



The Republic of the Philippines  
Joint Submission to the UN Universal Periodic Review  
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Submission by **CIVICUS: World Alliance for Citizen Participation,**  
**NGO in General Consultative Status with ECOSOC**

And

**Karapatan Alliance Philippines**

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**CIVICUS: World Alliance for Citizen  
Participation**

Lisa Majumdar  
[lisa.majumdar@civicus.org](mailto:lisa.majumdar@civicus.org)  
Nicola Paccamiccio  
[nicola.paccamiccio@civicus.org](mailto:nicola.paccamiccio@civicus.org)  
+41 22 733 3435  
[www.civicus.org](http://www.civicus.org)

**Karapatan Alliance Philippines**

[karapatan@karapatan.org](mailto:karapatan@karapatan.org)  
[www.karapatan.org](http://www.karapatan.org)

## 1. Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in more than 180 countries throughout the world.
- 1.2 Karapatan is a human rights alliance that conducts research and campaigns to advocate for human rights, and monitors and documents human rights violations in the Philippines.
- 1.3 In this submission, the two organisations examine the compliance of the Government of the Republic of the Philippines (hereafter the Philippines) with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse the Philippines' fulfilment of the rights to the freedoms of association, peaceful assembly and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in May 2017.
- 1.4 During the 3<sup>rd</sup> UPR cycle, the Government of the Philippines received 12 recommendations relating to these rights. All were noted. Since then, the Government of the Philippines has partially implemented three of these recommendations. The situation with regard to the rights to the freedoms of association and expression and HRDs has worsened.
- 1.5 We are deeply concerned by systematic intimidation, attacks and vilification of civil society and activists, an increased crackdown on media freedoms and the emerging prevalence of a pervasive culture of impunity. Often, crackdowns have taken place under the guise of anti-terrorism or national security interests.
- 1.6 On 14 June 2021, then-Prosecutor of the International Criminal Court (ICC), Fatou Bensouda, requested judicial authorisation to proceed with an investigation into crimes committed in the Philippines from 1st November 2011 – the date the Philippines became an ICC member – until 16 March 2019. According to Bensouda, there is a reasonable basis to believe that crimes against humanity have been committed in the context of the government's 'war on drugs', in which thousands have died.<sup>1</sup> Bensouda further added that available information indicates that members of the Philippine national police and others acting in concert with them have unlawfully killed between several thousand and tens of thousands of civilians during the period under investigation.<sup>2</sup> On 15 September 2021, Pre-Trial Chamber I of the ICC granted the Prosecutor's request to commence the investigation.<sup>3</sup>
- 1.7 In June 2019, the Human Rights Council adopted a resolution on the Philippines which mandated monitoring by the UN's Office of the High Commissioner of Human Rights.<sup>4</sup> In a

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<sup>1</sup> 'Request to open an investigation of the Situation in the Philippines,' International Criminal Court Prosecutor Fatou Bensouda, 14 June 2021, <https://www.icc-cpi.int/Pages/item.aspx?name=210614-prosecutor-statement-philippines>.

<sup>2</sup> "Justice never sleeps': Families of Philippine drug war victims welcome ICC probe, Reuters, 15 June 2021, <https://www.reuters.com/world/asia-pacific/philippines-duterte-will-not-cooperate-with-icc-probe-2021-06-15>.

<sup>3</sup> 'Situation in the Philippines: ICC Pre-Trial Chamber I authorises the opening of an investigation, International Criminal Court, 15 September 2021, <https://www.icc-cpi.int/Pages/item.aspx?name=PR1610>.

<sup>4</sup> 'Promotion and protection of human rights in the Philippines', Human Rights Council resolution 41/2, A/HRC/RES/41/2, 11 July 2019, <https://undocs.org/A/HRC/RES/41/2>.

damning report on the Philippines presented to the Human Rights Council in June 2020, the High Commissioner reported that violations of human rights, including the widespread and systematic killing of thousands of alleged drug suspects, attacks on human rights activists and the vilification of dissent, were pervasive in the country, and accountability virtually non-existent.<sup>5</sup> A follow-up resolution in September 2020 missed the critical opportunity to build on this scrutiny and instead focused purely on technical cooperation and capacity-building.<sup>6</sup> On 24 July 2021, the Philippines government and the UN formalised a human rights programme which includes strengthening domestic investigation and accountability mechanisms; data gathering on alleged police violations; civic space and engagement with civil society and the Commission on Human Rights; a national mechanism for reporting and follow-up; counter-terrorism legislation; and human rights-based approaches to drug control.<sup>7</sup> This has not, to date, resulted in any tangible human rights improvement, nor steps towards accountability.

**1.8** As a result of these issues, civic space in the Philippines is currently classified as ‘repressed’ by the CIVICUS Monitor, indicating the existence of significant civic space restrictions.<sup>8</sup>

- Section 2 of this submission examines the Philippines’ implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of association.
- Section 3 examines the Philippines’ implementation of UPR recommendations and compliance with international human rights standards related to the protection of HRDs and civil society activists.
- Section 4 examines the Philippines’ implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of expression, media freedom and the rights of journalists.
- Section 5 examines the Philippines’ implementation of UPR recommendations and compliance with international human rights standards related to the freedom of peaceful assembly.
- Section 6 contains recommendations to address the concerns raised and advance implementation of recommendations under the 3<sup>rd</sup> cycle.
- An annex on the implementation of 3<sup>rd</sup> cycle UPR recommendations related to civic space is in Section 7.

## **2. Freedom of association**

**2.1** During the Philippines’ examination under the 3<sup>rd</sup> UPR cycle, the government received two recommendations on the right to the freedom of association and creating an enabling environment for CSOs. Among other recommendations, the government received a

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<sup>5</sup> ‘Situation of human rights in the Philippines’, Human Rights Council report 44/22, 29, June 2020, <https://undocs.org/en/A/HRC/44/22>.

