


The logo for Civic Futures, featuring the words "Civic" and "Futures" stacked vertically in a white, sans-serif font. The text is enclosed within a white, thick, curved line that forms a partial circle on the left side.

**Civic
Futures**

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Resistance and Alternatives to the 'Wars' on Civic Space in the Philippines

Marc Batac

Ateneo Human Rights Center

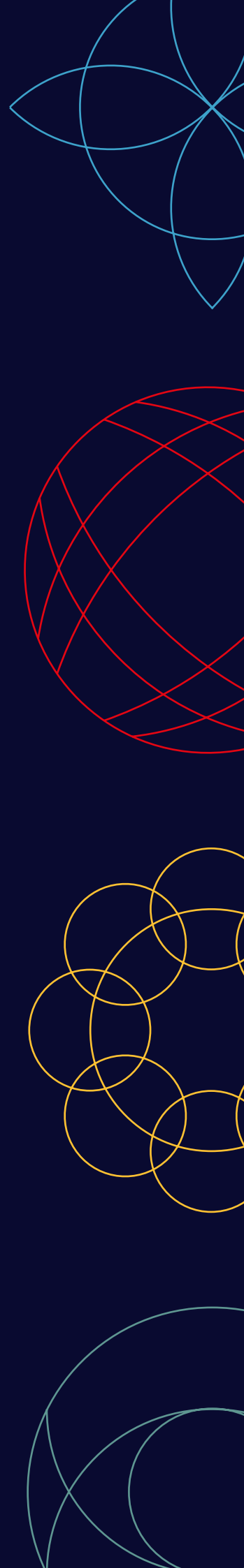
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[Abbreviations and Acronyms

ACC	ASEAN Coordinating Council	DDB-DIAL	Dangerous Drugs Board Drug Information Action Line
ACMM	ASEAN Center of Military Medicine	DepEd	Department of Education
AFP	Armed Forces of the Philippines	DFA	Department of Foreign Affairs
AHW	Alliance of Health Workers	DILG	Department of Interior and Local Government
AMLC	Anti-Money Laundering Council	DND	Department of National Defense
AML/CTF	Anti-Money Laundering and Counter-Terrorist Financing	DOH	Department of Health
APG	Asia/Pacific Group on Money Laundering	DOJ	Department of Justice
ASEAN	Association of Southeast Asian Nations	DOLE	Department of Labor and Employment
ASG	Abu Sayyaf Group	DSWD	Department of Social Welfare and Development
ATA	Anti-Terrorism Act of 2020	ECQ	Enhanced Community Quarantine
ATC	Anti-Terrorism Council	EJK	Extrajudicial Killing
CA	Court of Appeals	FATF	Financial Action Task Force
CAFGU	Citizen Armed Force Geographical Units	FICS	Funders Initiative for Civil Society
CBCP	Catholic Bishops' Conference of the Philippines	FGHR	Fund for Global Human Rights
CHED	Commission on Higher Education	FLAG	Free Legal Assistance Group
CHR	Commission on Human Rights	GCQ	General Community Quarantine
COIN	Counterinsurgency	GRP	Government of the Republic of the Philippines
COMELEC	Commission on Elections	GWoT	Global War on Terror
COVID-19	Coronavirus Disease 2019	HRC	UN Human Rights Council
CPP	Communist Party of the Philippines	HSA	Human Security Act of 2007
CSO	Civil Society Organization	HVT	High Value Target
CT	Counterterrorism	IATF-EID	Inter-Agency Task Force on Emerging Infectious Diseases
CVE	Countering Violent Extremism	ICAD	Inter-agency Committee on Anti-Illegal Drugs
CTED	Counter Terrorism Executive Directorate	ICC	International Criminal Court
DDB	Dangerous Drugs Board of the Philippines	ICJ	International Commission of Jurists

IDADIN	Integrated Drug Abuse Data and Information Network	NSA	National Security Adviser
IHL	International Humanitarian Law	NSC	National Security Council
IHRL	International Human Rights Law	NTC	National Telecommunications Commission
IID	Initiatives for International Dialogue	NTF-ELCAC	National Task Force to End Local Communist Armed Conflict
IP	Indigenous People	NUPL	National Union of Peoples' Lawyers
IS/ISIL	Islamic State/Daesh	OHCHR	Office of the High Commissioner for Human Rights
ISP	Independent Service Providers	OPAPP	Office of the Presidential Adviser on the Peace Process
JTF	Joint Task Force COVID-19	OSG	Office of the Solicitor General
KWF	Komisyon sa Wikang Filipino	PAHRA	Philippine Alliance of Human Rights Advocates
LGU	Local Government Unit	PCO	Presidential Communication Office
MAG	Medical Action Group	P/CVE	Preventing and Countering Violent Extremism
MECQ	Modified Enhanced Community Quarantine	PDITR+V	Prevent-Detect-Isolate-Treat-Reintegrate plus Vaccinate strategy
MGCQ	Modified General Community Quarantine	PNA	Philippine News Agency
MILF	Moro Islamic Liberation Front	PNP	Philippine National Police
MNLF	Moro National Liberation Front	PTV	People's Television Network
NADPA	National Anti-Drug Program of Action	PWUD	Persons Who Use Drugs
NADS	National Anti-Drug Strategy	SC	Supreme Court
NAP COVID-19	National Action Plan against COVID-19	SEC	Securities and Exchange Commission
NAP P/CVE	National Action Plan on Preventing and Countering Violent Extremism	TFPSA	Terrorism Financing Prevention and Suppression Act of 2012
NAF COVID-19	National Task Force Against COVID-19	TSP	Telecommunications Service Providers
NBI	National Bureau of Investigation	UN	United Nations
NDF/NDFP	National Democratic Front of the Philippines	UNJP	UN Joint Program on Human Rights
NDRRMC	National Disaster Risk Reduction and Management Council	UNODC	UN Office on Drugs and Crime
NGO	Non-Government Organization	UNOCT	UN Office of Counter-Terrorism
NICA	National Intelligence Coordinating Agency	WHO	World Health Organization
NPA	New People's Army		
NPC	National Privacy Commission		
NPO	Non-Profit Organizations		

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[Introduction

by Marc Batac and the Civic Futures – Philippines Research Team

In May 2020, a global review of the future of civic space¹ led by the Funders Initiative for Civil Society (FICS) found that over the last two decades, a rapidly expanding oppressive state and transnational security interests and architecture, characterized by three-fold tactics of a “security playbook” – the proliferation and misuse of counterterrorism and security laws, policies and measures; communication and information technologies; and toxic security narratives – has emerged as a dominant driver of shrinking civic space in the decade ahead.²


Governments, at times aided by corporations, far right, and religious conservative movements, use this security playbook to create a hostile environment for civil society actors working to promote democracy and human rights and to demand accountability from the most powerful actors in our societies.

For the most part, civil society³ and people’s movements, and their supporters, have largely taken a reactive and defensive posture that, while critical to protect activists, has been insufficient to safeguard their civic space. There is huge space for improvement of collaboration for a cohesive, effective, and long-term response to counter this trend at the transnational, regional, and domestic levels. To address this gap, FICS and the Fund for Global Human Rights (FGHR) launched **Civic Futures**, an initiative to help tip the scales in favor of civil society, by mobilizing the philanthropic community to equip civil society and movement actors to work together and across multiple issue areas in pushing back against the overreach of the powers of national security and counterterrorism.

1 CIVICUS defines civic space as “the place, physical, virtual, and legal, where people exercise their rights to freedom of association, expression, and peaceful assembly... A robust and protected civic space forms the cornerstone of accountable, responsive democratic governance and stable societies”. On the other hand, FICS defines it as “the physical, digital, and legal conditions through which progressive movements and their allies organize, participate, and create change” and OHCHR defines it as “the environment that enables civil society to play a role in political, economic and social life. In particular, civic space allows individuals and groups to contribute to policy-making that affects their lives, including how it is implemented.” For a more critical discussion of the concept of shrinking space see the ‘Conclusions: Redefining Civic Space and Building New Pathways of Resistance’.

2 Ben Hayes and Joshi Poonam, ‘Rethinking civic space in an age of intersectional crises,’ *Funders Initiative for Civil Society* (May 2020). <https://global-dialogue.org/rethinking-civic-space/>

3 For this paper, we use the OHCHR definition of civil society as “individuals and groups who voluntarily engage in forms of public participation and action around shared interests, purposes or values that are compatible with the goals of the UN: the maintenance of peace and security, the realization of development, and the promotion and respect of human rights”. This definition goes beyond registered NGOs to encompass movements, unions, informal groups, journalists, bloggers, academics, individual citizens engaging in participation or activism including through protest, on or offline dissent, and direct action.



The Philippines was one of the areas identified where the security playbook is used to restrict civic space, suppress dissent, and target diverse movements, and where opportunities may exist to disrupt, reform, and—over the long-term—transform the situation.⁴ Independent and academic human rights researchers and activists in the Philippines, with the support of the Fund for Global Human Rights and Active Vista, formed a research team to better understand how the transnational security architecture and the use of the security playbook manifest in the national context, and the kind of support local and national civic actors need to address this effectively.

A second phase will develop an approach to engage and involve grassroots and local groups in a follow-up process to fill in information gaps in the first phase, and to support a collective and candid reflection and analyses of existing civil society approaches to counter the closing of civic space. This sequenced approach with engagement among grassroots communities is set to ensure that the research, its methodologies and approaches, will not simply remain a scholarly undertaking, but more importantly, contribute directly towards strengthening movements and nurturing civic space in the Philippines.

Methodology and Limitations

The scope of this research is ambitious, so a sequenced approach was envisioned. This first phase is a desk study that sets a baseline of information and analyses on the different aspects of this security architecture and its impact in the Philippines. The research was designed as a collaborative study among a team of researchers, with each one focused on specific and different aspects of the security architecture and its impact in the Philippines. The research team conducted an extensive review of scholarly work and existing policy documents, followed by a validation workshop with various groups representing the diverse geographic, sectoral, and ideological spectrum of civil society in the Philippines.

4 Aries Arugay, Marc Batac & Jordan Street, 'An Explosive Cocktail – Counter-terrorism, militarization and authoritarianism in the Philippines', *Initiatives for International Dialogue and Saferworld* (June 2021). <https://iidnet.org/an-explosive-cocktail-counter-terrorism-militarisation-and-authoritarianism-in-the-philippines/>

Scope

This study focuses on areas where the impact of securitization on civic space are most apparent, and where the Philippine government has waged contiguous wars in the name of “security”: the “War on Terror”, the “War on Drugs”, and the “War on COVID-19”. This study primarily covers the six-year administration of President Rodrigo Duterte (2016–2022), but it also touches on the administrations of previous presidents and emerging developments under President Ferdinand Marcos Jr. While President Duterte played a key role in escalating the war rhetoric and setting an atmosphere of impunity, this trend preceded his administration, and the actors that enabled this security playbook go beyond Duterte. This inquiry is therefore relevant even under the new Marcos Jr. administration which, in many ways, has not altered the policies and practices of the Duterte government that are repressive of civic space. Rather, it has continued the security playbook of its predecessor.

This study focuses on areas where the impact of securitization on civic space are most apparent, and where the Philippine government has waged contiguous wars in the name of “security”: the “War on Terror”, the “War on Drugs”, and the “War on COVID-19”.

Through a desk study, the research panel aimed to provide an analysis of:

1. the nature and harmful impacts on civic space of the misuse or abuse of security laws and policy measures, information and communication technologies, and narratives used to justify repressive acts under the broad mantle of national security in the Philippines;
2. the landscape of actors and initiatives working at the intersection of security and civic space; and
3. the outliers and new actors developing alternatives, and potential entry points and strategies for countering and reversing these harms.

In the first chapter on the “War on Terror”, **Marc Batac** dives deep into the impact of counterinsurgency and counterterrorism on civic space across different presidential administrations in the Philippines. The chapter traces the long history of both the counterinsurgency and counterterrorism approaches, which have evolved and become entangled with each other over the years. These mixed militarized approaches to address internal armed conflicts were wielded by various administrations, including the Duterte government, drastically contributing to the shrinking of civic space in the country. It has legitimized the practice of “red-tagging”, which has become a serious threat to silence civil society by labelling its members “enemies of the State”. This chapter, as well as the other chapters, demonstrates how the government has employed legal means or subverted legal norms to repress and undermine strategies of dissent and deliberation, including human rights activism, humanitarian work, and peace building.

In the second chapter, the **Ateneo Human Rights Center** looks back at former President Rodrigo Duterte’s “War on Drugs” and its detrimental repercussions on the defense of human rights. It provides a comprehensive account of how the drug war, anchored on collective fear and shame, harmed not only drug personalities targeted for extrajudicial killings, but also human rights defenders and activists who came to their defense. The legal and moral space for civil society to carry out its activism for human rights has become much narrower in the context of this drug war, normalizing the government’s securitized response to the drug problem and its consequent clamp down on civic space. As the chapter describes, the popularization of Duterte’s violent anti-drug rhetoric impacted civic space through the “dangerous fiction” that human rights defenders are drug coddlers and crime enablers.

In the third chapter, on the “War on COVID-19”, **Mary Jane Real** probes the securitized response of the Philippine government to the COVID-19 health crisis. The chapter demonstrates the links between the Philippine government’s highly militarized and securitized pandemic response and the shrinking civic space in the country. In this context, the government stretched what could be deemed acceptable and non-acceptable by the public as far as the curtailment of their fundamental freedoms is concerned. The government stressed the need to safeguard the public’s human right to health and asserted that consequent violations of their freedom of expression, freedom of peaceful assembly, and other rights is essential for the upkeep of civic space, and necessary to keep the public safe. Further posing the pandemic not only as a health risk, but also as a security threat became a justification for the curtailment of fundamental freedoms and a cover for the persistent human rights violations being committed with impunity in the country.

Finally, in the fourth chapter, **Jessamine Pacis** focuses on securitization in digital spaces and threats related to the use of information and communications technology that crosscut these “three wars”. The chapter on information technology and the media describes the Philippine government’s digital security playbook, which uses legal and technical structures to quell dissent through surveillance, censorship, and securitized responses to disinformation. It brings together analyses of the war narratives peddled by the government that paved the way for its increasing restrictions on civic space as activism for human rights spread rapidly into the digital terrain, especially during the COVID-19 crisis. Through the proliferation of the use of digital tools for surveillance and censorship and attempts to silence independent sources of information in traditional and social media, President Duterte was able to control the narrative that justified the vilification of activists and those critical of the government.

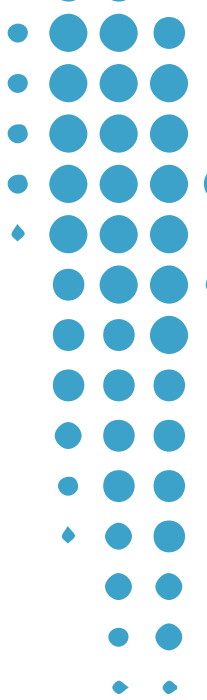
The research team’s ultimate goal is to ensure that civil society thrives in conditions that are free from unjustified limitations brought about by narrow and injurious concepts of “security” as defined and weaponized by a few at the top—by elites, governments and corporations—and to nurture civic spaces in order to facilitate creative and humane solutions to our common societal problems. The team aspires to generate debates to redefine conceptions of “security” and “civic space” to reflect the needs, potentials and aspirations of all peoples, especially those who are most affected.

Therefore, beyond naming the problem and the incentives and motivations that underpin this oppressive security architecture, the research team aims for this study to inspire grassroots organizations and their movements to deepen and transform their strategies of resistance against the government’s security architecture, and create new pathways to protect and expand civic space.

Towards this, all four chapters identify civil society and community responses that point to alternative and feminist practices and meanings of security, and analyze potential challenges and entry points under the new Ferdinand Marcos Jr. presidency and beyond. Batac documents alternative feminist and peacebuilding paths to addressing the armed insurgency, such as the indigenous people-led convergence *Lumad Husay*, and other multi-sectoral initiatives for independent spaces for deliberation and citizens' agenda on peace and security. AHRC maps various efforts to push back on the drug war, such as RESBAK and Nightcrawlers, and their use of their craft and art to shed light on and engage the dehumanizing narratives underpinning the drug war, and efforts on changing policy away from approaches focused on incarceration, and rehabilitation towards harm reduction and public health. Real celebrates the emergence of community platforms of care amidst the pandemic, such as the tide of community pantries and mutual aid, and the virtual-based initiative Lunas Collective – both volunteer- and women-driven. Finally, Pacis cites hashtag campaigns reclaiming online spaces and shedding light on misogyny and abuse, and civil society-led cyber incident responses to cyberattacks, among others.

Rather than being definitive and exhaustive, this research from the first phase is intended to serve as a compilation of think pieces to inform and prompt further analysis and strategizing. There are more alternative pathways towards change, and ideas and practices of security in many activist and civil society spaces than the research team could possibly map and document in a few months. Ultimately, our hope is that this study will be received within the Philippine people's movement and civil society, first, as a love letter for their courage, fortitude and ingenuity; and second, as an invitation to join and handhold in a shared and renewed journey of hope, solidarity and reimagining.

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Counterinsurgency, Red-Tagging & The ‘War on Terror’: A War against Deliberation and Dissent, A War with No End

Marc Batac

Source: IndustriALL Global Union, Flickr, CC BY-NC-ND 2.0
Philippines protests, Global Day of Action against red tagging.



I. Introduction

The Philippines has experienced decades of armed conflict involving a number of different movements with distinct grievances and aspirations, including self-determination struggles (notably the Cordillera and Moro Muslim movements) and a long-running communist armed insurgency. While the violence peaked in the late 1960s and into the 70s and 80s, the underlying conflicts have deep-seated causes going back to the Spanish colonial era and continued by post-colonial, oligarchic governments. Civilian approaches to internal conflicts, such as peace agreements with some armed groups, increased social services and some structural and policy reforms, have been welcome developments. However, the continuing unequal access to development and socio-economic and political life, the culture of impunity within government and across society, and the dominance of military and autocratic approaches to quell grievances and dissent, undermine and even reverse any incremental progress achieved through peace talks and policy reforms.

