, §§ 12(2)-(3).
191 See id., Art. III, § 12(4).
192 See id., Art. III, § 14(2).
193 See id., Art. XIII, §§ 18(1) & 18(3).
194 See id., Art. XIII, § 18(7).
Moreover, the Philippines belongs to the United Nations, which provides in its Charter that all members “affirm, inter alia, their determination to establish conditions under which justice can be maintained to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms.” Further, as a State Party to the International Covenant on Civil and Political Rights (ICCPR), the Philippines is bound to comply with that instrument, including the Optional Protocol.

Article 6.1 of the ICCPR guarantees the right to life and expressly prohibits its arbitrary deprivation. Article 7 bars “torture” and “cruel, inhuman [and] degrading treatment [and] punishment.” Article 9.1 guarantees all “the right to liberty and security of person,” prohibits “arbitrary arrest [and] detention,” and specifies that “[n]o one shall be deprived of . . . liberty except on such grounds and in accordance with such procedure as . . . established by law.” Article 10.1 requires that “[a]l persons deprived of their liberty . . . be treated with humanity” and with “inherent dignity.” Article 14 entitles every individual charged with a crime to “a fair and public hearing by a competent, independent and impartial tribunal,” at which the defendant has “the right to be presumed innocent until proved guilty according to law.” A defendant is also entitled to be represented by counsel, to present defense witnesses and to examine all witnesses for the prosecution, and to appeal any conviction. Further, Article 17 prohibits unlawful attacks on a person’s “honour and reputation” and requires that the law “protect[ ] . . . against such interference or attacks.” Lastly, Article 2 mandates that States Parties to the ICCPR take all “measures as may be necessary to give effect to the rights recognized in the . . . Covenant,” that they provide and enforce effective remedies for all violations of the established rights, and that such remedies be afforded even where the violation at issue has been committed by an agent of the state.

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199 See id., Art. 7.

200 See id., Art. 9.1.

201 See id., Art. 10.1.


203 See id., Arts. 14.3(b) & 14.3(d).

204 See id., Art. 14.3(e).

205 See id., Art. 14.5.

206 See id., Arts. 17.1 & 17.2.

207 See id., Arts. 2.2 & 2.3(a)-(c).
Other relevant international norms, principles, and standards are set forth in the U.N. Basic Principles on the Role of Lawyers, which establish, *inter alia*, that governments are to ensure that lawyers “are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference” and that lawyers’ security is to be adequately safeguarded208; the U.N. Basic Principles on the Independence of the Judiciary, which specify, *inter alia*, that there is to be no “inappropriate or unwarranted interference with the judicial process” and that judges’ safety “shall be adequately secured by law”209; and the U.N. Guidelines on the Role of Prosecutors, which state, *inter alia*, that prosecutors are to be able to perform their professional duties “without intimidation, hindrance, harassment, [and] improper interference,” and that they and their families are entitled to the protection of authorities.210

In addition, the U.N. Declaration on Human Rights Defenders provides that legal professionals and other human rights defenders have, *inter alia*, the right to information about human rights and the right to disseminate that information; the right to advocate for human rights; the right to complain about violations of human rights by public officials and government entities, as well as others; the right to “offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights”; the right to communicate with international bodies concerning human rights and human rights violations; and the right to “protection by the competent authorities . . . against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action” associated with the exercise of these rights.211

The authorities discussed above apply directly to the Philippines, barring the actions discussed herein, including the “red-tagging” of, and attacks on and summary executions of, legal professionals as well as human rights defenders in general. These same authorities impose upon the Philippines a legal obligation to investigate and prosecute all extra-judicial killings and other such attacks.

The Supreme Court of the Philippines has itself invoked the International Covenant on Civil and Political Rights (ICCPR) and has held that treaties to which the Philippines is a party have the force and effect of law.212 Further, as a member of the U.N. Human Rights Council, the Philippines has explicitly undertaken a special, heightened duty to “uphold the highest


standards in the promotion and protection of human rights” and to “fully cooperate with the Council.”