<sup>6</sup> ‘Technical cooperation and capacity-building for the promotion and protection of human rights in the Philippines’, Human Rights Council resolution 45/33, 13 October 2020, <https://undocs.org/en/A/HRC/RES/45/33>.

<sup>7</sup> ‘Philippines, UN launch first-ever national joint programme for human rights following Human Rights Council resolution 45/33’, United Nations Philippines, 22 July 2021, <https://philippines.un.org/index.php/en/137080-philippines-un-launch-first-ever-national-joint-programme-human-rights-following-human>.

<sup>8</sup> CIVICUS Monitor: Philippines, <https://monitor.civicus.org/country/philippines>.

recommendation to ‘create and maintain in law and in practice a safe and enabling environment for civil society and human rights defenders’, in part by ‘simplifying the process for forming associations’. The government noted both recommendations and subsequently failed to take adequate measures to realise either.

- 2.2** Article III section 8 of the 1987 Constitution guarantees the right to the freedom of association. Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which the Philippines is a state party, also guarantees the freedom of association. However, despite these commitments, the government has systematically engaged in attacks against civil society groups.
- 2.3** The Revised Corporation Code as well as the provisions under tax laws pertaining to exemptions of non-governmental (NGOs) or non-profit organisations (NPOs) are the specific operative laws on civil society registration law dealing with civil society registration in the Philippines. The Securities and Exchange Commission is the primary registration and supervision agency of all NPOs in the Philippines, as it mandates NPOs to submit annual reports. As of December 2017, there were 101,843 registered NPOs in the country.<sup>9</sup>
- 2.4** Although there are no legal barriers against the formation of associations, practical barriers exist that prevent the full realisation of the right to association, including increased and continuous targeting of civil society. Attacks on CSOs include their vilification as ‘communist terrorist groups.’ The government has engaged in an ongoing tactic to target activists and NGOs by labelling them as ‘terrorists’ or ‘communist fronts’, particularly those who have been critical of the ‘war on drugs’. Such a process, known as ‘red-tagging’ in the Philippines, often puts activists at grave risk of being targeted by the state and pro-government militias.
- 2.5** An Anti-Terrorism Act was passed in 2020, replacing the Human Security Act of 2007. The new law includes a vague and broad definition of terrorism and its section 29 grants police and military personnel the power to detain suspects without a warrant or charge for up to 24 days for investigation.<sup>10</sup> It also relaxes accountability for law enforcement agents who violate the rights of suspects, particularly those in detention.
- 2.6** The broad role of the Anti-Terrorism Council (ATC), a body made up of cabinet secretaries, under the law gives this body undue and arbitrary control over people’s rights and freedoms.<sup>11</sup> The ATC can designate individuals and organisations as terrorists without any hearing, as long as it sees ‘probable cause’ that they have committed, attempted to commit or are part of a conspiracy to commit acts defined and penalised as terrorism. This is similar wording to provisions that were used under the Human Security Act to target civil society

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<sup>9</sup> ‘Risk Assessment of the Non-Profit Organisation (NPO) Sector,’ Anti-Money Laundering Council, October 2018, <http://www.amlc.gov.ph/images/PDFs/NPO%20Risk%20Assessment.pdf>.

<sup>10</sup> Republic Act No. 11479, <https://www.officialgazette.gov.ph/downloads/2020/06jun/20200703-RA-11479-RRD.pdf>.

<sup>11</sup> ‘Philippines: New Anti-Terrorism Act Endangers Rights’, Human Rights Watch, 5 June 2020, <https://www.hrw.org/news/2020/06/05/philippines-new-anti-terrorism-act-endangers-rights>.

groups. A number of civil society groups filed petitions against the law in the courts;<sup>12</sup> in December 2021, the law was largely upheld by the Supreme Court.<sup>13</sup>

- 2.7** On 31 October and 5 November 2019, the police and military conducted raids on the offices of activist organisations Bayan, Gabriela, Kilusang Mayo Uno, the National Federation of Sugar Workers in Manila and Negros Occidental. More than 50 activists, including several minors, were taken into police custody.<sup>14</sup>
- 2.8** In November 2019, Oxfam and several humanitarian CSOs were listed as supposed fronts for local ‘communist terrorist groups’, while Oxfam’s international and UK arms were branded as ‘foreign funding agencies wittingly or unwittingly providing funds to communist terrorist groups’ by the Department of National Defense.<sup>15</sup>
- 2.9** Restrictions on foreign funding have been documented through the use of the Anti-Money Laundering Act and Republic Act No. 10168, known as The Terrorism Financing Prevention and Suppression Act of 2012, which criminalises the provision of funds that contribute to acts of terrorism. It incorporates the vague and broad definition of terrorism set out in the 2007 Human Security Act, now replaced by the Anti-Terrorism Act. Under section 25 of the Anti-Terrorism Act, the ATC has the power to designate people and groups as terrorists. Under the same provision, the Anti-Money Laundering Council (AMLC) then has the power to freeze their assets. There is no court order needed to freeze the assets of designated terrorists – meaning there is no judicial oversight of such an action – and the AMLC does not need to engage in further investigation before issuing a freeze order.
- 2.10** Civil society groups have faced raids on offices and freezing of accounts. On 7 February 2020, the government froze several bank accounts of the Rural Missionaries of the Philippines (RMP), a Catholic church group, on suspicion of ‘terrorism financing under the Human Security Act of 2007’. The RMP, which works with rural poor people, had been tagged as a ‘communist front’ because of its activism and criticism of the government.<sup>16</sup>
- 2.11** In June 2021, the AMLC froze the bank accounts of Amihan, an organisation of peasant women, which the authorities alleged was linked to communist rebels. Human rights groups believe the order was part of a ‘deplorable and orchestrated scheme to vilify’ the group and other organisations as ‘terrorist fronts’ to curtail their access to funds.<sup>17</sup>

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<sup>12</sup> ‘Duterte’s anti-terror law a dark new chapter for Philippines, experts warn,’ The Guardian, 9 July 2020, <https://www.theguardian.com/world/2020/jul/09/dutertes-anti-terror-law-a-dark-new-chapter-for-philippines-experts-warn>.