This paper does not seek to delve into all existing internal conflicts and counterinsurgency (COIN) strategies in the Philippines, rather it is focused on the evolution and mixing of the government's counterinsurgency and counterterrorism (CT) approach to the Communist Party of the Philippines-New People's Army (CPP-NPA). It is focused on the conflict with the CPP-NPA as an analytical jump-off point, for two reasons. First, the repressive government policies, narratives and behavior that animate and sustain recent trends of red-tagging, political violence and overall erosion of civic space in the country, are underpinned, shaped and sustained by pernicious security narratives about the supposed threat from the so-called "communist-terrorist groups." And second, the fusion of COIN and CT rhetoric can be better understood and observed alongside the development of the Philippine government's relationship with and reaction to the CPP-NPA.

In this chapter, I argue, first, that the long-standing COIN framework has blurred the distinction between combatants and non-combatants; and that despite attempts at peacebuilding and civilian approaches, the government's COIN approach has relegated politically negotiated settlement as secondary only to the military and war-making approach.

Second, despite the failure of COIN to find a resolution to the armed conflict, it has been revived as a CT strategy due to the confluence of interests among international and domestic actors.

Third, mixed COIN-CT measures are then wielded not only against combatants but also against perceived supporters and sympathizers, activists, legal cause-oriented groups, and the broad civil society. This has led to sustained state-enabled red-tagging, harassment and various forms of violations of human rights and freedoms of citizens and communities, and the overall shrinking of civic, deliberative and peacebuilding spaces in the country.

Fourth, I take special note of the invisible impact of COIN-CT measures on feminist peacemaking and peacebuilding approaches, and humanitarian work in conflict areas. I propose that there is a need to further unpack and expand our understanding of civic space to include peacemaking and peacebuilding strategies. And finally, building on the call of various critical scholars to go beyond "human rights-compliant counterterrorism," I identify and analyze distinct but non-mutually exclusive responses and forms of resistance and alternatives from civil society and communities.

This research paper is not intended to be an exhaustive mapping of pathways, but rather an invitation for people's movements, civil society and allies to further discuss how else we can make militarist, misogynistic COIN-CT approaches superfluous and unneeded, and reflect on what alternative and feminist narratives and practices of safety and security are there or are being born.

This undertaking will require us to take a historical look at the interplay between the military and the civilian leaders in shaping the country's security needs and approach. In doing so, we will analyze how this dynamic affects the ebbs and flows of the peace process and shapes the government's security playbook and military strategy, and, in turn, how this security playbook impacts two important elements of functioning democracies – deliberation and dissent.

II. In Focus: the Philippine Government's Mixed Counterinsurgency and Counterterrorism Approach

At the outset, it is important to identify and define the core policy features enabling the current government's counterinsurgency and counterterrorism approaches, particularly against the CPP-NPA. Annex I maps the breadth of the Philippines' security policy architecture and the various actors involved, including those specific to COIN and CT. For this section, we will focus on two elements.

First, a core feature of the government's existing COIN and CT strategy is the so-called "whole-of-nation approach" to ending the communist armed insurgency, instituted through President Rodrigo Duterte's Executive Order No. 70 (EO 70) s. 2018. EO 70 also created the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC). Operationally, what this does is, first, it formalizes and integrates the AFP's role in the delivery of basic social services¹ and, second, it mobilizes and provides incentives for various government units, especially local governments, to use the metrics of military success rather than of peace and prevention.

Similar to President Duterte's Oplan Tokhang², the NTF-ELCAC's Support to the Barangay Development Program, which grants aid or reward for local government units (LGUs) that have been "communist-cleared", has provided corrupt incentives for local chief executives and local governments to take short-cuts in addressing the local dimensions of the armed conflict, favoring primarily active warfare, lethal force and punitive approaches over peace and development approaches.³ The NTF-ELCAC had an approved budget of P19.1 billion in 2021, P622.3 million in 2020, and P522 million in 2019. For 2022, the NTF-ELCAC has an approved budget of P10.8B, from its proposed P29.2B budget.⁴

According to the human rights watchdog, Karapatan, Regions 7, 10, 11, 12, and 13 – which received the biggest chunk of the fund for the NTF-ELCAC's Barangay Development Program, were the same regions where the most number of politically motivated killings and arrests occurred from the start of President Duterte's term in July 2016 until June 2021. As many as 206 out of the 414 cases of politically-motivated extrajudicial killings transpired in these regions, while 322 out of the 487 political prisoners who were arrested during the Duterte administration were arrested in these same regions.⁵

Case study continued on next page >>>

1 DSWD, 'DSWD, AFP formalize partnership to strengthen delivery of programs and services for Filipinos in conflict areas,' (19 July 2019).

2 See the next chapter on War on Drugs.

3 Rappler, 'NTF-ELCAC releases P16 billion to 812 'NPA-free' barangay' (13 July 2021).

4 PNA, 'Senate OKs nat'l budget including NTF-ELCAC's P10.8-B' (1 December 2021).

5 Karapatan, "'Military pork barrel:' Karapatan flags DILG's funds for NTF-ELCAC,' (10 November 2021).

The other important key feature is the move from propaganda and labeling of the CPP-NPA as ‘communist terrorist groups’ to formal designation and proscription. This reframing of the CPP-NPA from ‘insurgents’ to ‘terrorists’ is important because it enables the mobilization of the full extent of state resources and power to undermine the legitimacy and restrict the activities not only of the armed movement but also its perceived mass bases of support. In the past decade, the Philippines adopted two laws that are primarily aimed at these: (1) the Anti-Terrorism Act (ATA) of 2020⁶, which superseded the Human Security Act (HSA) of 2007⁷, and (2) the Terrorism Financing Prevention and Suppression Act (TFPSA) of 2012⁸.

In February 2018, the Department of Justice (DoJ) sought to declare the CPP-NPA as “terrorist” organizations under the then operational HSA.⁹ Following delayed progress in the courts or, more accurately, the lack of sufficient proof for the legal designation of the CPP-NPA as terrorists, the government took a new tack: it changed the law. It passed the ATA which transferred from the judiciary to the executive branch the power to designate individuals or communities as “terrorists,” making the latter immediately liable to be arrested without warrant or charges and be detained for up to 24 days.¹⁰ In December 2020, the Anti-Terrorism Council (ATC) designated the CPP-NPA as “terrorist organizations, associations or groups of persons.” In June 2021, it also designated the National Democratic Front (NDF), the official representative of the CPP-NPA to the peace talks, as a terrorist organization. Despite an unprecedented 37 petitions against the ATA, in April 2022, the Supreme Court (SC) upheld most of the new anti-terrorism law as constitutional, including the ATC’s power of designation.¹¹

6 Republic Act No. 11479 (3 July 2020).

7 Republic Act No. 9372 (6 March 2007).

8 Republic Act No. 10168 (18 June 2012).

9 Rappler, ‘DOJ formally seeks court declaration of CPP-NPA as terrorists,’ (21 February 2018).

10 Under the new counter-terrorism law, the Anti-Terrorism Council (ATC), comprised of Cabinet officials of mostly retired generals, is empowered to unilaterally designate as ‘terrorists’ individuals and organisations, and to authorise the arrest and detention of a person suspected of being a ‘terrorist’ – powers that are [ordinarily] reserved for the courts.

11 Rappler, ‘Supreme Court upholds with finality most of anti-terror law’ (26 April 2022).

III. The Evolution of Counterinsurgency and Counterterrorism in the Philippines, and the Confluence of Interests of the Actors

While strategies and operation plans to address internal security threats and insurgencies have changed under each president – from Cory Aquino and Fidel Ramos’ Oplan *Lambat Bitag*, to Gloria Macapagal-Arroyo’s *Bantay Laya*, Benigno ‘Noynoy’ Aquino III’s *Bayanihan*, and Duterte’s *Kapayapaan* and *Kapanatagan* – these strategies have common features. Andreopoulos, et al. enumerates common jargon and terms used across administrations, such as “holistic,” “whole-of-nation” or “people-centered” approach, and identifies a common claim of purportedly “mobilising the entire governmental bureaucracy” alongside various sectors and stakeholders to transform provinces influenced by the communist insurgency as “peaceful and ready for further development” but are, in fact, “designed as an ‘end-game strategy’ to definitively eradicate the insurgency.”¹²

Due to the difficulty in defeating guerilla-style insurgencies, the government and its military have targeted activists, people’s organizations and civil society groups perceived to be providing forms of support to the armed movement, regardless of the existence of actual proof; labeled them as communists and terrorists as part of a wider “war of hearts and mind” to undermine the legitimacy and movements of their “enemies”; and in the process, made no distinction between armed combatants and civilians.¹³ This is how the slippery slope or, more accurately, the logic of COIN starts with targeting armed rebels, then targeting activists and radicals, and eventually leads to the repression of civilian spaces for discourse and dissent.

...the logic of COIN starts with targeting armed rebels, then targeting activists and radicals, and eventually leads to the repression of civilian spaces for discourse and dissent.

12 George Andreopoulos, Nerve Macaspac and Efim Galkin, “‘Whole-of-Nation’ Approach to Counterinsurgency and the Closing of Civic Space in the Philippines”, California: *Global-e Journal*, University of California Santa Barbara, 14 August 2020, Volume 13, Issue 54.

13 Ibid.

A. The Conflict between the Philippine Government and the CPP-NPA: From Marcos to Aquino

Since 1969, the Government of the Republic of the Philippines (GRP), through the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP), has been battling the Communist Party of the Philippines–New People’s Army–National Democratic Front (CPP–NPA–NDF or CNN), a clandestine movement waging a guerrilla war “aiming to win the majority of the population to seize state power and implement a programme of reforms called ‘national democracy with a socialist perspective.’”¹⁴ The AFP, in particular, considers itself a “vanguard of the modern state and a bulwark against communist subversion.”¹⁵

The Martial Law regime under the dictator President Ferdinand Marcos was one of the most vicious periods of counterinsurgency and violence.¹⁶ The declaration of martial rule was, in fact, predicated on responding to the rebellion of the CPP–NPA and the Mindanao Independence Movement.¹⁷

The downfall of the Marcos dictatorship in 1986 and the change in government headed by President Corazon Aquino (1986–1992) saw the return of formal democracy and the opening up of political space. During that period, the CPP–NPA was split between the ‘reaffirmists’ who insisted on pursuing the Maoist principle of protracted war, and the ‘rejectionists’¹⁸ who looked towards the non-violent, political and legal contestation of power. The Aquino administration introduced massive constitutional reforms to democratize the political space and introduce checks to state power, including the founding of an independent National Human Rights Commission. Aquino explored peace negotiations with various armed groups, including the Moro Islamic Liberation Front (MILF), the Moro National Liberation Front (MNLF), the Cordillera People’s Liberation Army, and the CNN.

- 14 Jayson Lamchek, ‘Human Rights–Compliant Counterterrorism: Myth–making and Reality in the Philippines and Indonesia’, Cambridge: *Cambridge University Press* (2019), Eng, doi: 10.1017/9781108588836, p. 81. See also Dominique Caouette, ‘Persevering Revolutionaries: Armed Struggle in the 21st Century, Exploring the Revolution of the Communist Party of the Philippines,’ *Cornell University* (2004); Armando Liwanag (Jose Maria Sison), ‘Brief Review of the History of the Communist Party of the Philippines’; Kathleen Weekley, ‘The Communist Party of the Philippines, 1968–1993: A Story of Its Theory and Practice,’ *University of the Philippines Press* (2001).
- 15 Aurel Croissant, David Kuehn, and Philip Lorenz, ‘Breaking With the Past?: Civil–Military Relations in the Emerging Democracies of East Asia’, *East–West Center*, 2012.
- 16 Jubair Salah, ‘Bangsamoro, ‘A Nation Under Endless Tyranny’, *Islamic Research Academy*, 1st edition (1984). p. 134. The Marcos dictatorship’s ill-treatment of the Bangsamoro people is highlighted by his encouragement of the creation of the Ilaga, a Christian paramilitary group. Together with the Philippine Army, they were responsible for multiple massacres of the Bangsamoro people, such as the Manili Massacre in 1971 and the Malisbong Masjid Massacre of 1974. It was also during his term, particularly in 1968, that the infamous Jabidah Massacre occurred where at least 60 Muslim Filipinos undergoing military training were killed.
- 17 Proclamation No. 1081, s. 1972.
- 18 Patricio N. Abinales, ed. ‘The Revolution Falters: The Left in Philippine Politics after 1986’. 1st ed. Cornell University Press (1996).

However, the Aquino administration was viewed by many as “weak and fractious.” It was wracked by several coup attempts staged by disaffected military officers.¹⁹ Peace talks with the CPP–NPA collapsed in January 1987, and thereafter, the Aquino government announced that it had given the AFP “a free hand in waging all-out war” against the NPA.²⁰ The subsequent COIN war was underpinned by the US strategy of ‘low-intensity conflict’, particularly its emphasis on civic action, propaganda and psychological warfare.²¹ Under this framework, the AFP developed its “Broad Front Strategy” that targeted the “mass base support systems” of the CPP–NPA instead of the regular NPA combatants which, in practice, meant and included targeting legal, cause-oriented organizations.²² Despite the opening up of political space, human rights violations soared, especially those committed by the military and its paramilitary forces – primarily the Citizen Armed Force Geographical Units (CAFGU) – and the vigilante groups they employed in the context of COIN against the CPP–NPA.²³

B. Ramos Administration: The Fork in the Road

The Ramos Administration (1992–1998) pursued a major shift to politically negotiated settlements with armed groups, along with a program of “national reconciliation.” Ramos, a retired military general, was Vice Chief-of-Staff of the AFP under Marcos until 1986 when he joined rebel military and police officers in the attempted coup-d’état that resulted in the People Power Revolution that booted out the dictator.

The Ramos administration revived the peace talks with the MILF, the MNLF and the CNN, established a National Unification Commission and the Office of the Presidential Adviser on the Peace Process (OPAPP). It also signed into law a general conditional amnesty covering all rebel groups.²⁴ It was also under Ramos’ term that Congress repealed the Anti-Subversion Act, which had previously made mere membership in the CPP illegal.²⁵ The Party List System Law was also enacted, allocating 20 percent of the seats in the House of Representatives to representatives of marginalized sectors as provided in the 1987 Constitution.²⁶ Moreover, Ramos championed a 15-year AFP modernization program that introduced security sector reforms meant to transform the military into a professionalized armed force.

19 US State Department, ‘Previous Editions of U.S. Bilateral Relations Fact Sheets/Background Notes – Philippines (10/00),’ archived content. Accessed 17 July 2022.

20 Justus M. Van der Kroef, ‘Aquino and the Communists: A Philippine Strategic Stalemate?’, *World Affairs* Vol. 151, no. 3 (1988): 117–29.

21 Lamchek (2019), p. 84.

22 McCoy A (2011), p. 239.

23 Anja Jetschke, ‘Human Rights and State Security: Indonesia and the Philippines’, University of Pennsylvania Press (2011), pp. 171–98; David Kowalewski, ‘Vigilante Counterinsurgency and Human Rights in the Philippines: A Statistical Analysis’ (1990) 12 *Hum Rts*, pp. 246–64; McCoy (2011), pp. 433–51.

24 Miriam-Coronel Ferrer, ‘Philippines National Unification Commission: National consultations and the ‘Six Paths to Peace’, *Accord* Issue 13 (December 2002). Accessed 17 July 2022.

25 Republic Act No 1700 (Anti-Subversion Act); Republic Act No 7636 (repealing the Anti-Subversion Act).

26 Republic Act No 7941 (Party-List System Act).

During this period, there was a “dramatic decline in military encounters between government and rebel forces and a decline in casualties related to COIN operations against the NPA, and although human rights violations were still observed in militarized zones, there was a notable decline in most categories.”²⁷ The Commission on Human Rights (CHR) cited “improved human rights awareness in the military, which it attributes to its human rights training programs for military officers and its practice of providing AFP promotion panels with ‘certificates of clearance’ on officers’ human rights performance.”²⁸

While the Ramos period was far from perfect, it was a fork in the road in reimagining the relationship between the Philippine state and the communist armed movement, and in transforming the Philippine security establishment towards greater civilian oversight over the military. This period allowed for “political space within the state for left-wing activist organizations sharing the ‘national democratic’ ideology and programme of reforms of the NDF”²⁹, and for a real chance for a civilian approach and a peaceful resolution to the armed conflict through a politically negotiated-settlement.

In the next section, I will discuss two episodes in the post-1986 era where COIN took ascendancy over politically negotiated settlements and peace processes. The first was during the Macapagal-Arroyo administration which coincided with the Post-9/11 Global War on Terror (GWOt); the second, the Duterte administration which coincided with the rise to global prominence of the Islamic State or Daesh (IS/ISIL) and consequently, of the P/CVE (Preventing or Countering Violent Extremism) agenda. In both the Macapagal-Arroyo and Duterte administrations, the counterterrorism state was able to reframe “insurgents” as “terrorists.” And in both cases, the ultimate impact was felt most among actors, sectors and communities whom the Philippine government and security actors perceived to be ‘mass bases of support’ of the CPP-NPA. My argument is counterterrorism (CT) as the discourse was an intervening opportunity for the military to tilt the balance in its favor, frustrating healthier civil-military relations from being fully born and undermining a new and better relationship between the Philippine state and the communist armed movement, and, by extension, with other dissenting groups.

27 Lamchek, J (2019), p. 62, citing Amnesty International.

28 U.S. Department of State Country Report on Human Rights Practices 1994 - Philippines, published 30 January 1995. Accessed 17 July 2022.