Further, commenting on one of the most recent murders of legal professionals, a Presidential spokesperson candidly acknowledged that legal professionals and other human rights defenders are entitled to special protections in light of the unique role that they play in safeguarding the rule of law and the rights of the rest of society. Highlighting the fact that “[l]awyers are officers of the court,” central to “the dispensation of justice,” the Palace spokesperson emphasized that attacks on legal professionals are particularly “atrocious” when the crimes are related to the victims’ legal work.

VIII. THE NEED FOR IMMEDIATE ACTION TO END VIOLENCE AGAINST HUMAN RIGHTS ACTIVISTS, LAWYERS AND JUDGES

In keeping with these statements, and in keeping with the Republic’s domestic law as well as its international human rights obligations, the New York City Bar Association urges that the Government of the Philippines:

- Take urgent measures to ensure the safety and security of legal professionals in their fulfillment of their responsibilities, and protect them in their work from human rights violations including surveillance, harassment, threats, intimidation, enforced disappearance, kidnapping, arbitrary detention, physical assault, and assassination;

- Immediately cease all public attacks—including threats and incitements to violence—directed at legal professionals based on their discharge of their responsibilities, and publicly and systematically condemn any such attacks by others;

- Halt the practice of “red-tagging” or “watch-listing” legal professionals and otherwise avoid identifying them with parties, clients, or causes in connection with their discharge of their duties;

- Put an end to the public stigmatization of legal professionals and instead affirmatively and publicly recognize their legitimate and vital role in Philippine society as guardians of the rule of law, in the context of the “war on drugs,” national security, and otherwise;

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● Ensure that all legal professionals are free and able to perform all of their functions in a safe and secure environment, without intimidation, hindrance, harassment, improper interference, or fear of reprisal;

● Foster accountability by establishing an independent commission to conduct a comprehensive, thorough, transparent, and impartial investigation into all incidents of violence, or threats of violence, against legal professionals, including the unsolved murders of all judges, prosecutors, lawyers, and paralegals.

● Combat the culture of impunity against the legal profession by mandating that each and every act of violence against legal professionals be individually, competently, thoroughly, and impartially investigated and prosecuted under the Philippines’ existing, established law enforcement and judicial systems, to the fullest extent of the law;

● Ensure the independence of the judiciary, the Commission on Human Rights, and the Ombudsman;

● Enhance the operation of the justice system that is now in place, to facilitate adequate and proper functioning of the Philippines’ existing mechanisms and laws;

● Allocate sufficient resources to the Commission on Human Rights and ensure that local authorities supply the Commission with all documentation needed for investigations into alleged human rights violations, including, in particular, alleged violations of the rights of legal professionals and other human rights defenders215;

● Ensure the availability of adequate and appropriate mechanisms and remedies for legal professionals who have been victimized for their work (or, in cases of execution, the survivors of such victims);

● Endorse the adoption of, and implement, a law to ensure the protection of legal professionals and other human rights defenders, such as the proposed Human Rights Defender Protection Act now pending in the Philippine Senate;

● Cooperate fully with the Special Procedures mandate-holders of the U.N. Human Rights Council—including the Special Rapporteur on the Independence of Judges and Lawyers, the Special Rapporteur on the Situation of Human Rights Defenders, and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions—by, inter alia, responding promptly and favorably to their repeated requests for country visits, and avoiding any surveillance, harassment, or intimidation, or any other form of attack;