<sup>13</sup> ‘Philippines’ high court upholds most of a terrorism law, but strikes down a key point’, NPR, 12 December 2021, <https://www.npr.org/2021/12/10/1062937692/philippines-supreme-court-rules-parts-of-the-countrys-terrorism-law-unconstituti>.

<sup>14</sup> ‘Philippines: Respect freedom of association of activists, ensure thorough investigations’, Asian Forum for Human Rights and Development (FORUM-ASIA), 7 November 2021, <https://www.forum-asia.org/?p=30364>.

<sup>15</sup> ‘Philippines targets Oxfam, other rights groups, as ‘communist fronts’, DW, 29 November 2019, <https://www.dw.com/en/philippines-targets-oxfam-other-rights-groups-as-communist-fronts/a-51473662>.

<sup>16</sup> ‘Philippines: Raids on NGO offices, arbitrary arrests of activists and freezing of accounts’, CIVICUS, 12 February 2020, <https://www.civicus.org/index.php/media-resources/media-releases/4269-philippines-raids-on-ngo-offices-arbitrary-arrests-of-activists-and-freezing-of-accounts>.

<sup>17</sup> ‘AMLC freezes bank accounts of red-tagged farmers’ group,’ Inquirer.net, 12 June 2021, <https://newsinfo.inquirer.net/1445038/amlc-freezes-bank-accounts-of-red-tagged-farmers-group>.

**2.12** Human Rights group Karapatan has been facing a spate of cyberattacks against its website, which brought the website down for three weeks in 2019 and, following another spate of ‘heavy and sustained’ distributed-denial-of-service (DDoS) attacks, in August 2021. Sweden-based media foundation Qurium said the attacks in August 2021 occurred amid an online solidarity campaign, #StopTheKillingsPH, which called on the government to stop attacks against HRDs. On 25 August 2021, it was reported that Qurium was able to trace IP addresses used in the cyberattack to a network operated by Bright Data, an Israel-based company that offers proxy networks and data services to corporate clients.<sup>18</sup> In May and June 2021, the websites of Karapatan and alternative media outfits Altermidya and Bulatlat were also attacked. Qurium traced these to the Office of the Assistant Chief of Staff for Intelligence of the Philippine Army and the Department of Science and Technology.<sup>19</sup>

### **3. Harassment, intimidation and attacks against human rights defenders and civil society activists**

- 3.1** Under the Philippines’ previous UPR examination, the government received 10 recommendations on the protection of HRDs and civil society representatives. The government committed to several relevant recommendations including to ‘take necessary measures to provide adequate protection to journalists and human rights defenders’ and to ‘combat crimes committed against human rights defenders through prompt, impartial and transparent investigations’. All 10 recommendations received were noted. Only two – relating to the ‘adoption of a law for the protection and recognition of human rights defenders’ and ‘adoption of a charter for the protection and recognition of human rights defenders’ – have been partially implemented.
- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure the protection of HRDs. The ICCPR further guarantees the freedoms of association, peaceful assembly and expression. However, HRDs have been repeatedly vilified and faced judicial persecution, attacks, threats and death. Not only has the government failed to operationalise the recommendations it received in 2017: the situation for HRDs has deteriorated drastically.
- 3.3** In December 2018, the government created an agency, the National Task Force on Ending Local Communist Armed Conflict (NTF-ELCAC), which carries out red-tagging through its social media posts and official pronouncements.<sup>20</sup> By virtue of Executive Order No. 70, the NTF-ELCAC is mandated to use the ‘whole of nation’ approach in conducting counterinsurgency campaigns. This framework and mandate have been criticised as militarist, undermining civilian bureaucracy.<sup>21</sup> The practice of red-tagging has been repeatedly criticised by the UN High Commissioner for Human Rights, who labelled it ‘a

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<sup>18</sup> ‘Israeli firm ‘Bright Data’ (Luminati Networks) enabled the attacks against Karapatan’, Qurium, 25 August 2021, <https://www.qurium.org/alerts/israeli-firm-bright-data-luminati-networks-enabled-the-attacks-against-karapatan>.

<sup>19</sup> ‘Military, DOST links found in DDoS attacks on media – report’, Rappler, 23 June 2021, <https://www.rappler.com/technology/qurium-links-dost-military-found-ddos-attacks-altermidya-bulatlat>.

<sup>20</sup> ‘Philippines: End Deadly ‘Red-Tagging’ of Activists’, Human Rights Watch, 17 January 2022, <https://www.hrw.org/news/2022/01/17/philippines-end-deadly-red-tagging-activists>.

<sup>21</sup> ‘How red-tagging justifies human rights abuses’, Bulatlat, 10 December 2021, <https://www.bulatlat.com/2021/12/10/how-red-tagging-justifies-human-rights-abuses>.



persistent and powerful threat to civil society and freedom of expression',<sup>22</sup> as well as by Special Rapporteurs. In 2018, the Department of Justice filed a petition placing UN Special Rapporteur Vicki Tauli-Corpuz and other HRDs on a list of individuals who supposedly had terrorist connections.<sup>23</sup> Among those red-tagged by NTF-ELCAC are the authors of a proposed Human Rights Defenders Protection Act.