29 Lamchek, J (2019), p. 61.

C. Macapagal-Arroyo Administration: The Post-9/11 GWoT and the Philippines' 'War on Terror'

By 2001, under the Macapagal-Arroyo administration (2001-2010), counterinsurgency had gained ascendancy. According to Lamchek, the brief peace negotiations under President Gloria Macapagal-Arroyo came to a sudden halt in 2001 "because the 'war on terror' made the COIN campaign that replaced peace talks materially attractive and normatively plausible."³⁰ Under President Arroyo, the Philippines became one of the foremost supporters of the Global War on Terror in the region,³¹ responding to the call for robust counterterrorism measures through intelligence-sharing, military and law enforcement cooperation, and policy and legislation.

Some commentators have noted that the Abu Sayyaf Group (ASG) was the initial and main excuse for introducing the "war on terror" to the Philippines,³² and as a justification for making the country the "second front" of this war.³³ The kidnapping by the ASG of guests at the Dos Palmas resort in Palawan, which killed three Americans, coupled with allegations that the ASG was linked to al-Qaeda, provided "the casus belli for the U.S. military to re-engage in the Philippines following the September 11, 2001 attacks by al Qaeda."³⁴

As the US identified terrorism as a common threat, it renewed its political and security relations with the Philippines, which had been strained since the closure of the US military bases in 1991.³⁵ From 1994 to 1998, the average amount of US military aid was only US\$1.6 million per annum, but in the aftermath of 9/11, Washington gave Manila a ten-fold increase in military assistance.³⁶ Support did not only come in the form of a financial military package, it also included development assistance, especially to Muslim Mindanao, and the deployment of US forces for "joint military exercises" with Philippine troops, including undisclosed numbers of US Special Operations Forces since 2002.³⁷ One commentator noted that "...instead of improving the country's CT capabilities to eradicate terrorism, the GWOT and related US policy have created a cyclical incentive structure [wherein] certain actors within the government, military, and insurgency groups in the Philippines profit politically and financially from US aid and the warlike conditions," and therefore "sustain, at a minimum, a presence of conflict and terrorism in order to continue drawing future benefits."³⁸

30 Lamchek, J (2019), p. 88.

31 Operation Enduring Freedom – Philippines (OEF-P) or Operation Freedom Eagle was in place from 2002 to 2015 as part of Operation Enduring Freedom and the US Global War on Terrorism.

32 Anja Jetschke (2011), 'Human Rights and State Security: Indonesia and the Philippines', University of Pennsylvania Press, p. 233.

33 Walden Bello, 'A "Second Front" in the Philippines' *The Nation* (18 March 2002), p. 18.

34 Abuza, Zachary. 'Balik-Terrorism: The Return of the Abu Sayyaf,' *Strategic Studies Institute, US Army War College* (1 September 2005), vii.

35 Ava Patricia C. Avila & Justin Goldman, 'Philippine-US relations: the relevance of an evolving alliance,' *Bandung: Journal of the Global South* (29 September 2015), 2, Article No. 6.

36 Renato Cruz De Castro (June 2006), '21st Century Philippines-US Security Relations: Managing an Alliance in the War of the Third Kind', *Asian Security*, Vol. 2, No. 2, pp. 102-121.

37 George Radics, 'Terrorism in Southeast Asia: Balikatan Exercises in the Philippines and the US "War against Terrorism"' (2004) 4 *Stanford Journal of East Asian Affairs*, pp. 115-27, 116-17; Herbert Docena, 'Unconventional Warfare: Are US Special Forces Engaged in an "Offensive War" in the Philippines?' in Abinales and Quimpo (eds) pp. 46-83.

38 Robin A. Bowman, 'Is the Philippines Profiting from The War on Terrorism?', Monterey, California: Naval Postgraduate School (June 2004).

President Arroyo was interested in a closer relationship with the security sector, seeking to “strengthen her relationship with the military, the institution from which she sought support to bolster her shaky, increasingly unpopular administration.”³⁹ Arugay et al. pointed out that the increased influence of former military generals “who had positioned themselves as the necessary voices with the experience to handle these security efforts”⁴⁰ and who “did not hesitate to push for a heavily militarized approach to deal with communist rebels and Moro secessionists under the counterterrorism framework” facilitated the civilian government’s “new ‘all-out war policy’ in dealing with all non-state armed groups.”⁴¹ At one point, President Arroyo would say, “The government will not allow the peace process to stand in the way of the overriding fight against terrorism.”⁴²

Commentators argued that the Philippines’ security establishment caught the ‘anti-terrorism syndrome – i.e., the supremacy of counter-terrorism’⁴³ and applied it in their approach to protracted conflicts with other insurgent groups like the MILF⁴⁴, and the CPP-NPA.⁴⁵ Jetschke argued that the Philippine government skillfully used these CT norms “in constructing a domestic discourse on terrorism that framed its adversaries as terrorists or as being linked to terrorism.”⁴⁶

However, as McCoy pointed out, the difference between the MILF and the CPP-NPA is the US was already invested in the Philippine government’s COIN war with the CPP-NPA long before 9/11, with the CT rhetoric merely adding “another thread to this skein of historical continuity.”⁴⁷ This is echoed by various commentators who emphasized the US’ desire to counter what it saw as a communist threat to its interests in the Philippines⁴⁸ and “the importance and persistence of Cold War legacies in explaining the reframing of the communist movement in terms of terrorism.”⁴⁹

39 Lamchek, J (2019), p. 86.

40 Aries Arugay, Marc Batac & Jordan Street, ‘An Explosive Cocktail – Counter-terrorism, militarisation and authoritarianism in the Philippines’, *Initiatives for International Dialogue and Safer World* (June 2021), p. 9; Arugay, Aries A. ‘The Military in Philippine Politics: Still Politicized and Increasingly Autonomous’, *The Political Resurgence of the Military in Southeast Asia: Conflict and Leadership*, edited by Marcus Mietzner, London: Routledge (2011), pp. 85–106.

41 Arugay A, Batac M & Street J (2021), p. 9; Hutchcroft, David (2008), ‘The Arroyo Imbrolio in the Philippines’, *Journal of Democracy*, 19(1), pp 141–155.

42 Quoted in Soliman M. Santos Jr. ‘Counter-terrorism and peace negotiations with Philippine rebel groups’, *Critical Studies on Terrorism* (2010), 3:1, pp. 114, DOI: 10.1080/17539151003594301.

43 Santos, S (2010), pp. 137–154.

44 Nathan Gilbert Quimpo. ‘Mindanao: Nationalism, Jihadism and Frustrated Peace’, *Journal of Asian Security and International Affairs* (2016), 3(1) p. 7.

45 Anja Jetschke (2011), *Human Rights and State Security: Indonesia and the Philippines*, University of Pennsylvania Press, p. 233.

46 Lamchek, J (2018), pp 66–67, citing Anja Jetschke (2011), *Human Rights and State Security: Indonesia and the Philippines*, University of Pennsylvania Press.

47 Alfred W McCoy, ‘Policing America’s Empire: The United States, the Philippines, and the Rise of the Surveillance State,’ (Ateneo de Manila University Press 2011), p. 499.

48 Walden Bello, *Creating the Third Force: U.S. Sponsored Low Intensity Conflict in the Philippines* (The Institute for Food and Development Policy 1987) 55; Carolina Hernandez, *Institutional Response to Armed Conflict: The Armed Forces of the Philippines* (2005) 5–10.

49 Lamchek, J (2019), p. 57.

Lamchek succinctly explained:

*“[T]errorism was not a stand-alone phenomenon to which the state responded with counterterrorism policy; terrorism was a discursive construction necessitated by counterterrorism policy and was constituted as counterterrorism policy as counterterrorism policy was developed... the Philippine government tried to conjure an insecure environment abounding in threats, plots and conspiracies, from the Abu Sayyaf to the MILF, and on to the NPA and legal leftist organisations. It was only by taking this specific view of the security situation as reality, that the specific counterterrorism measures promoted made sense. Philippine counterterrorism was not a necessity. It arose from the contingent decision of the Arroyo government to align the country with the ‘war on terror.’ This afforded the government material and political advantages against anti-government groups. By overlaying counterterrorism rhetoric on pre-existing counterinsurgency, old foes of the state became terrorists. While espousing the new terrorism discourse, the government continued to pursue old counterinsurgency goals with the increased resources afforded by partnership with the United States.”*⁵⁰

The Philippine government “successfully convinced the United States and other Western governments to extend its material and diplomatic support against its adversaries,” which, “in turn, [made] it possible for human rights violations to continue.”⁵¹ Unsurprisingly, with the adoption of the hard security and CT approach, there was a massive increase in human rights violations in the form of extrajudicial killings targeting activists, organizers, journalists and other civil society actors. Then UN Special Rapporteur on extrajudicial, summary or arbitrary executions Philip Alston estimated that as many as 800 people were executed between 2002 and 2008.⁵² By 2005, this, together with other authoritarian tendencies prevalent in the Arroyo administration, led non-government watchdog Freedom House to downgrade the Philippines freedom status to “partially free”.⁵³



[T]errorism was not a stand-alone phenomenon to which the state responded with counterterrorism policy; terrorism was a discursive construction necessitated by counterterrorism policy and was constituted as counterterrorism policy was developed...”

50 Lamchek, J (2018), p.89.

51 Ibid, p. 67.

52 UN Human Rights Council, ‘Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston : addendum: mission to Philippines,’ (16 April 2008), A/HRC/8/3/Add.2.

53 Peter M Sales, ‘State terror in the Philippines: the Alston Report, human rights and counter-insurgency under the Arroyo administration. *Contemporary Politics*, (2009) 15(3), pp 321–336.

D. Duterte Administration: The IS/ISIL Threat, P/CVE Agenda, and Anti-Terrorism Act of 2020

At the start of the Duterte administration (2016–2022), the relationship between the civilian government and the CPP–NPA began on a positive and promising note, with an expeditious peace process between the parties. There was renewed hope among many that a politically negotiated settlement that would put an end to the longest-running armed conflict in Asia, was within reach.

Sections of the military and intelligence establishment were, of course, displeased when President Duterte was more than welcoming of the CPP–NPA and the Left. During the first two years of the Duterte administration, they perceived as unwarranted concessions, the appointment of Left figures in the Cabinet and the release of high-value political prisoners and key time CPP–NPA leaders Benito Tiamzon and Wilma Tiamzon. The military only had to wait for the right opportunity to retake the upper hand.

The wedge between the Duterte government and the CPP–NPA started widening as early as the first quarter of 2017. By 23 November 2017, after continued armed encounters between the AFP and the NPA despite mutual declarations of unilateral ceasefires, President Duterte formally terminated the peace talks with the NDF.⁵⁴ The Philippine government has since escalated its labeling of the CPP–NPA as a ‘communist terrorist group (CTG)’, a branding used previously by the military but not by the Duterte-led civilian government, until the negotiations were terminated.⁵⁵ Duterte no longer held back in his escalatory remarks inciting increased violence, such as encouraging soldiers to shoot women rebels in their vaginas,⁵⁶ and offering a bounty for each communist rebel killed.⁵⁷ Within a few months, the government policy quickly shifted from a strategy of politically-negotiated settlement and reforms to a strategy of COIN and CT, primarily through active warfare, lethal force, and a punitive approach.

It must be noted that alongside the roller coaster of the peace process, there were three trends happening in the global and the national arena that could explain the shifts in perspective, dynamics and motivations within the Philippine government: the threat of the Islamic State or Daesh (IS/ISIL) and the rise of the Preventing or Countering Violent Extremism (P/CVE) agenda, the Marawi Siege of 2017, and the militarization of the civilian government.

54 Presidential Proclamation 360, s. November 23, 2017.

55 Rappler, ‘The Duterte administration filed a petition seeking to declare the CPP–NPA ‘terrorist’ organisations under the Human Security Act,’ (21 February 2018).

56 Aljazeera, ‘Duterte: Shoot female rebels in their genitals’ (12 February 2018).

57 Aljazeera, ‘Rodrigo Duterte offers ‘per head’ bounty for rebels’ (15 February 2018).

Source: Photo by Raffy Lerma
View of ground zero of Marawi taken on August 21, 2019.



1. The threat of ISIL/IS and the rise of the P/CVE agenda

On the global level, IS/ISIL rose to prominence as it seized large swathes of territory across Iraq and Syria in 2014, and as a spate of terror attacks from Paris to Istanbul alarmed policymakers across the world, counterterrorism was again catapulted as a top concern for global policy. Thus emerged a new response to terror attacks: the P/CVE agenda. P/CVE was partly a response to the limited success of hard security “war on terror” tactics.⁵⁸ It was designed to take “proactive actions to counter efforts by violent ‘extremists’ to radicalize, recruit, and mobilize followers to violence and to address specific factors that facilitate violent ‘extremist’ recruitment and radicalization to violence.”⁵⁹

In 2015, the Obama administration held a “Countering Violent Extremism (CVE) Summit” to mobilize global support for this approach⁶⁰, while the UN Secretary-General Ban Ki Moon issued a UN Plan of Action to Prevent Violent Extremism.⁶¹ These became the basis for the roll-out of national action plans around the world, including in the Philippines, “with UN agencies playing a central role supporting [and funding] national governments to produce these strategies.”⁶² For those who rallied behind the P/CVE agenda, it was promised to be a positive move away from a security-focused to a more preventative approach. Critical security scholars and peacebuilders were not convinced and warned that similar to the Global War on Terror post-9/11, the P/CVE agenda could further enable authoritarian regimes to “subsume other legitimate interests under the banner of suppressing ‘violent extremism’.”⁶³

58 Abu-Nimer Mohammed, ‘Alternative Approaches to Transforming Violent Extremism. The Case of Islamic Peace, and Interreligious Peacebuilding’, in B Austin and H J Giessmann (eds.), *Transformative Approaches to Violent Extremism. Berghof Handbook Dialogue Series No. 13* (Berlin: Berghof Foundation, 2018), pp 1–20; Larry Attree, ‘Shouldn’t YOU be Countering Violent Extremism?’, *Saferworld* (March 2017).

59 United States Department for Homeland Security, ‘What is CVE?’ Accessed 12 July 2022.

60 US White House Office of the Press Secretary (2015), ‘Remarks by the President at the Summit on Countering Violent Extremism February 19, 2015’. Accessed 12 July 2022.

61 United Nations General Assembly, ‘Plan of Action to Prevent Violent Extremism. Report of the Secretary-General’, A/70/674, (24 December 2015).

62 Arugay, A, Batac, M & Street, J (2021), p. 16.

63 Naz Modirzadeh, ‘If It’s Broke, Don’t Make it Worse: A Critique of the UN Secretary-General’s Plan of Action to Prevent Violent Extremism’, *Lawfare* (23 January 2016).

However, there was growing concern and posturing that the collapse of the territorial caliphate of IS/ISIL in Iraq and Syria would push the group's activities elsewhere to seek new territory in Southeast Asia, particularly Indonesia, Malaysia and the Philippines.⁶⁴ This became the jump-off point for massive capacity-building assistance, technical support and equipment to Southeast Asia, and soon P/CVE was the catchphrase and programming lens across the region. On the regional level, as early as 2015, the Association of Southeast Asian Nations (ASEAN) either adopted or supported various joint statements signifying a renewed attention to terrorism and violent extremism, and support for CVE.⁶⁵ In the Philippines, the government, especially the AFP and the PNP, received support on CVE and CT from a variety of governments⁶⁶ such as the US⁶⁷, Australia⁶⁸ and Japan⁶⁹, and even international organizations such as the UN⁷⁰ and the International Centre for Counter-Terrorism.⁷¹

As announced in January 2017, the AFP's top priority was the eradication of any terrorist group operating within the Philippines.⁷² Simultaneously, the Philippine government endeavored to increase the role and improve the capabilities of the PNP in CT and CVE efforts.⁷³ The Philippines began developing its National Action Plan on P/CVE (NAP P/CVE) in July 2017 and adopted it in mid-2019⁷⁴, making it the first country in Asia to do so.

2. The Marawi Siege

The second parallel event was the rise of terror-related violence in Mindanao. On 23 May 2017, the city of Marawi, the country's only Muslim-majority city, was the scene of the most prominent CT campaign in the country's history when the AFP raided a suspected hideout of the Abu Sayyaf Group leader Isnilon Hapilon in Marawi City. In response, Hapilon sought reinforcements from members of the armed Maute Group that had pledged allegiance to the ISIL, leading to sporadic firefights with the military in various parts of the city.⁷⁵ Later that day, President Duterte declared Martial Law throughout Mindanao, and did not lift it until 31 December 2019.⁷⁶ The military proceeded to air bomb the city to flush out the rebels. The battle for Marawi lasted five months until the city was declared liberated in October 2017.⁷⁷ Six years after its destruction, many Marawi residents remain displaced.⁷⁸

64 Connor H. Berrier, 'Southeast Asia: ISIS's next front' Monterey, California: Naval Postgraduate School (2017); Nathaniel L. Moir, 'ISIL Radicalization, Recruitment, and Social Media Operations in Indonesia, Malaysia and the Philippines,' PRISM Volume 7, No 1 (2017), pp. 91-107.

65 ASEAN member-states adopted or supported the Langkawi Declaration on the Global Movement of the Moderates in April 2015, Kuala Lumpur Declaration in Combating Transnational Crime in September 2015, East Asia Summit Statement on Countering Violent Extremism in October 2015, Chairman's Statement of the Special ASEAN Ministerial Meeting on the Rise of Radicalisation and Violent Extremism in October 2015 and Chairman's Statement of the 2nd Special AMM on the Rise of Radicalisation and Violent Extremism. In September 2017, ASEAN Comprehensive Plan of Action on Counter Terrorism and Manila Declaration to Counter the Rise of Radicalization and Violent Extremism was adopted. In October 2017, Defense Ministers across the region released a Joint Statement of Special ASEAN Defence Ministers' Meeting on Countering Violent Extremism (CVE), Radicalization and Terrorism.