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215 See, e.g., Report, “They Just Kill”: Ongoing Extrajudicial Executions and Other Violations in the Philippines’ “War on Drugs” at 33-34 (Amnesty International, July 8, 2019) (highlighting the resource constraints that hamstring the Commission on Human Rights, as well as the pattern of police refusals to provide the Commission with requested documentation), https://www.justice.gov/eoir/page/file/1180791/download; Tony S. Bergonia, In war of words over UNHRC probe, clarity is lost (Philippine Daily Inquirer, July 12, 2019) (reporting that Philippines’ Commission on Human Rights “was once threatened with extinction by a one peso budget” proposed by Duterte Administration), https://globalnation.inquirer.net/1177862/in-war-of-words-over-unhrc-probe-clarity-is-lost; Manuel Mogato, Philippine Congress backs annual budget of just $20 for agency probing drugs war (Reuters, September 12, 2017), https://www.reuters.com/article/us-philippines-drugs-rights/philippine-congress-backs-annual-budget-of-just-20-for-agency-probing-drugs-war-idUSKCN1BN1JV.
● Take swift action to fully implement all recommendations made by U.N. treaty bodies, as well as those made during the U.N. Universal Periodic Review, relating to legal professionals;

● Complete the implementation of the recommendations (as they relate to legal professionals) made by Philip Alston, former Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, following his 2007 mission to the Philippines;

● Partner with the Office of the U.N. High Commissioner for Human Rights in the fact-finding, research, and preparation of a report on the human rights situation in the Philippines, in accordance with the resolution adopted during the 41st session of the U.N. Human Rights Council;

● Encourage all Government employees and the Philippine people generally to cooperate fully and candidly in support of the work of the Office of the U.N. High Commissioner for Human Rights in accordance with the resolution adopted during the 41st session of the U.N. Human Rights Council, and eschew any retaliation against any person for such cooperation;

● “[U]phold the highest standards in the promotion and protection of human rights” and “fully cooperate with the Council,” including all of its mechanisms, as all 47 members of the U.N. Human Rights Council are required to do; and

● Ensure, in all circumstances, respect for the rights of all legal professionals in carrying out their responsibilities, in accordance and compliance with all relevant international human rights norms, standards, and instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the U.N. Basic Principles on the Independence of the Judiciary, the U.N. Guidelines on the Role of Prosecutors, the U.N. Basic Principles on the Role of Lawyers; and the U.N. Declaration on Human Rights Defenders; or

● Resign from the U.N. Human Rights Council, if the Philippines is not prepared to “uphold the highest standards in the promotion and protection of human rights,” to “fully cooperate with the Council” in its work, and to ensure, in all circumstances, respect for the rights of all legal professionals in carrying out their responsibilities, in accordance and compliance with all relevant international human rights norms, standards, and instruments.

We further note that your Presidency is now at the half-way mark. At this point in their terms, Presidents often pause to take stock of their records, with an eye toward their legacies.


217 Not only is the Philippines a current member of the U.N. Human Rights Council, but, in fact, the country was one of the original members of the Council when it was founded in 2006. See Press Release, General Assembly Elects 47 Members of New Human Rights Council; Marks “New Beginning” for Human Rights Promotion, Protection (United Nations, May 9, 2006), https://www.un.org/press/en/2006/ga10459.doc.htm.
and their standing in the world at large, and frequently elect to experiment with new approaches to their key goals and initiatives in the second half of their terms. So too, going forward, you may wish to consider exploring a more human rights-based, “public health” approach to the scourge of illegal drugs, in lieu of the so-called “enforcement” approach (the “war on drugs”) that your Administration has taken to date, which has exacted such a heavy toll in human lives.  

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Three years ago, when you took the Presidential oath of office, you stated that “[your] adherence to due process and the rule of law is uncompromising.” You unequivocally affirmed that the Republic of the Philippines would “honour treaties and international obligations.” We call on you now to respect your solemn vows to the people of the Philippines and to the global community of nations.

Respectfully,

Roger Juan Maldonado
President

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220 See id.; see also Rod Austin, “War on drugs” makes Philippines fourth most dangerous country – report (The Guardian, July 9, 2019) (quoting Philippine diplomat/spokesperson, responding to a July 2019 report identifying the Philippines as the fourth most dangerous country in the world, asserting that the country “has a long tradition of human rights,” “is a signatory to eight core human rights treaties,” and has “committed to respect, protect, and fulfil its human rights treaty obligations”), https://www.theguardian.com/global-development/2019/jul/09/war-on-drugs-makes-philippines-fourth-most-dangerous-country-report.
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