**3.4** The CIVICUS Monitor has documented the extrajudicial killings of activists and HRDs. In a number of instances, the activists were vilified and red-tagged in relation to their work prior to their murder. Accountability for these actions have been virtually non-existent. At least 40 HRDs were killed between January 2020 and June 2021, with absolute impunity.<sup>24</sup> The Office of the High Commissioner for Human Rights has verified the killings of 208 HRDs, journalists and trade unionists between January 2015 and December 2019.<sup>25</sup> A small number of those who have been killed, and the circumstances of their death, are as follows:

**3.4.1** On 7 March 2021, in what has become known as the 'Bloody Sunday' killings, police and military conducted raids across four provinces throughout the Southern Tagalog region that led to the killing of nine HRDs and political activists.<sup>26</sup> The raids were reportedly conducted as part of the joint operations of the Philippine National Police (PNP) and Philippine Army under Case Operation Plan ASVAL against individuals and organisations they have red-tagged as members or fronts of 'communist terrorist groups'. On 5 March 2021, two days before the raids, President Rodrigo Duterte ordered the police and military to 'kill' and 'finish off' all communist rebels should they find themselves in an armed encounter, and to 'forget human rights' in the process.<sup>27</sup> No one has been held accountable for their killings. The nine are listed below.

- Ariel Evangelista was an HRD and leader of the progressive group for fisherfolk, People's Solidarity Against Environmental and Land Destruction, a community organisation that monitors the impact of eco-tourism projects in Batangas. His partner, Anna Mariz Lemita-Evangelista, was a staunch supporter of coastal protection in Batangas, and an educator and community organiser in Cavite. Police shot dead both during a raid on their house in Barangay Calayo, Nasugbu, Batangas.
- Emmanuel Asuncion, a labour organiser and the coordinator of the Cavite chapter of BAYAN, a left-wing group, was shot dead by policemen in the office of the Workers' Assistance Center in Dasmariñas, Cavite.

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<sup>22</sup> Human Rights Council report 44/22, op. cit.

<sup>23</sup> 'The Philippines: UN experts urge further action to remove names on Government's "terror list"', Office of the High Commissioner for Human Rights, 20 August 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23466&LangID=E>.

<sup>24</sup> 'Stop the killings of human rights defenders in the Philippines', International Federation for Human Rights, 11 August 2021, <https://www.fidh.org/en/region/asia/philippines/philippines-solidarity-statement-stop-the-killings-of-human-rights#b1>.

<sup>25</sup> Human Rights Council report 44/22, op. cit.

<sup>26</sup> 'Press Briefing Notes on Philippines', UN Office of the High Commissioner for Human Rights, 9 March 2021, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26865&LangID=E>

<sup>27</sup> "Kill them": Duterte wants to 'finish off' communist rebels', Al Jazeera, 6 March 2021, <https://www.aljazeera.com/news/2021/3/6/kill-them-all-duterte-wants-communist-rebels-finished>.

- Mark Bacasno and Melvin Dasigao HRDs, youth organisers and members of SIKKAD K3, a group working for the rights of urban poor people, were killed in Rodriguez.
- Puroy Dela Cruz and Randy Dela Cruz of the Indigenous Dumagat tribe were shot dead by the police in Sitio Mina, Barangay Sta. Inez, Tanay, Rizal.
- Urban poor activists Abner Esto and Edward Esto were killed by the police in Sitio Macaingalan, Barangay Puray, Rodriguez, Rizal.

**3.4.2** On 10 August 2020, Randall 'Randy' Echanis, an agrarian reform advocate and peace consultant, was killed in his home in Quezon City.<sup>28</sup>

**3.4.3** Human rights activist Zara Alvarez was gunned down on Sta Maria Street in Bacolod City on 17 August 2020. The police report said that Alvarez was shot dead by unidentified perpetrators after receiving death threats for more than a year. She was the former campaign and education director and paralegal in Negros for Karapatan. Amid the pandemic, Zara Alvarez had been coordinating and conducting relief operations as part of a community health programme. Both Echanis and Alvarez had been repeatedly red-tagged.

**3.4.4** On 30 January 2019, Randy Felix Malayao, an HRD and peace consultant for the National Democratic Front of the Philippines, was shot dead while he was asleep on bus in Aritao, Nueva Vizcaya.<sup>29</sup>

**3.4.5** Environmental and Indigenous rights defender Ricardo Mayumi was shot dead by two unidentified assailants on 2 March 2018 in his home in Kiangán town, Ifugao Province. He was one of the leaders of the Ifugao Peasant Movement and had opposed the Sta. Clara International Corporation and Ayala Corporation's hydroelectric power project in Ifugao. Prior to the incident, Mayumi had received death threats. His death came after fierce criticism by the Philippines government of local Indigenous rights activists and labelling of them as 'terrorists'.<sup>30</sup>

**3.5** HRDs and activists have been arbitrary arrested and detained on fabricated charges. In a number of instances, the activists had been vilified and red-tagged in relation to their work prior to their arrest. There have also been instances where evidence was planted by the police and military forces to justify arrests or violence against activists.

**3.5.1** In July 2018, 13 activists and church development workers were arrested in the in the southern city of General Santos. Among those arrested were Teresita Naul, Karapatan National Council member for Northern Mindanao. PNP members and military personnel raided a meeting of the Iglesia Filipino Independiente-Visayas Mindanao Regional Office for Development and presented three arrest warrants,

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<sup>28</sup> 'Press briefing notes on Philippines', Office of the High Commissioner for Human Rights, 21 August 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26179&LangID=E>.