66 Linda Robinson, Patrick B. Johnston & Gillian S. Oak, 'U.S. Special Operations Forces in the Philippines, 2001-2014,' Santa Monica, Calif.: RAND Corporation (2016), p. xiv.

67 U.S. Department of State, "Building a Global Movement to Address Violent Extremism," fact sheet, September 2015. Accessed 12 July 2022.

68 Strait Times, "Australia Backs Philippine Campaign Against Terrorism," (19 March 2018).

69 U.S. Department of State (2015).

70 Arugay A, Batac M & Street J (2021), p. 16.

71 U.S. Department of State (2018).

72 GMA News Online, 'AFP Adopts New Security Plan Under Duterte' (6 January 2017).

73 Ashley L. Rhoades & Todd C. Helmus, 'Countering Violent Extremism in the Philippines: A Snapshot of Current Challenges and Responses.' Santa Monica, CA: RAND Corporation, 2020.

74 Japan Times. 'Philippines adopts strategy against violent extremism' (21 July 2019).

75 Aljazeera, 'Mindanao: Churchgoers 'taken hostage' amid Marawi siege,' (24 May 2017).

76 New York Times, 'Duterte Says Martial Law in Southern Philippines Will End This Month,' (December 10, 2019); Al Jazeera, 'Philippines' Duterte to Lift Martial Law by Year's End,' (10 December 2020).

77 Georgi Engelbrecht, 'Resilient Militancy in the Southern Philippines,' *International Crisis Group* (17 September 2020).

78 The UN High Commissioner for Refugees estimated that 98% of residents were displaced at the height of the siege. 'International Agency Update,' *UNHCR* (October 2017).

The Marawi Siege was used as justification for taking a tougher stance against violent groups, or for bringing terrorism back as a primary security agenda. It also contributed to the belief that the Philippines is the second frontier of IS/ISIL's global jihad and provided an opportunity for the government to step on the gas of CT in the country. Coincidentally, the process of developing the NAP P/CVE began at around the time of the Marawi siege.⁷⁹

3. Militarization of the Civilian Government

At the start of his administration, President Duterte was dead set on wooing the military, immediately doing the rounds of 14 military camps in less than a month, promising to strengthen the armed forces and increase the soldiers' salaries and benefits.⁸⁰

Although there were issues where the President and sections of the security sector did not see eye-to-eye, like the initial peace talks with the CPP-NPA and his non-confrontational stance on the maritime conflict with China, Duterte knew he had to secure the support of the armed forces to ensure the stability and survival of his government.⁸¹ At one point, he expressed his fear of a military coup⁸², which could explain the change in his stance on the CPP-NPA. As fractures appeared in the initial relationship between Duterte and the Left, ex-generals were appointed to top cabinet posts replacing Left-leaning officials.⁸³

Arugay argues that “no president in the country's post-martial law history has favored the military [more] than Duterte.”⁸⁴ In 2018, realizing his earlier promise, President Duterte doubled the salaries of military and police officers.⁸⁵ By the end of the Duterte administration, new equipment and facilities under the AFP Modernization Program (that was started by previous administrations but delivered under Duterte) amounted to around PHP125 billion in appropriated funds.⁸⁶ By 2017, Duterte had the most number of retired generals in any presidential Cabinet in the post-dictatorship period, with 59 former military and police generals leading various civilian agencies.⁸⁷ He appointed generals to head department portfolios that deal not only with national defense but also civilian concerns⁸⁸ such as interior and local government, information and communications, the environment, social welfare and development,⁸⁹ housing, and indigenous people's (IP) concerns. He even appointed an outgoing AFP Chief of Staff to lead the agency in charge of the peace processes,⁹⁰ signaling his dependence on the military to accomplish the country's peace and security goals. By 2017, the military and intelligence actors had gained the upper hand in the Cabinet and had the ears of President Duterte. In October 2018, he defended the appointment of former military officers in civilian positions saying that they are more efficient and always follow his orders, even admitting to the “militarization” of the government.⁹¹

79 Arugay A, Batac M & Street J, (2021), p. 16.

80 Rappler, 'Why has Duterte visited 14 military camps in less than a month?' (20 August 2016).

81 GMA News, 'Duterte and the Left: A BROKEN RELATIONSHIP,' (27 December 2020).

82 Aljazeera, “Kill them”: Duterte wants to ‘finish off’ communist rebels,’ (6 March 2021).

83 GMA News, 'Duterte and the Left: A BROKEN RELATIONSHIP,' (27 December 2020).

84 Aries Arugay, 'The Generals' Gambit: The Military and Democratic Erosion in Duterte's Philippines,' *Heinrich Böll Stiftung Southeast Asia* (18 February 2021).

85 DBM, 'President Duterte fulfills campaign promise, doubles salaries of cops, soldiers,' created 10 January 2018, last updated 11 January 2018.

86 PNA, 'Strong support for AFP, one of Duterte's legacies,' (19 July 2021).

87 Inquirer, 'Duterte hires 59 former AFP, PNP men to Cabinet, agencies' (27 June 2021).

88 ABS-CBN News, 'Duterte's Generals: Revolving doors and how they lead military men back to government,' (5 February 2021).

89 The General in-charge of the Marawi Siege was appointed its Secretary when he retired.

90 Rappler, 'Duterte to appoint AFP chief Galvez as OPAPP chief,' (5 December 2018).

91 Sunstar, 'Militarization? Correct, says Duterte' (1 November 2018).



Source: Photo by Raffy Lerma
Members of the Philippine National Police force their way inside an abandoned house in search of loose firearms and ammunition in Marawi on June 7, 2017.

This dependence on former-military generals and the armed forces created an imbalance in civil-military relations, enabling the shift to securitized military-first policies and violence on a number of fronts. The COIN-CT approach to the ongoing internal conflicts is but another phase of the militarist and macho rhetoric already apparent since the beginning of the Duterte administration, which the country first witnessed in his bloody “War on Drugs” that led to thousands of extrajudicial executions across the country.⁹²

This dependence on former-military generals and the armed forces created an imbalance in civil-military relations, enabling the shift to securitized military first policies and violence on a number of fronts.

92 Mark R. Thompson, ‘Bloodied democracy: Duterte and the death of liberal reformism in the Philippines’, *Journal of Current Southeast Asian Affairs* (2016) 35(3), pp. 39–68.

IV. Resetting Counterinsurgency as Counterterrorism, and the Confluence of Interests

As we trace the development of the peace process, COIN and CT across different administrations, especially the Arroyo and Duterte administrations, it becomes apparent that CT is not merely a reaction to terrorism, but that its motivations (or convergence of motivations among different actors) preceded the latter.⁹³ In the Philippines, the longstanding COIN strategy was reset as a CT approach.

Additionally, CT did not only revive, it bolstered COIN. Jetschke argued that a key opportunity it presented for national actors was to reframe old "enemies" such as the Moro and communist "insurgents" as "terrorists", thereby acquiring both political capital and material resources to achieve decisive military victory over them.⁹⁴ While Lamchek added that this reframing of insurgents as terrorists prevented further scrutiny of the causes and dynamics of the conflicts, it also resulted in violations of human rights and the denial of freedoms that were perceived as mere unfortunate excesses or mistakes in policy implementation by a few bad apples in government, rather than a systematic and logical effect of the government's own policies (on internal conflicts and political contestation).⁹⁵

In sum, the country's CT agenda/framework evolved as a response to the political realities, material benefits and opportunities offered by the post-9/11 Global War on Terror and its subsequent permutations, including the P/CVE agenda.⁹⁶

There were, of course, particular focal motivations among different actors. The Philippines' strategic partners and Western governments believed Southeast Asia and the Philippines would become the second front of global *jihad*. While the heads of the civilian government, Macapagal-Arroyo and Duterte, saw an opportunity to form closer relations with the armed forces, in order to ensure the efficiency and stability of their administrations. On the other hand, military and intelligence actors saw the realities, benefits and opportunities to boost moral justification, political capital, and material and technical resources to gain the strategic upper hand against its old foes, particularly the CNN.

In the end, in both Macapagal-Arroyo and Duterte administrations, the confluence of interests and opportunities brought by global and national events and actors enabled the resurgence and application of CT to COIN, and in turn facilitated the direct and systematic attack on dissenting groups, civil society, and civic space, in general.

93 Lamchek (2018), p. 55.

94 Jetschke (2011), pp. 232-233.

95 Lamchek (2018), p. 56.

96 Ibid, p.55.

An important note, however, is that while in this section we attempted to look into the assumed rational logic and material interests of policy actors, there is another area of inquiry that may be needed beyond this research to complete the mapping of the web of motivations and factors. On an abstract level, we need to find the right balance or link between, on the one hand, assuming rationality that the behavior of policy actors is directly the product of a set of interests or logical reasoning, and on the other, psychologism, that individuals are not usually fully aware of their interests and intentions but are subject to groupthink and institutional bias.

Further inquiry is needed into how leadership sets the tone of, influences, and shapes organizational thinking and behavior, and how groupthink within the security sector shapes an encompassing paranoia that feeds the irrational belief that all forms of dissent and resistance are part of the communist conspiracy, leading to harmful effects to rights and civic space.

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V. Impact of Counterinsurgency and Counterterrorism on Human Rights and Civic Space

Across different administrations, the counterinsurgency reset as counterterrorism has been used to delegitimize, harass, and repress a wide range of sectors suspected to be supporters and sympathizers of the CPP-NPA, or perceived as the civilian base or “front organizations” of the communist rebels. Reminiscent of McCarthyism in the United States in the 1950s, the Philippines is again undergoing a Red Scare that has resulted in a slew of extrajudicial killings of activists, militarized rural and indigenous communities, a censored press, and restricted space for dissent and political participation. Repression begins with so-called “red-tagging” or “red-baiting,” the seemingly innocuous and often unfounded accusations of one’s alleged links to the CPP-NPA. This rhetoric has come side-by-side with increased violence in the country. In the last two decades, local and international human rights organizations have documented thousands of cases of extrajudicial executions, including state-sanctioned and death squad-style killings of activists, forced disappearances, illegal detention, gender-based violence, and torture.⁹⁷

97 Amnesty International, ‘Philippines: Political Killings, Human Rights and the Peace Process,’ (15 August 2006); Karapatan, ‘Submission to the Universal Periodic Review,’ (May 2012); Karapatan, ‘Alternative Report on the Philippines for the 27th Session of the Universal Periodic Review in the United Nations Human Rights Council,’ (May 2017); UN Human Rights Council, ‘Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston,’ 18 June 2010; 29 April 2009; 15 March 2007; 12 March 2007; 27 March 2006; 17 March 2005. Accessed 17 July 2022.

The Duterte administration, in particular, saw the rise of repression and violence. Rights group Karapatan documented 2,758 activists and grassroots organizers arrested, with 1,126 of these detained, while 414 were killed between July 2016 and June 2021.⁹⁸ The UN Human Rights Office has documented at least 248 human rights defenders, legal professionals, journalists and trade unionists killed between 2015 and 2019 in relation to their work.⁹⁹ According to the National Union of Journalists of the Philippines, at least 22 journalists were killed during the Duterte administration.¹⁰⁰ Moreover, peace consultants of the NDF, the official representatives of the CPP-NPA to the talks, were targeted and killed. In August 2020, Randall Echanis became the fourth NDF political consultant killed,¹⁰¹ following the killings of Sotero Llamas,¹⁰² Randy Malayao and Julius Giron. This trend of politically-motivated killings is on top of the thousands of civilians killed under the War on Drugs.¹⁰³

A. Red-tagging, Enforced Disappearances and Extrajudicial Killings Across Administrations

1. What is red-tagging and why is it dangerous?

In his dissenting opinion in *Zarate vs. Aquino III*, Supreme Court Associate Justice Marvic Leonen cited Dr. Nymia Simbulan¹⁰⁴ who defined red-baiting as the “*act of labelling, branding, naming and accusing individuals and/or organizations of being left-leaning, subversives, communists or terrorists (used as) a strategy ... by State agents, particularly law enforcement agencies and the military, against those perceived to be ‘threats’ or ‘enemies of the State’*,” whereby “[t]hese groups are stereotyped or caricatured by the military as communist groups, making them easy targets of government military or paramilitary units.”¹⁰⁵

Former UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions Philip Alston described red-tagging as: “*‘vilification’, ‘labelling’, or guilt by association. It involves the characterization of most groups on the left of the political spectrum as ‘front organizations’ for armed groups whose aim is to destroy democracy. The result is that a wide range of groups – including human rights advocates, labor union organizers, journalists, teachers’ unions, women’s groups, indigenous organizations, religious groups, student groups, agrarian reform advocates, and others – are classified as ‘fronts’ and then as ‘enemies of the State’ that are accordingly considered to be legitimate targets.*”¹⁰⁶

98 Karapatan, ‘Karapatan Monitor May-Aug 2021’ (13 November 2021).

99 OHCHR, ‘Philippines: UN report details widespread human rights violations and persistent impunity’ (4 June 2020).

100 Newsweek, ‘22 Journalists Killed in Philippines Since Rodrigo Duterte Became President,’ (9 December 2021).

101 Inquirer, ‘NDFP’s Echanis tortured to death, says CHR,’ (21 August 2020).

102 While Sotero Llamas was not killed during the current administration, his death is still part of a wider trend of killings of former peace consultants of the NDF, which officially represents the CPP and NPA in the formal talks with the Philippine government.

103 Rappler, ‘Six years of blood and violence: People we lost under Duterte,’ (24 June 2022).

104 Dr. Nymia P. Simbulan, ‘Red Baiting: A Tool of Repression, Then and Now,’ *Observer: A Journal on Threatened Human Rights Defenders in the Philippines* (December 2011), Vol. 3, No. 2, pp. 12-15.

105 Justice Marvic Leonen, Dissenting Opinion, *Zarate v. Aquino III*, GR No. 220028 (10 November 2015).

106 UN Human Rights Council, ‘Preliminary Note on the Visit of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions to the Philippines, Philip Alston’ (12-21 February 2007), par. 8, U.N. Doc. No. A/HRC/4/20/Add.3 (22 March 2007). Accessed 12 July 2022.

In June 2020, United Nations High Commissioner for Human Rights Michelle Bachelet, posited that red-tagging “*may have incited violence and may have had the effect of encouraging, backing or even ordering human rights violations with impunity*” and “*has been a persistent and powerful threat to civil society and freedom of expression*” in the Philippines.¹⁰⁷

On numerous occasions, the Duterte administration and high-ranking government officials have made unsubstantiated allegations about the links between the CPP-NPA and various human rights and humanitarian organizations,¹⁰⁸ the political opposition.¹⁰⁹ Current and former government officials and security forces have also red-tagged journalists¹¹⁰ and independent media outlets,¹¹¹ community pantry organizers,¹¹² and LGBTQI activists.¹¹³ There are also incidents where unknown assailants vandalized and red-tagged bookstores and publishers.¹¹⁴ In March 2018, the Department of Justice (DOJ) filed a petition before the courts seeking to declare 648 people with the CPP-NPA, including the UN Special Rapporteur on the Rights of Indigenous Peoples Victoria Tauli-Corpuz,¹¹⁵ before admitting that the “[DoJ] itself did not have any personal verification of any connection by these individuals with the CPP-NPA” and that the names and aliases came from raw data provided by the intelligence units of the AFP and the PNP.¹¹⁶

Under Duterte and up to the present Marcos Jr. regime, the NTF-ELCAC has been the vanguard of red-tagging, public vilification and counter-propaganda against the CPP-NPA, as well as activists, journalists and government critics. On several occasions, the NTF-ELCAC has tagged schools and colleges as hotspots for communist recruitment,¹¹⁷ raising fears of a crackdown on universities and student activists. Its top officials currently face administrative complaints,¹¹⁸ but they argue that they are merely “truth-tagging.”¹¹⁹ Yet, even the DoJ Secretary has challenged the NTF-ELCAC to file legal action if they have evidence.¹²⁰

2. Online Disinformation and Propaganda Network

In its October 2018 investigative report, independent media *Rappler* found that the government’s counter-insurgency campaign was complemented by intensified information operations, and that the focus of the propaganda network shifted from targeting ‘drug pushers and addicts’ to “branding activists as “terrorists” and exaggerating the communist threat.”¹²¹ They reported notable increase in online red-tagging posts starting the end of 2017 around the termination of the peace talks and in 2018 around the release of the DoJ’s list of 648 individuals allegedly linked to the CPP-NPA and the formation of the NTF-ELCAC under EO 70, and identified the “biggest surge” in 2020 during the deliberation and eventual passage of the ATA.

107 Michelle Bachelet, ‘Report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Philippines,’ A/HRC/44/22 (4 June 2020). Accessed 12 July 2022.

108 Philstar, ‘“We are a humanitarian organization,” Oxfam stresses after AFP labels them terrorist front,’ (6 November 2019); *Rappler*, ‘In House briefing, AFP, DND accuse Gabriela of being ‘communist front’,’ (6 November 2019).

109 Interaksyon, ‘For the nth time: Duterte claims opposition, Liberal party, communists planning to oust him,’ (12 September 2018).

110 *Rappler*, ‘Tacloban journalist Frenchie Mae Cumpio still hopeful a year after arrest’ (9 February 2021); *Inquirer*, ‘Cops behind red-tagging of Baguio journalist – CHR,’ (13 April 2022).

111 Philstar, ‘Journalists demand Parlade apology for threat to reporter over story he disputes,’ (4 February 2022).

112 Philstar, ‘PNP apologizes for community pantry red-tagging,’ (20 May 2021); *Rappler*, ‘Red-tagging of community pantry sparks uproar online,’ (20 April 2021).

113 Manila Bulletin, ‘CHR takes up cudgels for LGBTQI leader ‘red-tagged as CPP member’ in Iloilo City,’ (28 October 2022).

114 Manila Times, ‘Red-tagging publishers and bookstores,’ Editorial (17 May 2022).

115 Reuters, ‘Worried for safety, says U.N. special rapporteur on Philippine “hit list”,’ (10 March 2018).

116 *Rappler*, ‘DOJ didn’t verify before seeking terrorist tag for 649 people,’ (6 August 2018).