<sup>29</sup> 'Peace consultant and human rights defenders Randy Felix Malayao killed', Front Line Defenders, 6 February 2019, <https://www.frontlinedefenders.org/en/case/peace-consultant-and-human-rights-defender-randy-felix-malayao-killed>.

<sup>30</sup> 'Philippine indigenous activist shot dead in 'increasingly hostile climate'', Reuters, 12 March 2018, <https://www.reuters.com/article/us-philippines-rights-crime-idUSKCN1G01AH>.



none of which corresponded with any participants gathered. Regardless, the entire group was arrested and fabricated charges of obstruction of justice were filed against 11 HRDs, who were later released on bail.

- 3.5.2** In July 2021, two activists were arrested: Julieta Gomez, a Lumad-Manobo activist who has been at the forefront of defending ancestral lands from mining and plantations, served as a teacher in the Sildap-Sidlakan Lumad School and a member of the Lumad group Kahugpongan sa mga Lumadnong Organisasyon sa Caraga; and Niezel Velasco, former project coordinator of the relief organisation Bread for Emergency Assistance and Development in the Caraga region, which serves victims of calamities.<sup>31</sup>
- 3.5.3** In the context of the police and military raids which led to the ‘Bloody Sunday’ killings on 7 March 2021, six other HRDs and activists were arrested: labour activists Elizabeth Camoral, Ramir Corcolon, Eugene Eugenio, Arnedo ‘Nedo’ Lagunias and Esteban Mendoza, and human rights worker Nimfa Lanzanas.<sup>32</sup>
- 3.5.4** Senator Leila de Lima has been in police detention since 24 February 2017. A Muntinlupa City court acquitted her of one of three charges on 17 February 2021. She was initially charged after she begun a public inquiry to investigate killings in the ‘war on drugs’. In 2018, the UN Working Group on Arbitrary Detention concluded in its Opinion No. 61/2018 that her detention was arbitrary given the absence of a legal basis.<sup>33</sup>
- 3.6** Lawyers involved in high-profile or human rights cases are at risk, including in relation to cases in which they represent victims of human rights violations, government critics, political opposition leaders, HRDs, environmental activists and people who are accused of terrorist or drug-related crimes. Lawyers also face reprisals for participating in public debate on legal matters and the protection of human rights.
- 3.7** In one positive step, on 17 January 2022, the House of Representatives adopted House Bill No. 10576, known as the Human Rights Defenders Protection Act, on its third and final reading. The Bill was developed in consultation with civil society.<sup>34</sup> It has not yet been passed by the Senate. In January 2019, a number of activists were removed from the government’s ‘terrorist list’.

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<sup>31</sup> ‘Arrests and planting of evidence against two Caraga activists slammed’, Davao Today, 19 July 2021, <http://davaotoday.com/main/human-rights/arrests-and-planting-of-evidence-against-two-caraga-activists-slammed>.

<sup>32</sup> ‘Philippines: Halt judicial harassment and investigate killing of activists’, CIVICUS, 8 April 2021, <https://www.civicus.org/index.php/media-resources/media-releases/open-letters/5027-philippines-halt-judicial-harassment-and-investigate-killing-of-activists>.

<sup>33</sup> ‘Philippines: UN experts urge release of Senator Leila De Lima after four years in pre-trial detention’, Office of the High Commissioner for Human Rights, 24 February 2021, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26789&LangID=E>.

<sup>34</sup> ‘House passes bill protecting human rights defenders’, Rappler, 17 January 2022, <https://www.rappler.com/nation/house-passes-bill-protecting-human-rights-defenders-threats-violence-under-duterte>.

## 4. Freedom of expression, media freedom and access to information

- 4.1** Under the 3<sup>rd</sup> UPR cycle, the government received five recommendations relating to the freedom of expression, media freedom and access to information. Recommendations urged the government to ‘investigate all cases of threats, intimidation and attacks against media personnel and ensure that those responsible are held accountable’ and ‘create a safer working environment for journalists’. All five were noted and none were implemented. The Philippines is among the most dangerous places in the world to practise journalism, and killings of reporters go largely unpunished.<sup>35</sup>
- 4.2** Article 19 of the ICCPR guarantees the right to the freedoms of expression and opinion. Article 3, section 4 of the 1987 Constitution of the Philippines also guarantees this right. Although the Constitution states that ‘no law shall be passed abridging the freedom of speech, of expression or of the press or the right of the people peaceably to assemble and petition the government for redress of grievances’, provisions of the Cybercrime Prevention Act and the criminalisation of libel restrict the freedom of expression in the Philippines.
- 4.3** Laws that restrict freedom of expression include:
- 4.3.1** The COVID-19 emergency law – formally the Bayanihan to Heal as One Act of 2020 – criminally penalises the spread of ‘false information’ related to the pandemic. Section 6(6) in the new law seeks to penalise ‘individuals or groups creating, perpetuating, or spreading false information regarding the COVID-19 crisis on social media and other platforms, such information having no valid or beneficial effect on the population, and are clearly geared to promote chaos, panic, anarchy, fear, or confusion; and those participating in cyber incidents that make us or take advantage of the current crisis situation to prey on the public through scams, phishing, fraudulent emails, or other similar acts’.
- 4.3.2** In July 2019, the ‘Anti-False Content’ Bill was introduced in the Senate to ‘protect the public from any misleading or false information that is being published and has become prevalent on the Internet’. Broad provisions make it difficult for the law to provide clear guidance for individuals to regulate their conduct accordingly,<sup>36</sup> and it does not provide for accountability mechanisms.
- 4.4** President Duterte has been at odds with critical media outlets over reporting on his administration’s ‘war on drugs’. He was among the 37 global leaders in Reporters Without Borders’ (RSF) gallery of ‘press freedom predators’ in 2021. RSF said Duterte has been a ‘predator since taking office’ in 2016 and that his ‘predatory method’ is total war against independent media.<sup>37</sup> The Philippines is ranked 138th out of 180 countries in RSF’s 2021

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<sup>35</sup> ‘Killers of journalists still get away with murder’, Committee to Protect Journalists, 28 October 2021, <https://cpj.org/reports/2021/10/killers-of-journalists-still-get-away-with-murder/#index>.