117 GMA News Online, ‘Parade says top universities among 18 schools NPA recruitment is taking place,’ (23 January 2021).

118 *Inquirer*, ‘Elago files raps vs NTF-ELCAC top brass at Ombudsman,’ (7 December 2020).

119 CNN Philippines, ‘Government not engaged in red-tagging but ‘truth-tagging,’ says OSG,’ 4 May 2021.

120 ABS-CBN News, ‘Guevarra on NTF-ELCAC red-tagging: ‘Don’t just label, file legal action if you have evidence,’ (15 June 2022).

121 *Rappler*, ‘New war: How the propaganda network shifted from targeting ‘addicts’ to activists,’ (3 October 2022).

Moreover, their analysis of clusters of online posts revealed that “at center of the campaign” are content from the official Facebook pages of NTF-ELCAC, other state media like the Philippine News Agency (PNA) and Peoples Television Network (PTV), conservative and pro-administration SMNI News, and official military channels like the AFP’s Civil Relations Service, and that these narratives are “seeded through a mix of old and new bloggers and “alternative” news sources, with different clusters focused on either funneling to the general public (through hyperlocal and political pages), or niche but engaged communities (e.g., military, police, and their supporters), which become vectors for distribution.”¹²²

While in a study released January 2023, Internews researchers documented cases of online red-tagging under Duterte, tracing how these resulted in offline harms to the life and liberty of activists, journalists and other civil society actors. The researchers pointed out that by allowing red-tagging to “fall between the cracks of platform content policies, without being classified as harassment or hate speech” and argued that “[b]y allowing the practice to continue largely unchecked, online platform companies, including Meta, have significantly contributed to an enabling environment for violence, reinforced the lack of public accountability of government institutions, and ultimately led to the killing of red-tagged people.”¹²³

3. How is red-tagging linked to EJKs and summary killings?

Ultimately, red-tagging is a tool widely and consistently used to smear, discredit, and incite violence and hate, particularly against those from the ranks of progressive groups and critics of the sitting government. Extrajudicial, summary and arbitrary executions arise from the government’s COIN-CT campaign targeting above-ground legal organizations and activists. The labeling could mean one’s death sentence.

The UN Special Rapporteur on the Situation of Human Rights Defenders Mary Lawlor stated in her December 2020 report that “being ‘tagged’ as ‘red’, or communist”, is “one example of context-specific death threats,” and that “some defenders who have been so tagged have been murdered.”¹²⁴

Public vilification and disinformation usually precede and lay the groundwork for actual attacks against the intended targets. Generally, these attacks take the form of harassment (surveillance, threats, arbitrary arrest and detention, confiscation of properties, and other human rights violations), criminal prosecution based on fabricated evidence, enforced disappearances, summary executions, and other forms of state-sanctioned violence. With the Anti-Terrorism Act (ATA) of 2020 and the subsequent designation of the CPP-NPA-NDF as terrorist organizations, the government and its security forces have a legal cover to frame activists and the Left as sympathizers and supporters of “terrorists”. This manufactured narrative has made the prevention of human rights violations and access to legal and other remedies all the more difficult.

The clear link between red-tagging, on one hand, and harm to life and limb, on the other, cannot be denied.

Ultimately, red-tagging is a tool widely and consistently used to smear, discredit, and incite violence and hate, particularly against those from the ranks of progressive groups and critics of the sitting government. ...The labelling could mean one’s death sentence.

122 Ibid.

123 Internews, ‘Meta’s Amplification of Persecution: Red-Tagging in the Philippines,’ (January 2023).

124 UN Human Rights Council, ‘Final warning: death threats and killings of human rights defenders – Report of the Special Rapporteur on the situation of human rights defenders, Mary Lawlor,’ (24 December 2020), A/HRC/46/25, p.11.

First, the correlation across different administrations demonstrates that individuals, sectors and communities that are red-tagged soon become subjects of extra-judicial killings and enforced disappearances. After 2001 and following the adoption by the Arroyo government of CT rhetoric in its COIN campaign, a wave of extrajudicial killings targeting left-wing activists swept the country. The Duterte government's own War on Drugs and COIN-CT campaign bears a huge resemblance to this era.

In April 2008, then UN Special Rapporteur Philip Alston issued a report on extrajudicial killings in the Philippines over a period of five years, recording over 800 cases of killings of members of mass-based organizations, workers' unions, peasant organizations, and Left-oriented groups.¹²⁵ Alston found that unarmed civilians engaged in parliamentary struggle or open democratic politics were evidently "carefully selected and intentionally targeted" and that "[t]he aim has been to intimidate a much larger number of civil society actors, many of whom have, as a result, been placed on notice that the same fate awaits them if they continue their activism."¹²⁶

During the Arroyo administration, human rights organization Karapatan documented 1,188 killings of human rights defenders and 205 enforced disappearances from 21 January 2001 to 31 December 2009.¹²⁷ Under the Aquino III presidency, it documented 307 extrajudicial killings of human rights defenders and 30 enforced disappearances from July 2010 to December 2015.¹²⁸ Under Duterte, Karapatan documented 427 extrajudicial killings of human rights defenders, at least 537 cases of frustrated killings, and 19 enforced disappearances from July 2016 to December 2021.¹²⁹

Under Duterte, human rights defenders, journalists, labor and peasant group members, indigenous peoples, environmental and IP rights activists, lawyers, doctors and priests received death threats, were summarily killed, or died in police operations, after being red-tagged by the government for their alleged communist sympathies.¹³⁰ Some of the persons who were red-tagged and became victims of extrajudicial killing or attempted killing were Glenn Ramos, Alberto Tecson, Obello Bay-ao Atty. Benjamin Ramos, Bernardino Patigas, Atty. Angelo Karlo Guillen, Zara Alvarez, and Dr. Mary Rose Sancelan.¹³¹ Zara Alvarez was included in a list of over 600 individuals the DoJ had earlier wanted the courts to declare as terrorists, and was included in a tarpaulin the police put up bearing the faces of around 60 individuals who are alleged "communist personalities".¹³² Dr. Sancelan was the 6th person to be killed in a hit list of 15 people who were alleged CPP members in Negros Occidental.¹³³

125 UN Human Rights Council (16 April 2008), A/HRC/8/3/Add.2.

126 Ibid, p. 6.

127 Karapatan, '2009 Year-end Report on the Human Rights Situation in the Philippines,' (2009).

128 Karapatan, '2015 Year-end Report on the Human Rights Situation in the Philippines,' (2015).

129 Karapatan, '2021 Year-end Report on the Human Rights Situation in the Philippines,' (2021).

130 Arugay A, Batac M & Street J, (2021), p. 24.

131 Inquirer, "'Undas' 2021: Red-tagging as death warrant,' (2 November 2021).

132 Nicole-Anne C. Lagrimas, 'Tagged, You're Dead,' GMA News Online (13 October 2020).

133 Senate Bill No. 212 -, Proposed Bill Defining the Crime of Red-Tagging, filed 24 March 2021. Accessed 5 October 2022.

Second, there are noticeable similarities in the tactics employed in the use of red-tagging and extrajudicial killings under COIN-CT campaigns across administrations. These include the policing and harassment of communities through so-called “NPA/terrorist lists”, direct and indirect threats to activists and organizers preceding their deaths, the use of anonymous assailants or death squads that result in official deniability, and the usual excuse of the police or military officers when deaths occur in their operations that the victims fought back (“*nanlaban*”) or were NPA combatants killed in the crossfire.

One key tool is an “order of battle,” a military intelligence document that lists individuals believed to be NPA fighters, and the local organizations and individual members believed to be actively supporting rebels as ‘fronts’ of the CPP–NPA, to be targeted for “neutralisation.”¹³⁴ In their research, the Initiatives for International Dialogue (IID) and Saferworld found that these continue to happen across administrations. An IP organizer shared that several times, from the Arroyo and Aquino III administrations to the Duterte administration, he was included in a so-called “NPA/terrorist list” posted in their community and was summoned by the military¹³⁵ along with other young community organizers.

Another similarity is that those who were killed had earlier received threats, whether direct messages or symbolic actions or gestures, as a warning to stop working for their legal organizations or pursuing their activities or risk losing their lives.¹³⁶ During the Arroyo administration, they received threats “through cellphone messages and calls, letters and parcels (for example, flowers for a funeral), or by being stalked by anonymous motorcycle-riding men.”¹³⁷ Under the Duterte administration, those killed received symbolic threats such as a bullet left on the dining room table in their home; a coffin delivered to the office of an NGO; edited pictures posted on Twitter, showing them being attacked with axes or knives; and an animal head tied to the door of their organization’s office.¹³⁸

Sometimes the threats are direct, such as a July 2019 anonymous text message containing a death threat against Zara Alvarez, a staff member of Karapatan. In August 2020, she was gunned down on the street in Bacolod City.¹³⁹ She was also one of the more than 600 people the DoJ petitioned the courts to declare as terrorists in February 2018, and the 13th member of Karapatan killed since Duterte assumed the presidency.¹⁴⁰

134 UN Human Rights Council (2008), A/HRC/8/3/Add.2.

135 See Arugay, A, Batac, M & Street, J, (2021), p. 33.

136 Dutch Lawyers for Lawyers Foundation, ‘Facts to Action: Report on the Attacks against Filipino Lawyers and Judges’ (2006), p. 23; Human Rights Now, ‘Report on Extrajudicial Killings and Enforced Disappearances in the Philippines’ (2008), pp. 22–23.

137 Lamchek (2018), p. 64.

138 UN Human Rights Council (2020), A/HRC/46/25, p. 12.

139 Rappler, ‘Human rights activist shot dead in Bacolod City’ (17 August 2020).

140 Aljazeera, ‘Human rights leader killed in Philippine ‘war against dissent’ (19 August 2020).

Another common element is the predominance of shootings and vigilante killings by anonymous perpetrators usually “riding in tandem”, even in broad daylight and in public spaces.¹⁴¹ Amnesty International reported that under the Arroyo administration, the “predominant method of attack [were]... shootings by unidentified assailants, mostly riding tandem on a motorcycle, who often obscure their identity with ‘bonnet’ face masks or helmets... supported by other men on motorcycles nearby, or using an unmarked van.”¹⁴² Lamchek points out that “while the identities of the assailants are hidden, the act of killing itself often will be put on display, consistent with the goal of communicating the message that grim consequences will attend not ‘surrendering’”.¹⁴³ Under Duterte, at times, the body of the disappeared would turn out days after with a cardboard sign saying that the deceased should not be emulated (“*Wag tularan!*”) indicating that they are either implicated in the drug trade¹⁴⁴ or are communists/NPA rebels.

Lamcheck argues that these killings are part of a concerted effort to instill fear, to harass, and to weed out legal organizations and activists from localities that are targets of COIN-CT operations, by pushing targeted individuals “to ‘surrender’ or go into hiding”, and targeted legal organizations “to close shop.”¹⁴⁵ In his 2008 report, Alston found that the “counterinsurgency focus on civil society leads to extrajudicial killings and tempts commanders to make such abuses routine and systematic.”¹⁴⁶

Placed in such context, the red-tagging, harassment and killings of activists, and other human rights violations discussed in the latter section, are a component of the government’s COIN-CT program operations, shaped and implemented by the armed forces and the NTF-ELCAC and designed to counter what is perceived to be the influence and network of the communist armed movement. Since government actors, especially the military, see the conflict with Leftist groups as an extension of the war with the CPP-NPA, this leads to the blurring of the distinction between combatants and civilians.

4. Atmosphere of Impunity

Justice remains elusive for the victims and the families left behind. In most of these instances of harassment and killings, the police and the military continue to deny allegations of soldiers’ involvement, despite evidence to the contrary. Due to the anonymity of the perpetrators of extrajudicial killings, government and security actors are able to deny responsibility and even point to an internal purge in the communist party as an alternative theory. This happens even in cases of supposed legitimate police or military operations, whether for anti-drug¹⁴⁷ or for COIN,¹⁴⁸ where, when suspects end up dead, the officers use “*nanlaban*” (they fought back) as the usual narrative.

141 Inquirer, ‘Almost 37K crimes involving ‘riding-in-tandem’ hitmen recorded since 2010, says Gordon,’ (5 February 2021).

142 Amnesty International, ‘Philippines: Political Killings, Human Rights and the Peace Process’ (2006), p. 23.

143 Lamchek (2018), p. 64.

144 Nixcharl C. Noriega and Larah Vinda Del Mundo, ‘Duterte’s drug war killings rise in Year 2 of the pandemic’ Vera Files (20 January 2022).

145 Lamchek (2019), p. 65.

146 UN Human Rights Council (2008), A/HRC/8/3/Add.2, p. 10.

147 Rappler, ‘“Nanlaban sila’: Duterte’s war on drugs’ (23 August 2016).

148 Inquirer, ‘“Nanlaban’ in Cotabato: 3 suspected Reds killed after resisting arrest, say cops,’ (8 February 2021).

Most of those responsible for the politically-motivated killings against activists and Left figures, particularly under Duterte, have not been brought to justice. Witnesses to cases under investigation, including their families, are particularly vulnerable to intimidation, reprisals and, at times, even death. It is almost impossible to imagine a fair and swift administration of justice when lawyers and judges are also targets of red-tagging and killings, which the Supreme Court itself has condemned as “no less than an assault on the judiciary.”¹⁴⁹ In March 2021, it was reported that local courts in Samar, Northern Luzon, and Central Luzon separately received letters essentially requesting “alias warrants”;¹⁵⁰ or for names of lawyers representing “Communist Terrorist Group (CTG) personalities” along with the names of their clients, and “mode of neutralization”.¹⁵¹ Also in March, a judge was red-tagged through a tarpaulin with a photo of her face posted along Metro Manila’s major road after she ruled on the release of two activists.¹⁵² The Integrated Bar of the Philippines recorded the killings of 63 lawyers, judges and prosecutors under Duterte.¹⁵³

These incidents must be situated in the overall environment of impunity in the country, where the President was a primary source of disinformation and messages inciting violence and abuses, ordering law enforcers to “forget about human rights”¹⁵⁴ and to “kill” and “shoot them dead”;¹⁵⁵ repeatedly encouraged and promised to defend police and military officers amid allegations and evidence of abuse;¹⁵⁶ and refused to cooperate with and even blocked independent investigations including by UN Special Rapporteurs¹⁵⁷ and the International Criminal Court (ICC).¹⁵⁸

B. Indigenous Peoples and Rural and Conflict Areas

Indigenous communities are often perceived by the government and the military as main targets of NPA recruitment and are targeted by the military under its low-intensity conflict strategy.¹⁵⁹ They are often subject to discrimination and threats, legal harassment and trumped-up charges, or violence and summary killings. The rise of COIN and CT approaches also means increased violence and displacement in communities located in, believed to be, or identified NPA areas, that mostly overlap with the IPs’ ancestral domains.

In February 2017, President Duterte threatened to bomb indigenous schools in IP territories, claiming they were operating illegally, without government permits, and were training grounds for communist rebels.¹⁶⁰ And in July 2019, the Department of Education (DepEd) ordered the closure of 55 IP schools, following the recommendation and allegations in an NTF-ELCAC report that such schools are communist propaganda sites and rebel fronts.¹⁶¹ Arugay, et al. argued that this “disenfranchised young indigenous students whose only access to education is often through these schools... [and] threatened the communities’ abilities to preserve their cultural traditions, something upon which such schools were founded.”¹⁶² One commentator remarked, “McCarthyism witch hunt has again reared its ugly head. [And] the victims are...the indigenous peoples.”¹⁶³

149 APNews, ‘Philippine Supreme Court slams killings of lawyers, judges,’ (24 March 2021).

150 Inquirer, ‘PNP digging up archived cases, unserved warrants vs suspected communist rebels,’ (14 March 2021).

151 Amnesty International, ‘Surge in killings of lawyers and judges shows justice system “in deadly danger”’ (26 March 2021).

152 PhilStar, ‘Mandaluyong judge red-tagged after freeing two activists,’ (17 March 2021).

153 Inquirer, ‘Number of lawyers killed since 2016 soared 500% – IBP,’ (27 July 2021).

154 Aljazeera, ‘“Kill them”: Duterte wants to ‘finish off’ communist rebels,’ (6 March 2021).

155 Inquirer, ‘“Kill, kill, kill”: Duterte’s words offer evidence in ICC,’ (17 September 2021).

156 PhilStar, ‘Duterte to PNP: Kill 1,000, I’ll protect you,’ (2 July 2016).

157 Reuters, ‘Philippines cancels visit by U.N. rapporteur on extrajudicial killings,’ (14 December 2016).

158 South China Morning Post, ‘Philippines will not cooperate with ICC ‘war on drugs’ probe, Duterte lawyer says,’ (16 September 2021).

159 Philippine News Agency, ‘IPs most vulnerable to CTGs recruitment: ex-NPA cadre,’ (27 May 2021).

160 CNN Philippines, ‘Duterte threatens to bomb Lumad schools,’ (25 July 2017).

161 CNN Philippines, ‘DepEd shuts down 55 lumad schools in Davao’ (13 July 2019).

162 Arugay A, Batac M & Street J (2021), p. 26.

163 Inquirer, ‘Why we must defend ‘lumad’ schools,’ (14 October 2019).

It, therefore, did not come as a surprise that the first case under the new Anti-Terrorism Act of 2020 was filed against two members of the indigenous Aeta community in Central Luzon, who alleged that they were tortured by soldiers for several days to force them to confess to being members of the NPA.¹⁶⁴ The court dismissed the charges against the two IPs as a case of mistaken identity.

This dominant narrative of the need for IPs to be “saved,” while subjecting them to policing and to harassment, demonstrates deep-seated discrimination against IPs. They are not recognized as autonomous citizens who can, on their own, perceive and oppose injustice done to them; instead, NPA ‘front’ organizations are merely coercing or manipulating them. This is apparent in the conduct of a February 2021 operation where security forces raided a temporary school for displaced indigenous children and detained 26 people, including 19 children, alleging that they were “rescuing” them from being trained to become “armed combatants” of the NPA.¹⁶⁵ A social welfare officer present during the raid, however, belied the claim of the police.¹⁶⁶

Moreover, extrajudicial, summary and arbitrary executions of indigenous peoples and IP rights activists are also often either preceded by red-tagging,¹⁶⁷ or are justified by the police as another case of “*nanlaban*” (they fought back) or as NPA rebels who engaged them in a firefight.¹⁶⁸ In December 2020, nine indigenous leaders of the Tumandok community were killed and 17 others were arrested in simultaneous police operations in Panay province. The local police said they were communists and that they fought back.¹⁶⁹ Two months after, in February 2021, unknown assailants assassinated a witness in the case¹⁷⁰, and the following month, masked assailants stabbed and seriously injured the lawyer of the Tumandok community leaders.¹⁷¹

Even the very body formed to advocate for the respect and promotion of the ways and culture of IPs is, at times, also a source of intimidation, discrimination and conflict. In March 2021, the National Commission on Indigenous Peoples (NCIP) was called out for contributing to the red-tagging of indigenous peoples.¹⁷² Notably, the NCIP’s current Chair is former military Col. Allen Capuyan, who was previously chief for operations of the Intelligence Service of the AFP and former Executive Director of the NTF-ELCAC.

164 Inquirer, ‘Anti-Terror Law’s first hit: Two Aetas from Zambales – group,’ (18 November 2020).

165 Inquirer, ‘Police ‘rescue’ lumad kids from priests, educators in top Cebu university,’ (15 February 2021).

166 Philstar, ‘‘Rescued’ Lumad children said they were taught reading and writing, not ‘warfare training’ – Cebu DSWS,’ (16 February 2021).

167 Rappler, ‘Groups seek justice for red-tagged Tumandok IPs killed in police operation,’ (31 December 2020).

168 Philstar, ‘CHR to look into killing of 3 Lumads, including minor, in Surigao del Sur,’ (18 June 2021).

169 Rappler, ‘9 red-tagged IPs killed, 17 others nabbed in police ops on Panay Island,’ (31 December 2020).

170 Inquirer, ‘Key witness in Tumandok killings in Capiz shot dead,’ (2 March 2021).

171 Philstar, ‘Tumandok land defenders’ lawyer stabbed in Ilolilo,’ (4 March 2021).

172 Carolyn O. Arguillas, ‘The IP struggle continues as NCIP red-tags and bans use of “Lumad,” the collective word for Mindanao IPs since the late 1970s,’ *MindaNews* (20 March 2021); Dr. Augusto Gatamaytan, ‘ANALYSIS: Notes on the NCIP resolution on ‘Lumad’,’ *MindaNews* (25 March 2021).

C. Other Forms of Repression

The application of CT to COIN also takes the form of harassment and public vilification of Left-oriented party list and opposition officials, the censorship of books and of independent and alternative media, and the freezing of bank accounts and financial assets of targeted civil society organizations and individuals.

1. Harassment of Left-leaning party lists and opposition politicians

In particular, NTF-ELCAC officials have been relentless in their propaganda against opposition party-list politicians, especially from the national democratic Left. In their social media posts and media pronouncements, they allege that the party-list coalition of five Makabayan bloc party list, namely Kabataan, Anakpawis, Bayan Muna, Alliance of Concerned Teachers and Gabriela, whom they dub as “KABAG” (*stomach pain*), is an important element in the propaganda and recruitment of “communist terrorists”.¹⁷³ Both the NTF-ELCAC and even President Duterte claimed that the Makabayan bloc is “made up of high-ranking members of the CPP-NPA-NDF that are out to destroy the government”¹⁷⁴ and are “legal fronts” of the CPP-NPA to “infiltrate Congress.”¹⁷⁵

Leading up to and during the 2022 May elections, the NTF-ELCAC campaigned against the five Left party-lists,¹⁷⁶ filing several cases before the Commission of Elections (COMELEC) seeking cancellation of their registration or their disqualification due to their alleged links to the communist rebels.¹⁷⁷ They also alleged connivance of the then sitting Vice President Leni Robredo with the CPP-NPA in light of the endorsement of her candidacy for president by the Makabayan bloc.¹⁷⁸ Posters, newsletters and SMS blasts from anonymous parties and security forces discouraging voters from supporting the Makabayan bloc due to its alleged links to the CPP-NPA circulated days before the election.¹⁷⁹ More worrisome is that even after the elections, the police continued conducting community profiling in barangays “with a high number of votes for the Makabayan bloc.”¹⁸⁰

In the hearings of petitions against the ATA, the SC Justices chastised government officials on the risks of red-tagging and terrorist labeling without basis and evidence, and quizzed them for not disowning statements of certain NTF-ELCAC officials.¹⁸¹ While at one point, the National Security Adviser (NSA) and National Security Council (NSC) Director-General issued gag orders on two NTF-ELCAC officials,¹⁸² there has been no official disavowal of their statements arguing that these are made in their private capacity in their personal social media accounts.¹⁸³ Ruling on legal standing, the SC found basis in the petitioners’ fears of the injury that red-tagging could cause and that red-tagging could come about from the implementation of the ATA.¹⁸⁴

173 PNA, ‘Ex-rebels confirm Makabayan bloc CPP-NPA-NDF operatives,’ (7 February 2022).

174 Philstar, ‘NTF-ELCAC wants Makabayan bloc out of Congress,’ (6 June 2021).

175 Inquirer, ‘Duterte backs Badoy, links Makabayan bloc to communists,’ (30 March 2022).

176 ManilaNews.net, ‘NTF-ELCAC renews call for zero vote vs. left-leaning party-lists,’ (24 March 2022).

177 Rappler, ‘Which party-list groups is NTF-ELCAC trying to get disqualified?,’ (11 September 2021).

178 Inquirer, ‘NTF-Elcac insists Robredo-CPP collusion despite VP’s stand vs violence,’ (13 April 2022).

179 Inquirer, ‘Makabayan party list groups targeted by dirty tricks, again,’ (9 May 2022).

180 Inquirer, ‘Cops profiling Makabayan voters – Gabriela,’ (20 June 2022).

181 Rappler, ‘SC justices warn vs red-tagging, hit shallow understanding of ideologies,’ (11 May 2021).

182 Rappler, ‘Esperon orders Parlade, Badoy to stop commenting on community pantries,’ (25 April 2021).

183 Inquirer, ‘Parlade’s social media posts an exercise of freedom of expression – gov’t lawyer,’ (12 May 2021).

184 PhilStar, ‘SC: Petitioners constantly red-tagged alleged ‘credible threat of injury’ vs anti-terror law,’ 16 February 2022).

Numerous administrative complaints have been lodged against former and current NTF-ELCAC officials for their accusations that are “unsupported by credible, competent and admissible evidence.”¹⁸⁵ These were filed not only by Left-oriented and opposition officials, but by doctors, health workers, journalists, community pantry organizers, human rights organizations, and ordinary citizens.¹⁸⁶

The brazen red-tagging by government officials and their uneven targeting of Left-leaning and opposition groups demonstrate the malleable and political nature of terrorist labeling. It also shows the power that terrorist labeling offers to legitimize extraordinary acts of harassment and repression.

2. Censorship and Restrictions to Academic Freedom and Journalistic Expression

Even history and children’s books about the Martial Law period were tagged as part of a communist plot to radicalize the youth.¹⁸⁷ As part of the “whole-of nation approach,” government agencies, such as the Commission on Higher Education (CHED), the Komisyon sa Wikang Filipino (KWF), and the National Telecommunications Commission (NTC) with National Intelligence Coordinating Agency (NICA), ATC and NTF-ELCAC, took steps to censor supposed “subversive” books and other educational materials, for which they were criticized as attacks on academic freedom and scholarship.

In October 2021, a CHED regional office issued a memorandum urging public and private higher education institutions to remove “subversive” materials from their libraries and online information services, and to surrender these to the NICA. The memorandum described these materials as “literatures, references, publications, resources and items that contain pervasive ideologies of the communist-terrorist groups.”¹⁸⁸ Among the books removed from libraries were those related to the peace negotiations between the government and communist rebels, demonstrating how even the civilian approach to peace has become a victim of the shift to a military approach.

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185 Manila Bulletin, ‘Solcom chief slapped with graft charges,’ (1 July 2020); GMA News Online, ‘Ombudsman orders Esperon, Badoy, Parlade to answer admin complaint filed in 2020,’ (2 July 2022).

186 Rappler, ‘LIST: Complaints filed against red-tagger Lorraine Badoy,’ (21 April 2022).

187 PhilStar, ‘Kids’ books about dictatorship, Martial Law spook Philippine intel chief,’ (12 May 2022).

188 Inquirer, ‘CHED memo on purging of ‘subversive’ books an ‘attack on academic freedom’ – groups,’ (28 October 2021).

Months after, in August 2022, the KWF ordered the pull-out and stopped the printing of five books it deemed to contain “political, subversive and creative literary works with subliminal ideologies that encourage to fight the government (sic),” citing a possible violation of the provision on incitement to commit to terrorism in the ATA.¹⁸⁹ The books covered by the ban include collections of literary works by renowned writers during the martial law period. In follow-up statements and interviews, the KWF commissioners admitted that they “consulted” with the NICA and NTF-ELCAC, and alleged that the materials contain “explicit Anti-Marcos and Anti-Duterte contents” and “subversive themes” due to citations of the CPP-NPA. The KWF commissioners also criticized their own Chairman “for inciting rebellion” in allowing their publication.¹⁹⁰

The government also tried to censor the websites of independent media organizations. Acting on the request of the NSC, the NTC ordered private independent service providers (ISPs) to block 26 websites allegedly found to be “affiliated to and are supporting” the CPP-NPA.¹⁹¹ In particular, the alternative media organization *PinoyWeekly* was tagged by the outgoing NSA and NSC Director-General, who alleged that editorials on social ills, reporting on historical events, and quoting official pronouncements of the CPP-NPA amount to recruitment and incitement to terrorism.¹⁹²

In these cases, state actors have interpreted and used “incitement to terrorism” beyond situations where the evidence shows that the speaker clearly intends to provoke the audience to commit acts of terror-related violence. This has resulted in a chilling effect on academic freedom and journalistic expression and opened the floodgates to its unrestrained application to any dissenting or unwanted speech. Months after, in August 2022, the KWF ordered the pull-out and stopped the printing of five books it deemed to contain “political, subversive and creative literary works with subliminal ideologies that encourage to fight the government (sic),” citing a possible violation of the provision on incitement to commit to terrorism in the ATA.¹⁹³ The books covered by the ban include collections of literary works by renowned writers during the martial law period. In follow-up statements and interviews, the KWF commissioners admitted that they “consulted” with the NICA and NTF-ELCAC, and alleged that the materials contain “explicit Anti-Marcos and Anti-Duterte contents” and “subversive themes” due to citations of the CPP-NPA. The KWF commissioners also criticized their own Chairman “for inciting rebellion” in allowing their publication.¹⁹⁴

189 CNN Philippines, ‘KWF stops distribution of ‘subversive’ books,’ (12 August 2022).

190 OneNews, ‘Purge of KWF Books Slammed,’ (12 August 2022).

191 OneNews, ‘NTC Blocks 25 ‘Red’ Websites Upon The Request Of Esperon,’ (23 June 2022).

192 Rappler, ‘What does it signal when Esperon goes after news sites before vacating his post?,’ (22 June 2022).

193 CNN Philippines, ‘KWF stops distribution of ‘subversive’ books,’ (12 August 2022).

194 OneNews, ‘Purge of KWF Books Slammed,’ (12 August 2022).

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3. Financial and NGO Registration Regulations

Another method by which the stifling of dissent occurs is through abuse of the anti-money laundering and registration regulations by the Anti-Money Laundering Council (AMLC), the Securities and Exchange Commission (SEC), and various other government agencies, in coordination with NICA, the ATC, and the DoJ. In November 2018, President Duterte’s Executive Order 68 laid out a new anti-money laundering and counter-terrorist financing (AML/CTF) strategy for the Philippines, requiring the AMLC to investigate, freeze, and institute civil forfeiture procedures against “properties or funds that are in any way related to terrorism or [terrorist financing].”¹⁹⁷

In 2019, even before the passage of the new ATA, bank accounts of the Catholic Church-based Rural Missionaries of the Philippines (RMP) were frozen by the AMLC, ex parte, and without a direct designation or proscription of the RMP as a terrorist group.¹⁹⁸ Under the Terrorism Financing Prevention and Suppression Act (Republic Act 10168), the AMLC can freeze assets ex parte for 20 days and can petition for an extension with the Court of Appeals (CA). After the designation of the CPP-NPA and NDF as terrorist organizations under ATA 2020, more bank accounts and assets of organizations and individuals, including a faith-based humanitarian organization, the NDF peace consultants, and a peasant group, were tagged as “related accounts of the CPP-NPA” and slapped with preemptive freeze orders based on alleged witness accounts.¹⁹⁹ These did not go through an independent examination by the courts or, as in the case of RMP, without notice or opportunity for the accused to challenge such testimony.²⁰⁰

195 OneNews, ‘NTC Blocks 25 ‘Red’ Websites Upon The Request Of Esperon,’ (23 June 2022).

196 Rappler, ‘What does it signal when Esperon goes after news sites before vacating his post?,’ (22 June 2022).

197 Anti-Money Laundering Council, “2018 Implementing Rules and Regulations of Republic Act No. 9160, Otherwise Known as the Anti-Money Laundering Act of 2001, as Amended” (November 22, 2018).

198 Rappler, ‘How Duterte gov’t froze assets of religious group as it worked on anti-terror law,’ (19 November 2020).

199 Anti-Money Laundering Council, ‘Notice of AMLC Resolution Nos. TF-40 and 42, series of 2021’ and ‘Notice of AMLC Resolution Nos. TF-50 and 55, series of 2022,’ accessed 17 July 2022; *Rappler*, ‘Church group condemns freeze order on UCCP Haran bank accounts,’ (2 April 2021); Inquirer, ‘Freezing of NDFP consultant’s deposits shows impact of terror law – Karapatan,’ (9 June 2021); Inquirer, ‘AMLC freezes bank accounts of red-tagged farmers’ group,’ (12 June 2021).

200 Rappler, ‘AMLC begins freezing accounts ‘related’ to National Democratic Front,’ (20 July 2021).

The transfer of the power to designate terrorist groups and individuals from the courts to the ATC, has made it easier to freeze assets. The designation is done on the ATC's own determination with no notifications of hearings. The principal effect of designation is to signal the AMLC to issue the preemptive freezing of bank accounts and assets related to designated groups and individuals. While the Office of the Solicitor General (OSG) argues that designation by the ATC does not automatically result in the AMLC's freezing of assets as determination is still within AMLC's authority, in practice, the freezing of assets has immediately followed the designation.²⁰¹ The problem, therefore, lies in the broad and unchecked powers of the Executive, which acts as both the judge, through the ATC, and the executioner, through the AMLC.²⁰² Parties aggrieved by the designation and the freeze may file a petition with the CA to question both. The burden is therefore shifted to the accused to move for delisting and for the lifting of freeze orders. Activists and human rights defenders and their organizations are then saddled in these legal and administrative knots, even without judicial determination and proscription of their alleged terrorist links.

The mobilization of various departments for non-government organization (NGO) regulation expanded under President Duterte. First, in November 2018, the SEC expanded the regulation of Non-Profit Organizations (NPOs), through Memorandum Circular No. 25 (SEC 2018 NPO Guidelines),²⁰³ requiring NPOs to file detailed disclosures about their membership, the sources of their funds and their intended usage. Various groups raised the alarm on the possible "chilling effect on civil society organizations, due to the SEC's essentially unlimited discretion in determining what constitutes criteria for blacklisting, and its unlimited power to compel disclosure of information from civil society groups without a court order."²⁰⁴ Yet even the Asia/Pacific Group on Money Laundering (APG), in its Financial Action Task Force (FATF)-mandated evaluation of the Philippines' AML/CTF regime, has questioned the need for an excessive and untargeted measure, noting that such requirements "may discourage or disrupt legitimate NPO activities" and recommended a review of the said guidelines.²⁰⁵

201 Ibid.

202 The process and power of designation of the ATC is distinct from the power of proscription of the courts, which it does through a full trial and examination of evidence.

203 Securities and Exchange Commission, 'Guidelines for the Protection of SEC Registered Non-Profit Organizations from Money Laundering and Terrorist Financing Abuse. Memorandum Circular No. 15 s. 2018.' (7 November 2018).

204 Andreopoulos G, Macaspac N & Galkin E (2020). See also Manila Bulletin, 'Makabayan Bloc moves to scrutinize SEC memorandum on NPOs/NGOs,' (17 January 2019); *Rappler*, 'Chilling effect': Groups slam new SEC guidelines for nonprofits,' (9 February 2019); FORUM-ASIA, 'The Philippines: Immediately rescind SEC Memorandum Circular No. 15 (s. 2018),' (26 February 2019).

205 Asia/Pacific Group on Money Laundering (APG), 'Anti-money laundering and counter-terrorist financing measures – Philippines. Third Round Mutual Evaluation Report,' (October 2019), p. 99.