<sup>36</sup> ‘Duterte’s special powers bill punishes fake news by jail time, up to P1-M fine’, Rappler, 24 March 2021, <https://www.rappler.com/nation/255753-duterte-special-powers-bill-coronavirus-fines-fake-news>.

<sup>37</sup> ‘Predator: Rodrigo Duterte’, Reporters Without Borders, 2 July 2021, <https://rsf.org/en/predator/rodrigo-duterte>.

World Press Freedom Index. The CIVICUS Monitor has documented the killing of journalists and judicial harassment against them, including the following examples:

- 4.4.1** On 8 December 2021, unidentified assailants on a motorcycle shot journalist Jesus 'Jess' Malabanan in the head while he was watching television at his family's store in Calbayog City, Samar province. The journalist, who had covered the 'war on drugs', was declared dead on arrival at the city's St Camillus Hospital. He was the 22<sup>nd</sup> victim during Duterte's presidency.<sup>38</sup>
  - 4.4.2** On 10 November 2020, two assailants on a motorcycle shot and killed journalist Virgilio Maganes outside his home in Villasis, in the northern province of Pangasinan, and then fled the scene. He sustained six gunshot wounds and died at the scene, according to news reports. Maganes worked as a commentator at the local DWPR radio station and as a columnist for the weekly Northern Watch newspaper, and often covered political issues.<sup>39</sup>
  - 4.4.3** Freelance journalist Ronnie Villamor was shot dead by soldiers on 14 November 2020 in the town of Milagros, Masbate province. According to the Committee to Protect Journalists, Villamor, a contributor to the local independent Dos Kantos Balita weekly tabloid, was killed at a military checkpoint while he was on his way to cover a disputed land survey.<sup>40</sup>
- 4.5** Prominent journalist Maria Ressa, working for news platform Rappler, is a vocal critic of the Duterte regime and especially its 'war on drugs'. Ressa and her news site Rappler face at least a dozen criminal charges and investigations that human rights groups believe are politically motivated. In January 2021, she was hit with a third cyber libel charge for a story published in January 2020 over students allegedly paying a professor for passing grades.<sup>41</sup> Ressa and Rappler reporter Rafael Talabong each posted bail of 30,000 pesos (approx. US\$625) after they learned that warrants had been issued for their arrest. A Manila city prosecutor filed the charges in December 2020, following a complaint from a professor at a private university. On 13 August 2021, a court dismissed the libel case against Maria Ressa, after the professor said he was no longer interested in pursuing it.<sup>42</sup>
- 4.6** In February 2021, a ranking military official, Lt. Gen. Antonio Parlade Jr., threatened to sue a reporter for allegedly 'aiding terrorists by spreading lies'. Parlade had made the remark in the comment thread of his Facebook post, calling the reporter a 'propagandista' over

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<sup>38</sup> 9 December 2021, Committee to Protect Journalists, <https://cpj.org/2021/12/jesus-malabanan-reporter-who-covered-duterte-drug-war-killed-in-the-philippines>.

<sup>39</sup> 'Activists and journalists targeted as draconian anti-terror law challenged in the Philippines', CIVICUS Monitor, 22 February 2021, <https://monitor.civicus.org/updates/2021/02/22/activists-and-journalists-targeted-draconian-anti-terror-law-challenged-philippines>.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> 'Philippine Court Tosses Libel Case Against Journalist Maria Ressa', Voice of America, 13 August 2021, [https://www.voanews.com/a/east-asia-pacific\\_philippine-court-tosses-libel-case-against-journalist-maria-ressa/6209532.html](https://www.voanews.com/a/east-asia-pacific_philippine-court-tosses-libel-case-against-journalist-maria-ressa/6209532.html).

her article about a petition by two members of an Aeta tribe who have sought to intervene in the Supreme Court's oral arguments on the Anti-Terrorism Act.<sup>43</sup>

- 4.7** On 29 November 2021, Alfonso Cusi, the secretary of the Department of Energy, and Dennis Uy, a friend and campaign donor of President Duterte's, filed libel and cyber libel cases against 21 journalists and seven media organisations who reported on a corruption complaint against the two over an energy deal.<sup>44</sup>
- 4.8** News outlets have been attacked at length. On 10 February 2020, the Office of the Solicitor General filed a petition before the Supreme Court seeking to nullify the franchise of ABS-CBN, the Philippines' top broadcaster, which had long been a target of President Duterte for criticising his 'war on drugs' and other policies. Duterte publicly attacked ABS-CBN, accusing it of 'swindling' him by not airing his advertisements during the 2016 presidential campaign, a charge the network has denied. He has also urged the media company to 'just sell' its assets, vowing that he would make sure its franchise would not be renewed. Duterte and his allies have accused the network of being sympathetic to the political opposition. ABS-CBN was forced off air in May 2020; its franchise was not renewed by Congress and it was ordered by the media regulator to stop operations.<sup>45</sup>