Then in August 2018, the Department of Social Welfare and Development (DWSO) required non-state social welfare and development agencies to “submit detailed information on their operations...and to undergo certification and licensing before they are allowed to operate.”²⁰⁶ In 2019, the SEC reported to the NTF-ELCAC that six NGOs “reportedly supportive and sympathetic” to the CPP-NPA had pending revoked or suspended registrations, and that five entities that are “alleged legal front organizations of the CPP-NPA” were not registered. Among those red-tagged by the SEC are some well-established human rights organizations and known mass-based organizations.²⁰⁷ The SEC maintained that these organizations cannot raise funds or enter into contracts. In early 2021, the Department of Foreign Affairs (DFA) informed all diplomatic missions in the Philippines to declare foreign government funding for NGOs “regardless of mode of disbursement, transfer or download of funds” for appropriate clearance, purportedly to regulate NGO funding to prevent financing of terrorism.²⁰⁸ Then Foreign Affairs Secretary Teodoro Locsin Jr later clarified that “this doesn’t affect legit [sic] NGOs” since “it is how a responsible government monitors where money comes from and goes to in the face of insurgent and terrorist-secessionist threats.”²⁰⁹

This narrative of “good/legitimate” versus “bad/illegitimate” NGOs is one method through which the government not only erodes solidarity across civil society but also restricts and controls civil society spaces.

4. Harm on Peacebuilding and Humanitarian Work, and Redefining ‘Civic Space’

Often missed and therefore requiring special mention is the impact of COIN-CT measures on spaces for feminist and civilian approaches to security, through peacemaking, peacebuilding and humanitarian work. The passage of the ATA 2020 paved the way to the formal designation of the CPP-NPA and the NDFP as terrorist groups. As Lamchek explains: “*Terrorist listing operates like a taboo. While apparently designed only to combat the financing of terrorism, terrorist listing seriously restricts the possibilities of peacefully resolving conflicts through negotiations and, more generally, of simply listening to ‘terrorists.’*”²¹⁰

Terrorist listing, and the CT approach in general, effectively takes out the option of negotiation and any form of dialogue between government officials and armed groups. This labeling does not only affect the armed rebel movement but also impedes the ability of peacebuilders and humanitarian workers to bridge divides or to provide direly needed aid for conflict-affected communities. More directly, on civic space, it causes a chilling effect on civilians and organizations doing mediation, de-escalation and reconciliation work and other peacebuilding approaches, as well as emergency aid response.

206 Andreopoulos G, Macaspac N & Galkin E (2020). See also Department of Social Welfare and Development, ‘Revised Guidelines Governing the Registration, Licensing of Social Welfare and Development (SWD) Agencies and Accreditation of SWD Programs and Services, Memorandum Circular No. 17 s. 2018,’ (29 August 2018).

207 Some of the organizations were such as Philippine Alliance of Human Rights Advocates (PAHRA), Karapatan, Concerned Artists of the Philippines, *Kalipunan ng mga Katutubong Mamamayan ng Pilipinas*, Kadamay, the League of Filipino Students (LFS), Suara Bangsamoro, ANAKPAWIS, Kilusang Mayo Uno (KMU), New Patriotic Alliance, and May First Movement Labor Center.

208 Department of Foreign Affairs, DFA Note Verbale No. 2021-0592 (5 February 2021).

209 PNA, ‘Directive on foreign funding won’t affect ‘legit NGOs’: Locsin,’ (24 February 2021).

210 Lamchek (2018), p. 280.

Designation casts doubts among mediators, community organizers, and even humanitarian aid workers whether or not, in a highly polarized context, their actions can be interpreted or framed as “incitement to terrorism” or as “providing aid to terrorists.” Ultimately, it restricts the environment and conditions for civilian actors in conflict and fragile contexts, especially affected local communities and IPs, to effect desired social justice and political change.

In her report to the 75th General Assembly in September 2020, the UN Special Rapporteur Fionnuala Ní Aoláin posed her concerns about the application and conflation of CT measures in the context of non-international armed conflicts involving non-state armed groups, arguing that often this leads to the “weakening” of rights, duties and protections under international humanitarian (IHL) and human rights law (IHRL).²¹¹ She further denounced the “attacks on the integrity, independence and operational capacity of organizations [working in fragile, conflict and post-conflict settings], whether directly or indirectly, by States through the prism of counter-terrorism rhetoric or regulation” and underscored their critical role in “the protection of humanity and the dignity of the most vulnerable and, thus, to conflict resolution.”²¹²

Taken in this context, the impact of CT is even deeper, disguised, and therefore more pernicious than restricting civic space. As defined by Civicus, civic spaces are those that affect the exercise of “rights to freedom of association, expression, and peaceful assembly.”²¹³ On the other hand, the Office of the United Nations High Commissioner for Human Rights (OHCHR) defines civic space broadly as “the environment that enables civil society to play a role in political, economic and social life.” The Funders Initiative for Civil Society (FICS) defines it as “the physical, digital, and legal conditions through which progressive movements and their allies organize, participate, and create change.” While these are comprehensive definitions, I would emphasize that there are fundamental contentions on what civil society’s role is or should be.

Terrorist listing, and the CT approach in general ... impedes the ability of peacebuilders and humanitarian workers to bridge divides or to provide direly needed aid for conflict-affected communities. More directly, on civic space, it causes a chilling effect on civilians and organizations doing mediation, de-escalation and reconciliation work and other peacebuilding approaches, as well as emergency aid response.

211 UN General Assembly, ‘Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin,’ (3 September 2020), A/75/337, p. 5.

212 Ibid, p. 2.

213 CIVICUS defines civic space as “place, physical, virtual, and legal, where people exercise their rights to freedom of association, expression, and peaceful assembly.” CIVICUS, ‘Guide to Reporting Civic Space: Media Toolkit,’ p. 4. Accessed 5 October 2022.

Given attempts by governing elites to define and restrict the political participation of “legitimate” citizens,²¹⁴ there is value in appreciating and unpacking these different strategies through which the governed use this civic space to participate in political life and affect their desired change. We need to move away from simply listing rights and freedoms, towards appreciating the vast universe of strategies employed by citizens, movements and organizations in affecting political change.

I would, therefore, propose an alternative definition of civic space as the place, environment or conditions, physical, virtual, and legal, where citizens, people and communities can realize their desired political, economic and social change, through different but often not mutually exclusive strategies of reform, confrontation, mediation and transformation. Different strategies include constructive engagement and citizenship; protest and dissent; peacekeeping, peacemaking and peacebuilding; and feminist and queer activism, organizing and care.

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214 See literature on civic engagement and political participation, such as Almond and Verba on ‘civic culture’ (1963); Sherry Arnstein’s ‘ladder of participation’ (1969); and categories of political participation by Opp et al. (1981), Verba and Nie (1987), Parry et al (1992), Teorell, Torcal, and Montero (2007), Ekman and Amnå (2012), and Lamprianou (2013), among others.

D. The Global Trend of Security Playbook

The use and creep of CT narratives and tools into other forms of conflict and political violence is not unique to the Philippines. UN Special Rapporteur Ní Aoláin identified a “profoundly” worrying pattern whereby governments increasingly billed emergency security measures as CT, and under such guise, applied these to address domestic strife, to restrict civic space and to crack down on those engaged in perceived or actual dissent.²¹⁵ She also pointed to how CT and CVE acceleration gives “the State considerable and unprecedented access to the home” and enables “the legal regulation of family life in the name of national security,” with distinct negative impact on women and girls.²¹⁶

This trend is happening both in authoritarian regimes or restricted democratic spaces, like the Philippines, Egypt, Turkey, Venezuela and Russia, and in supposedly more open societies, like Austria, France, Spain, Belgium, the European Union, and the United Kingdom.²¹⁷ The strategies include the introduction of overly-broad terminology into CT legislation, leading to a chilling effect on freedom of information especially for journalists, and to the criminalization of legitimate human rights work. Other effects include enforced disappearances and arbitrary arrests and detentions, the adoption of far-reaching surveillance laws and measures to extensively gather personal data and other forms of violations of the people’s right to privacy, and the use of counter-terrorist financing laws and policies to crack down on freedom of association.²¹⁸ A global network of human rights defenders concluded that: “[m] any of the restrictions to civic space... have been enabled, and sometimes encouraged, by the international community’s [including the UN’s,] stance on counter-terrorism”, and called on the international community “to take responsibility for the detrimental effect counter-terrorist policies have on civil society.”²¹⁹

While there is a growing realization in the international community and security policy spaces that external interventions carried out in the name of security often end up worsening the conflicts they are supposed to stop or prevent, many have not changed course to refocus on addressing root causes, and instead continue their investments in military and hard approaches that perpetuate cycles of violence.²²⁰

215 UN News, ‘Misuse of terrorism laws during conflict creates ‘unmitigated calamity’ (16 October 2020).

216 UN Human Rights Council, ‘Human rights impact of counter-terrorism and countering (violent) extremism policies and practices on the rights of women, girls and the family, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism Fionnuala Ní Aoláin,’ (22 January 2021), A/HRC/46/36.

217 Observatory for the Protection of Human Rights Defenders, ‘UN Member States urged to ensure counter-terrorism policies do not negatively impact civil society and human rights defenders,’ Open Letter To Permanent Missions of UN Member States (25 May 2021).

218 Ibid.

219 Ibid.

220 Larry Attree, Celia McKeon and Konstantin Bärwaldt, ‘The International Security Echo-Chamber: Getting Civil Society Into the Room,’ (31 July 2019).

VI. Community Responses, Forms of Resistance, and Alternative Narratives of Security: Beyond ‘Human Rights-Compliant Counterterrorism’

Within the international human rights movement, critical scholars have observed that the dominant response to global trends and policies on CT tends to focus on a strategy to “synthesize human rights [law] and counterterrorism”²²¹ through the messaging and framing of “countering counterterrorism while respecting human rights” or “human rights-compliant counterterrorism.” Meanwhile, the strategies of national and local advocates, including in the Philippines, tend to “directly confront the local terrorism discourse” and not only seek to reform CT approaches.²²² While recognizing the value of tactical engagements on IHRL compliance, Lamchek ultimately calls for the disentanglement of the human rights advocacy from the counterterrorism agenda which he deems is “problematic” in and of itself:

“[T]he discourse of terrorism... promotes dichotomous thinking in which terrorism always emanates from the irrationality of non-state actors who pose the original threat, while state counterterrorism is always rational, and a mere reaction to terrorism. The rhetoric of counterterrorism is state-affirming; it creates a bias in favour of state action, including the use of lethal force, against those deemed to be terrorists, who are always non-state actors. Attaching a legal and human rights language to counterterrorism, while aspiring to restrain the state in its response to terrorists, echoes and reinforces these dichotomies, identifying the original threat to human rights with terrorists and the defence of human rights with state counterterrorism... [W]e have seen how this binary is a false one, and how terrorism is often not a threat but a boon to the state or traditionally powerful groups. Moreover, the discourse of terrorism itself can facilitate or form part of conditions that generate human rights abuses.

“Counterterrorism rhetoric has exacerbated conflict situations, and there is much to be gained in terms of improving respect for human rights by understanding and addressing conflict situations using lenses other than terrorism. The vision of human rights-compliant counterterrorism serves to obfuscate and disserve human rights by side-stepping the need radically to question the discourse of terrorism.”²²³

This critique of a human-rights compliant CT agenda should be understood and situated within a bigger critique that human rights law has been perceived to have dominated, displaced or “crowded out” other languages within the human rights movement,²²⁴ and the call for developing meanings of human rights as “resistance from below.”²²⁵

221 Lamchek (2018), p. 275.

222 Ibid, p. 91.

223 Ibid, pp. 275-276.

224 David Kennedy, ‘International Human Rights Movement: Part of the Problem?’, (2002) 15 Harvard Human Rights J, pp. 101, 108.

225 Sally Engle Merry, ‘Transnational Human Rights and Local Activism: Mapping the Middle’ (2006); Mark Goodale and Sally Engle Merry (eds), *The Practice of Human Rights: Tracking Law Between the Global and the Local* (CUP 2007); Balakrishnan Rajagopal, *International Law from Below: Development, Social Movements and Third World Resistance* (CUP 2003).

A. International Level

In the past years, there has been an increased shift among various international civil society organizations to go beyond a human rights-compliant CT response and to reverse the CT agenda itself. A number of platforms have emerged seeking to change dominant global narratives and policies on CT and rewind the web of processes and bodies that support and perpetuate CT and hard security approaches within international bodies such as the UN. Some of these organizations are the CSO Coalition on Human Rights and Counterterrorism,²²⁶ the Security Policy Alternatives Network,²²⁷ and the Global NPO Coalition in FATF.²²⁸

The emerging analysis is that the exponential and parasitic growth of policy-making, programming and financing for CT and CVE within the UN system, from New York and Geneva to the national level, has been at the expense of the efforts in human rights and peacebuilding.²²⁹ Therefore, there is a need to confront, expose and transform power structures and incentives that allow security cooptation even among civil society actors and supposed allied government and UN actors. Finally, there must be a commitment to reclaim how security policy and narratives are shaped and made, starting with reimagining, articulating and showcasing alternatives to hard and militarized security approaches and drawing from initiatives and learnings on conflict transformation and peacebuilding already on the ground.

The challenge remains, however, in surfacing, documenting and substantiating alternatives that are beyond piece-meal legal and policy reforms, and that reflect radical rethinking of security grounded on evidence and practice. For this, even the international platforms look towards national and local movements and peacebuilding and (human) security practitioners for guidance and leadership.

B. National Level

On the national level, responses to the government's CT approach can be grouped into three distinct but non-mutually exclusive strands: legal support, advocacy and reform; anti-militarization campaigns; and the push for politically-negotiated settlements with armed groups and an inclusive peace process. Often, groups involved in one strategy also share platforms and participate in campaigns of the other groups.

226 <https://charityandsecurity.org/wp-content/uploads/2021/06/Statement-on-7th-GCTS-CSO-coalition-on-CT-and-human-rights-30-June-2021.pdf>

227 <https://www.justsecurity.org/65243/the-international-security-echo-chamber-getting-civil-society-into-the-room/>

228 <https://fatfplatform.org/about-us/>

229 Saferworld, 'A fourth pillar for the United Nations? The rise of counter-terrorism,' (June 2020); Saferworld and Friedrich-Ebert-Stiftung, 'The rise of counter-terrorism at the United Nations: two decades later,' (September 2021); Jordan Street, 'UN Budget vs. Rhetoric: Touting "Agenda for Peace" But Investing in Counterterrorism Instead?,' *Just Security* (1 December 2022).

1. Legal Support, Advocacy and Reform

Alternative law groups, local human rights advocacy groups, and international human rights organizations²³⁰ have long been involved either in monitoring violations of rights and other forms of harassment and abuses related to COIN and CT, in assisting victims through direct legal aid, or in broader legal advocacy such as challenging the legality or constitutionality of certain charges in or of the anti-terrorism laws themselves, or raising these issues to the United Nations, including the Human Rights Council (HRC)'s Universal Periodic Review and the Global Counterterrorism Strategy Review. Following an HRC Resolution, a three-year Philippines-UN Joint Programme on Human Rights was established in July 2021 to improve the capacity of Philippine institutions to protect human rights.²³¹ Various human rights organizations have criticized the HRC for settling on mere technical cooperation and capacity building instead of “creating a commission of inquiry to investigate the thousands of extrajudicial killings,”²³² and for “allowing the Philippines to... window-dress its appalling human rights record without any tangible progress or scrutiny.”²³³

In the 17th and 18th Congress under President Duterte, a Human Rights Defenders Protection Bill was first filed to address harassment, summary killings and enforced disappearances of rights workers, by establishing a Committee nominated by right groups and mandated to investigate and pursue proper action on violations by military and civilian officials.²³⁴ The proposed measure was approved in the third and final reading in the Lower House but was not acted upon by the Senate. It was re-filed in the 19th Congress under President Marcos Jr, but has faced opposition from the NTF-ELCAC, AFP and PNP.²³⁵

Generally, the local human rights movement has been tactical in using human rights law to engage the abuses and harms from CT measures and has generally gone beyond the “human rights while countering terrorism” discourse by adopting broader anti-militarism messages or by being part of broader networks working on anti-war, anti-militarism and anti-imperialism advocacies.

230 Some of the groups involved in these are the Free Legal Assistance Group (FLAG), Sentro ng Alternatibong Lingap Panlegal (SALIGAN), the National Union of Peoples' Lawyers (NUPL), KARAPATAN, Philippine Alliance for Human Rights Advocates (PAHRA), Philippine Human Rights Information Center (PhilRights), Task Force Detainees of the Philippines (TFDP), Medical Action Group (MAG), Balay Rehabilitation Center, Inc., In Defense of Human Rights and Dignity Movement (iDefend), ALISTO! Citizen's Monitoring, the Initiatives for International Dialogue (IID), Ateneo Public Interest and Legal Advocacy (APILA), Balay Alternative Legal Advocates for Development in Mindanaw (BALAOD Mindanaw), Lanao Alliance of Human Rights Advocates (LAHRA), Ateneo Human Rights Center (AHRC), and Amnesty International (AI) - Philippines, among many.

231 See UN Human Rights Council, 'Technical cooperation and capacity-building for the promotion and protection of human rights in the Philippines,' A/HRC/RES/45/33 (7 October 2020); United Nations Philippines, 'PHL, UN and partners endorse roadmap to accelerate implementation of human rights joint programme' (20 December 2021).

232 Human Rights Watch, 'Philippines: UN Rights Body Fails to Act,' (5 October 2022).

233 International Service for Human Rights, 'HRC51: Civil society presents key takeaways from Human Rights Council,' (7 October 2022).

234 Inquirer, 'Makabayan refiles own version of bill protecting human rights defender,' (1 August 2022).

235 Rappler, 'Abante grills PNP, AFP over opposition to human rights defenders bill,' (29 November 2023); PNA, 'HR Defenders bill 'dangerous': NTF-ELCAC,' (20 January 2023).

2. Anti-Militarization Campaigns

Rooted in a long history of anti-dictatorship, anti-militarism and anti-imperialism, the human rights movement in the Philippines has resisted the escalation of military operations and sought to deconstruct and challenge claims of national security by the government and the armed forces.