## 5. Freedom of peaceful assembly

- 5.1** During the Philippines' examination under the 3<sup>rd</sup> UPR cycle, the government did not receive any recommendations relating to freedom of peaceful assembly.
- 5.2** Article III of the 1987 Constitution guarantees the right to the freedom of peaceful assembly. Article 21 of the ICCPR also guarantees this right. The primary legislation governing assemblies is the 1985 Public Assembly Act. Under this Act, authorisation must be sought for public assemblies, other than in an approved place, five days in advance.
- 5.3** A proposed new law regulating public assemblies was adopted by the Philippine House of Representatives in February 2018 and is currently before the Senate. House Bill 6834 will replace the Public Assembly Act of 1985. Concerns have been raised that the Act could allow for unlawful restrictions on the right to peaceful assembly. The law would prohibit people aged 15 and under from organising a public assembly and participants or organisers could face potential criminal liability for holding a peaceful assembly without the approval of local executives. The proposed law states that any person or group intending to organise a public assembly will only need to notify the city or municipal mayor at least three days prior to the holding of an assembly. However, there is a contradiction in that it prohibits the 'holding of a public assembly at a time and place other than that approved by the city or municipal mayor',

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<sup>43</sup> 'Unacceptable!': Journalists' groups condemn Parlade threat to sue reporter over Aeta report', ABS-CBN News, 14 February 2021, <https://news.abs-cbn.com/news/02/04/21/unacceptable-journalists-groups-condemn-parlade-threat-to-sue-reporter-over-aeta-report>.

<sup>44</sup> 'Journalists and activists remain at risk in the Philippines as election looms,' 3 February 2022, CIVICUS Monitor, <https://monitor.civicus.org/updates/2022/02/03/journalists-and-activists-remain-risk-philippines-election-looms>.

<sup>45</sup> 'Philippine Congress Officially Shuts Down Leading Broadcaster', The New York Times, 10 July 2020, <https://www.nytimes.com/2020/07/10/world/asia/philippines-congress-media-duterte-abs-cbn.html>.

which puts in place a de facto approval provision. The law also increases the penalty for holding a public assembly without this de facto approval by local authorities.<sup>46</sup>

**5.4** In practice, there have been a number of instances of protesters being arbitrarily arrested. On 15 June 2018, the Bulacan provincial police violently dispersed workers who went on strike for 12 days to protest against low wages and unhealthy working conditions. Around 300 workers from NutriAsia, a condiments factory, organised a protest in Meycauayan, Bulacan calling for implementation of a Labour Department order to regularise 80 employees.<sup>47</sup> On 4 July 2020, 11 activists were arrested during a protest action in Cabuyao, Laguna against the Anti-Terrorism Act.<sup>48</sup>

## **6. Recommendations to the Government of the Philippines**

**6.1** CIVICUS and Karapatan call on the Government of the Philippines to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

**6.2** At a minimum, the following conditions should be guaranteed: the freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In the light of this, the following specific recommendations are made:

### **6.3 Freedom of association**

- Immediately end the red-tagging of CSOs and activists, and halt any forms of threats, intimidation and digital attacks against them.
- Immediately reinstate access to funding of any CSOs that have been arbitrarily and unduly sanctioned by the Anti-Money Laundering Council.
- Remove all undue restrictions on the ability of CSOs to receive international and domestic funding in line with best practices articulated by the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association.
- Cease unwarranted raids on CSOs and unjustifiable disruptions to legitimate activities organised by CSOs.

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<sup>46</sup> 'Philippines: new public assembly act inconsistent with human rights', International Commission of Jurists, 8 February 2018, <https://www.icj.org/philippines-new-public-assembly-act-inconsistent-with-human-rights>.

<sup>47</sup> 'Striking workers at NutriAsia, supporters dispersed and arrested despite regularization order', CNN Philippines, 31 July 2018, <https://www.cnnphilippines.com/news/2018/07/31/NutriAsia-workers-violent-dispersal-strike-contractualization-DOLE-regularization.html>.

<sup>48</sup> '11 activists arrested in Laguna Anti-Terrorism Law protest, says youth group', CNN Philippines, 4 July 2020, <https://www.cnnphilippines.com/news/2020/7/4/cabuyao-laguna-protests.html>.

- Refrain from acts leading to the closure of CSOs or the suspension of their peaceful activities, including through misuse of the Anti-Money Laundering Act and the Terrorism Financing Prevention and Suppression Act.
- Repeal the Anti-Terrorism Act of 2020.

#### **6.4 Protection of human rights defenders**

- Conduct immediate, impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation against HRDs and activists and bring the perpetrators of such offences to justice.
- Ensure that HRDs are able to carry out their legitimate activities without fear or undue hindrance, obstruction, or legal and administrative harassment.
- Undertake a consolidated process of repeal or amendment of legalisation and decrees that unwarrantedly restrict the legitimate work of HRDs, in line with the UN Declaration on Human Rights Defenders.
- Immediately and unconditionally release all HRDs, including journalists and activists, detained for exercising their fundamental rights to the freedoms of association, peaceful assembly and expression, and review their cases to prevent further harassment.
- Publicly condemn at the highest levels of government instances of harassment and intimidation of CSOs and activists.
- Abolish the National Task Force on Ending Local Communist Armed Conflict and rescind Executive Order No. 70.
- Systematically apply legal provisions that promote and protect human rights and establish mechanisms that protect HRDs, including by adopting and implementing the Human Rights Defenders Bill.

#### **6.5 Freedom of expression, media freedom and access to information**

- Ensure the freedom of expression and media freedom by all bringing national legislation into line with international standards.
- Review the Bayanihan to Heal as One Act (the emergency law) of 2020, particularly section 6(6), and the Fake News Bill 2019 in order to bring both into line with best practices and international standards in the area of the freedom of expression.
- Reinstate all media outlets that have unwarrantedly been closed.
- Reform defamation legislation and decriminalise libel in conformity with ICCPR article 19.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the government may deem sensitive.



- Take steps to lift restrictions on the freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.
- Adopt a law on access to information in order to promote the full exercise of the rights to the freedoms of expression and opinion.
- Organise inclusive consultations with journalists and the media in order to resolve disputes that exist concerning current 'fake news' laws.

## **6.6 Freedom of peaceful assembly**

- Adopt best practices on the freedom of peaceful assembly, as put forward by the 2012 report of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, which calls for simple processes for the notification of assemblies being held rather than permission being required, and by General Comment No. 37 on the right to peaceful assembly adopted by the UN Human Rights Committee in 2020.
- Amend the Public Assembly Act in order to guarantee fully the right to the freedom of peaceful assembly.
- Immediately and impartially investigate all instances of extrajudicial killing and excessive force committed by security forces in the context of protests.
- Review and if necessary update existing human rights training for police and security forces, with the assistance of independent CSOs, to foster the more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Publicly condemn at the highest levels all instances of the use of excessive and brutal force by security forces in response to protests, launch formal investigations into such instances and bring the perpetrators to justice.
- Provide recourse to judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to the freedom of peaceful assembly by state authorities.

## **6.7 Access to UN Special Procedures mandate holders**

- The Government should extend a standing invitation to all UN Special Procedure mandate holders and prioritise official visits by the: 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression; 3) Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of association; 4) Special Rapporteur on extrajudicial, summary or arbitrary executions; 5) Special Rapporteur on the right to privacy.

## **6.8 State engagement with civil society**

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.

- Systematically consult with civil society on the implementation of UPR recommendations, including by holding periodical comprehensive consultations with a diverse range of civil society.
- Incorporate the results of this UPR its action plans for the promotion and protection of all human rights, taking into account the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

## 7. Annex: Assessment of implementation of civic space recommendations under the 3<sup>rd</sup> cycle

| Recommendation   | Position | Assessment/Comments on level of implementation               |
|--|----------|--|
| <p>133.177 Take steps to create and maintain in law and in practice a safe and enabling environment for civil society and human rights defenders, including by acknowledging publicly their important and legitimate role in the promotion of human rights, democracy and the rule of law, by simplifying the process for forming associations and by applying the good practices set out in Human Rights Council resolution 32/31, and to request and accept technical assistance, including from OHCHR, to fulfil these commitments (Ireland);</p> <p><b>Source of position:</b> A/HRC/36/12/Add.1</p> | Noted    | Partially implemented: see paras 1.7 and 2.3, and section 3. |
| <p>133.180 Protect more effectively human rights defenders and journalists, especially through cooperation with civil society (Poland);</p> <p><b>Source of position:</b> A/HRC/36/12/Add.1</p>  | Noted    | Not implemented: see section 3.                              |
| <p>133.173 Take all necessary measures to provide adequate protection to journalists and human rights defenders, in particular regarding enforced disappearances and extrajudicial killings (Estonia);</p> <p><b>Source of position:</b> A/HRC/36/12/Add.1</p>   | Noted    | Not implemented: see section 3.                              |
| <p>133.178 Establish an effective protection system for human rights defenders and journalists and ensure the free exercise of their rights to freedom of opinion, expression and association (Luxembourg);</p> <p><b>Source of position:</b> A/HRC/36/12/Add.1</p>  | Noted    | Not implemented: see sections 3 and 4.                       |
| <p>133.172 Create a safer working environment for journalists (Lithuania);</p> <p><b>Source of position:</b> A/HRC/36/12/Add.1</p>   | Noted    | Not implemented: see sections 3 and 4.                       |
| <p>133.174 Take all necessary measures to protect the life of human rights defenders, journalists and other threatened persons (Germany);</p> <p><b>Source of position:</b> A/HRC/36/12/Add.1</p>  | Noted    | Not implemented: see sections 3 and 4.                       |
| <p>133.175 Investigate all cases of threats, intimidation and attacks against media personnel and ensure that those responsible are held accountable (Latvia);</p> <p><b>Source of position:</b> A/HRC/36/12/Add.1</p>   | Noted    | Not implemented: see section 4.                              |
| <p>133.176 Guarantee the establishment of a safe and enabling environment for the work of human rights defenders, specifically through the adoption of a law for the protection and recognition of human rights defenders (Hungary);</p> <p><b>Source of position:</b> A/HRC/36/12/Add.1</p>   | Noted    | Partially implemented: see section 3 and para 3.7.           |

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|---|--------------|--|
| <p>133.182 Promote a safe, enabling environment for the work of human rights defenders through the adoption of a charter for the protection and recognition of human rights defenders (United Kingdom of Great Britain and Northern Ireland);<br/> <b>Source of position:</b> A/HRC/36/12/Add.1</p> | <p>Noted</p> | <p>Partially implemented: see section 3 and para 3.7</p> |
| <p>133.158 Combat crimes committed against human rights defenders through prompt, impartial and transparent investigations (Denmark);<br/> <b>Source of position:</b> A/HRC/36/12/Add.1</p>   | <p>Noted</p> | <p>Not implemented: see section 3.</p>                   |
| <p>133.179 Take necessary measures to provide adequate protection to journalists and human rights defenders (Norway);<br/> <b>Source of position:</b> A/HRC/36/12/Add.1</p>   | <p>Noted</p> | <p>Not implemented: see section 3.</p>                   |
| <p>133.181 Ensure the protection of the rights of defenders, journalists and members of the political opposition (Ukraine);<br/> <b>Source of position:</b> A/HRC/36/12/Add.1</p>   | <p>Noted</p> | <p>Not implemented: see sections 3 and 4.</p>            |