Immediately in the post-9/11 period, the local human rights movement opposed the global CT agenda and its extension to the Philippines. Some of the campaigns waged post-9/11 onwards were mimicked in recent years during the Siege of Marawi and the passage of the ATA 2020; the opposition to foreign military bases, joint military exercises, and the involvement of foreign troops; fact-finding and exposition of military abuses, killings and torture of suspects, and of displacement due to military operations; and even solidarity with other nations impacted by militarism or foreign military interventions. Human rights advocacy groups have joined Left-oriented political groups as well as anti-war, peace, feminist and environmental organizations in these anti-militarism campaigns.²³⁶

Exposing the human rights violations and massive costs of militarism has helped strengthen resistance efforts. However, this approach is not enough to fully rebut the core argument of the militarist, COIN-CT approach: that there is ongoing violence or armed conflict, hence, the necessity to confront or resolve this.

3. Push for an Inclusive Politically-Negotiated Settlement

The direct response comes from peace groups advocating for civilian approaches to resolving the armed conflict.²³⁷ The argument is that the military approach and war come not only with immense economic costs and harm to human rights, it is also ineffective and counterproductive to long-term peace and security. The alternative being pushed is that the two parties should find and build creative solutions through a process of dialogue and problem-solving.

Unfortunately, of these three strands of response, there are not a lot of organizations involved in peace advocacy and peacebuilding—either due to the lack of transparency and sufficient space for participation in the formal process, the complexity of working on peace and security issues, or the misunderstanding of and therefore bias against peace advocacy as simply pacification, and thus not radical enough.

Moreover, the peace process itself has been faced with perennial challenges, leading to a dominant belief that it is hopeless. The GRP, under six presidents starting from Corazon Aquino to Rodrigo Duterte, and the NDF, formally representing the CPP-NPA, have been engaged in protracted, on-and-off negotiations for around 33 years, from 1986 until its latest termination in 2019, to put an end to the world's longest running communist armed rebellion which has been going on for almost 54 years.²³⁸

²³⁶ Some of the groups involved or new formations closer to this strategy are the broad Bagong Alyansang Makabayan (BAYAN) alliance, Manggagawa para sa Kalayaan ng Bayan (MAKABAYAN), BISIG-Akbayan, Alliance of Progressive Labor (APL), SANLAKAS, Partido Lakas ng Masa (PLM), Partido ng Manggagawa (PM), Kilusan para sa Pambansang Demokrasya (KPD), STOP The War Coalition Philippines, Focus on the Global South, Mindanao People's Peace Movement (MPPM), KAISA KA, Pambansang Koalisyon ng Kababaihan sa Kanayunan (PKKK), Peace Women Partners, Piglas Kababaihan, SARILAYA, Woman Health, Women's Legal Bureau (WLB), Youth for Nationalism and Democracy (YND), Konsensya Dabaw and the Mindanao Peaceweavers (MPW), among many. The groups named in the earlier section would also generally share the same platforms and join campaigns of these advocacy groups.

²³⁷ Some of those long involved in pushing for the peace talks are the CBCP (Catholic Bishops' Conference of the Philippines), NCCP (National Council of Churches in the Philippines), and the Coalition for Peace. Another major platform is the Citizens Alliance for Just Peace (CAJP), an alliance of four major peace networks in the country (the Philippine Ecumenical Peace Platform (PEPP), Pilgrims for Peace, Sulong Peace or formerly Sulong CARHRIHL, and Waging Peace Philippines. Other groups involved are the Gaston Z. Ortigas Peace Institute (GZOPI), the Initiatives for International Dialogue (IID), Generation Peace Youth Network (GenPeace), Peacebuilders Community, Inc. (PBCI), Balay Mindanaw Foundation, Inc (BMFI), and Forum Ziviler Friedensdienst e.V (forumZFD), Center for Peace and Conflict Studies (CPCS), the Global Partnership for the Prevention of Armed Conflict (GPPAC) and Conciliation Resources (CR), among others.

²³⁸ Center for International Security and Cooperation, 'Profile: Communist Part of the Philippines - New People's Army,' *Stanford University-Freeman Spogli Institute for International Studies*. Accessed 5 October 2022.

Within the government, it does not help that many of the previous presidents and elected civilian leaders have been beholden to the military, which has led to the appointments of former generals to civilian posts. In the end, this made the military agenda ascendant in the government's analysis and direction, crowding out other critical voices, broader analysis and alternative approaches to achieving peace and security and, in the end, undermining civilian approaches to the resolution of the conflict. Engagement towards security sector reform is perceived as directed towards the rehabilitation of the image of the armed forces, rather than a sincere overhaul of the broken civilian-military relations, especially effective civilian oversight. Meanwhile civil society groups engaged with the military are often seen as being co-opted into apologizing for or are unwittingly used for window-dressing of the armed forces, rather than critically pushing the envelope on needed reforms.

The formal negotiations have also been undermined by the disconnect between the ceasefire agreements among the negotiating panels and the continuing armed operations and clashes among ground troops; the continuing lack of inclusivity and transparency in the formal peace process which has led to a lack of broad public awareness, support and ownership; the continuing social injustices and human rights abuses outside the negotiations; and the doubts on the sincerity of both parties to commit to the primacy of a politically-negotiated settlement over the military approach and war-making.²³⁹ On the last point, Bolasco concluded that *“both Parties have looked at negotiations as opportunities that allow both sides to secure economic and political benefits, gain some kind of respite from the fighting, be visible in the public consciousness, have a voice in a public conversation that engages a sizeable intellectual audience, and lastly, and interestingly, as a way to actually still wage war, physically and symbolically, from both ends of the negotiating table.”*²⁴⁰ Both continue to see the talks as an extension of broader political contestation, including the “war of hearts and minds.” It is therefore not that the peace process is hopeless. It is ultimately because the two parties, who both claim to represent the aspirations of the people, have not given peacemaking enough chance to succeed.

239 Soliman M. Santos Jr., ‘Rethinking and renewing the GRP-NDFP peace talks in 2022,’ *Rappler* (22 March 2022).

240 Maria Karina Africa Bolasco, ‘The GRP-NDFP Peace Talks: Tactical Discontinuities in a Shared Narrative,’ *Kyoto Review of Southeast Asia* Issue 31. Accessed 15 December 2022.



Source: Shutterstock, Luis Dela Cruz
Quezon City, Philippines – September 21 2022: Religious groups participated in the protest in University of the Philippines to mark the 50th anniversary of declaration of Martial Law in the Philippines.

Given these, our popular understanding of the peace process has to change. Determining the country's peace and security needs has to be expanded beyond the two principal parties. While a new peace strategy should continue to support the push for a negotiated settlement, it also needs to go beyond this. It should be owned across movements and sectors, not only by mediators and peace advocates. And it should be integrated with the other strategies mentioned above: restoring accountability and ensuring support for victims, pushing for legal reforms and broader structural transformation, countering the rise of militarism and pushing for effective civilian oversight over the military, and supporting dialogues and problem-solving across sectors and society.

What should be clear from the past five decades of violence and abuses rooted in this protracted conflict is, first, that there are no shortcuts and, second the need to transcend the orthodoxies and our respective silos in the broad peace and human rights movement. The question is where do we start, and what is or are our leverage point(s)?

VII. Challenges and Pathways: Resistance, Reimagination and Transformation from Below

The prospects for human rights and for a transformative approach to peace and security under the new Marcos Jr. administration are dim. While Marcos Jr. assured the international community of its commitment to human rights²⁴¹ and his (former) national security adviser publicly expressed her opposition to red-tagging and preference to address root causes,²⁴² the same practice of repression and killings of activists and Church leaders,²⁴³ law practitioners²⁴⁴ and journalists²⁴⁵ continues.

241 PNA, 'Marcos vows to protect human rights,' (10 June 2022).

242 PhilStar, 'Incoming NSA chief on 'unproductive' practice of red-tagging: Let's stop doing that,' (24 June 2022).

243 BusinessWorld, 'Analysts: Red-tagging continues with Marcos,' (21 August 2022); Manila Times, 'Red-tagging still threat to Church,' (14 January 2023).

244 PhilStar, 'SC issues show cause order vs. Lorraine Badoy for red-tagging, threatening judge,' (4 October 2022).

245 Rappler, 'Broadcaster Percy Lapid killed in Las Piñas, 2nd under Marcos,' (4 October 2022); Danilo Araña Arao, 'Press freedom under Bongbong is fake news,' *East Asia Forum* (10 October 2022).

President Marcos Jr. himself rarely made specific pronouncements on red-tagging and the armed conflict and stalled talks with the CPP-NPA and often only expressed support for the programs of the NTF-ELCAC and AFP on counter-terrorism and counter-insurgency.²⁴⁶ There is also no indication that national peace talks will be reopened soon as Cabinet members and military generals expressed their preference to continue with local peace engagements through the NTF-ELCAC.²⁴⁷ With security and anti-terrorism as her primary agenda,²⁴⁸ Sara Duterte, the Vice-President and Education Secretary and the daughter of former President Rodrigo Duterte, has been more direct and vocal on her “hardline” stance against “criminals and terrorists”²⁴⁹ She championed the return of mandatory Reserved Officers Training Corps (ROTC) in schools,²⁵⁰ and the creation of confidential funds under the Education department to pursue “peace and order and national security” and to support “intelligence and surveillance” targeting, among many, “recruitment [of children and youth] in terrorism and violent extremism.”²⁵¹

The recent reshuffling of military leadership²⁵² and the continued appointments of former generals in the civilian government²⁵³ suggest that the current administration will continue to appease the military and take a business-as-usual, hard security approach.

Ultimately, the fundamental challenge before us is the lack of broad public ownership and the marginalization of affected communities, not only in the peace process but also and more importantly, in our overall ways of shaping our common security needs and approach. With the continuing lack of paradigm change among the two principal parties to the GRP-CNN armed conflict, the needed reimagination will have to come from the people themselves.

Lumad Husay. IPs have been caught not only in the crossfires in armed clashes within their ancestral domains, but also in the propaganda warfare on who are the legitimate voices of IPs and who are not.

Framed as either government IPs or as NPA IPs rather than first and foremost indigenous communities with the capacity and agency to think and decide for themselves, indigenous communities are being divided and polarized and, in the process, denied their own unique voice to their distinct experiences and aspirations.

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246 Manila Bulletin, ‘Marcos lauds NTF-ELCAC, LGUs’ peace efforts,’ (28 October 2022); GMA News, ‘Marcos: Imperative to empower Philippines vs. terrorism, external threats,’ (8 November 2022).

247 CNN Philippines, ‘Marcos admin won’t revive peace talks; Calos rejects red-tagging,’ (10 June 2022); *Rappler*, ‘NTF-ELCAC not recommending CPP-NPA peace talks under Marcos,’ 15 July 2022.

248 Inquirer, ‘VP Duterte tells US counterpart Harris: Security is my ‘first love’,’ (21 November 2022).

249 PNA, ‘VP Sara reiterates ‘no mercy’ stance vs. criminals, terrorists,’ (5 September 2022).

250 Manila Bulletin, ‘VP Duterte tackles ‘ways forward’ for mandatory ROTC,’ 5 September 2022).

251 PhilStar, ‘Sara getting separate confidential funds as Vice President, DepEd chief,’ (16 September 2022).

252 Nikkei Asia, ‘Marcos sacks Philippine military chief in surprise move,’ (8 January 2023).

253 Manila Times, ‘Marcos likely to appoint more retired generals,’ (19 January 2023); *Rappler*, ‘Marcos: No one plotted to oust Clarita Carlos as national security adviser,’ (21 January 2023).

IP groups, particularly the Lumads,²⁵⁴ have been trying to carve out a space for themselves to dialogue among themselves, build a common agenda with regard to the peace process, and to develop and assert their own peacemaking and peacebuilding practice, including the use of “alternative modes of dispute resolution that are conciliatory rather than adversarial.”²⁵⁵

A stream of this IP-centered peacemaking has adopted the term “*husay* justice,” or *husay*²⁵⁶ for short. Within this stream, an IP-CSO convergence²⁵⁷ led to the founding of Lumad Husay Mindanaw²⁵⁸, an inter-tribal alliance or convergence that “sees itself offering *husay* as a locally-grounded indigenous peace platform supporting ‘culturalized’ peacebuilding with, and in, formal government and rebel groups’ peace processes (or lack there-of), and related government programs serving Lumad communities.” It is guided by the overarching principle of restoration (“*pagpasig-uli*”), articulated as:

“We are not against anyone, as long as we are standing together for the rights of IP; this is the idea of all IP for the benefit of all IP. Therefore, people don’t have to abandon their group or agenda, as long as their sense of identity is claimed and asserted.”

“The mandate comes from the ground, we have to make our own structure and formula to use, so it will not be opposed, everything has to be organized at the ground. Pasiguli sa relasyon (Restoration of Relationships) needs to start at the community level, there is a need to prepare the ground, cleanse, deal with the damage.”²⁵⁹

Simons wrote about this in his dissertation entitled “Lumad Husay (Indigenous Conciliation): Decolonizing Justice & Re-storying Culture in Mindanao, Philippines”:

254 Lumad (plural Lumadnon) is a collective term of self-ascription used by some members of approximately 18 and 24 non-Islamized tribes, and numerous additional sub-tribes, that claim portions of Mindanao as their ancestral domain.

255 Pacifico Agabin, ‘The Influence of Philippine Indigenous Law on the Development of New Concepts of Social Justice,’ In V. V. Palmer, M. Y. Mattar, & A. Koppel (Eds.), *Mixed Legal Systems, East and West*. Surrey, England (2015), p.170.

256 Simons (2021) cites Sidney, Edgerton, Gonzalo and Saway in his dissertation “Lumad Husay (Indigenous Conciliation): Decolonizing Justice & Re-storying Culture in Mindanao, Philippines”: “In Bisayan, *husay* is understood as follows: Used as a noun, *husay* refers to a “hearing” or a “settlement of accounts”; as a verb, *husay* means “to be peaceful,” “put in order,” “untangle,” or “unsnarl”; and as an adjective, it is translated as “orderly,” “without confusion,” or “well arranged with everything put in its place.” (G Sidney Silliman, 1982, p. 237) Edgerton (2008), in a tidy description of Bukidnon Lumad conflict resolution processes (pp. 40-44) describes *husay*’s core meaning as “orderly and without confusion” and “avoiding conflict or bad feelings through the mediation of disputes” (p. 40); such that *paghusay* simply means “mediation sessions” (p. 41). In the most recent research... conducted by Tagakaolo anthropologist Matet Gonzalo with her own community in Davao Occidental Province, the word used is nearly identical – *pag-usay* – meaning a “process of restoring positive relations or goodwill between two people who are conflicting/fighting” (“*pamaagi sa pagbalik sa maayong relasyon o kabubut-on sa duha ka tawo nga nagbangi/nag-away*”) (Gonzalo, 2018, p. 7, n. 14). Further, the title for Bukidnon, Talaandig and Higaonon mediators is “*balaghusay*” meaning those who are responsible for the *husay* session (A. L. Saway et al., 2017).” See Jeremy L. Simons, ‘Lumad Husay (indigenous conciliation). Decolonizing justice & re-storying culture in Mindanao, Philippines,’ (Thesis, Doctor of Philosophy), University of Otago, (June 2021), p. 137. Accessed 5 October 2022.

257 Groups involved in an indigenous peoples-centered reimagining is the IP-CSO convergence, composed of the Mindanao Indigenous People’s Peace Forum (MIPPF), Lumad Mindanaw Peoples Federation (LMPF), and the Katawhang Lumad (Lumad Peoples) sector of the Mindanao Peoples Peace Movement (KL-MPPM), supported by the IID and several units within Ateneo de Davao University (ADDU), including the University Community Engagement and Advocacy Council (UCEAC), the Mindanawon Centre for Inter-cultural Dialogue, and the Ateneo Institute of Anthropology.

258 Davao Today, ‘IP leaders advocate IP inclusion in peace talks,’ (23 June 2018).

259 Luman Husay Mindanaw Conference Notes, 18 August 2016, cited by Simons (June 2021).

“Using *husay* as an umbrella term for (at least) the fifteen different customary justice and peacemaking traditions that form core elements of each group’s identity who were present at the meeting... their focus, as revealed in their comments and discussions, was primarily outward-facing towards non-Lumad who had a difficult time understanding their cultures and therefore intervened violently in their culture and communities; and upward-facing in relation to higher level peace processes negotiators and actors whom they believed had the power and capacity to restrain those fomenting the various forms of violence. In terms of a legal culture framework, *husay* represented a cultural motif or form that could be easily comprehended as the external face of Lumad justice advocacy, thus raising the legal consciousness of non-indigenous actors and allies who could support its use and help create spaces for Lumad legal mobilization asserting their cultural agenda in the peace process...

“...as well as a generic term for indigenous peacemaking and customary justice in Mindanao. This consists of practices of relational conciliation (*pasiguli sa relasyon*), holistic restoration expressed locally and metaphorically as ‘*hugasan ang yuta aron matamnan pagusab*’ (cleansing the land in preparation for replanting), and narrative justice of the ancient peace pacts and traditional precedents found in various epics across the island, particularly the *Mamalu-Tabunaway* narrative.”²⁶⁰



Source: Shutterstock, Luis Dela Cruz
Philippines – July 25, 2022: Filipino people staged a protest against Marcos–Duterte.

Lumad Husay, therefore, constitutes a political assertion among IP groups that affected communities are not mere subject to definitions of security and safety defined and negotiated from the top, rather, they are catalysts able to shape meanings and lead in crafting solutions. While they recognize the value of the formal negotiations between the GRP and the NDF, such “political settlement is not the only expression of a peace process” and, therefore, regardless of the termination or future resumption of such formal talks, they will “independently as indigenous peoples talk to both the government and rebels on [their] own terms” and will continue to build solutions to conflict and insecurity in their own communities, based on their multiple customary justice concepts and internal legal cultures.²⁶¹

Independent Citizen’s Spaces for Deliberation and Agenda on Peace and Security. In the end, robust and cross-sector dialogical spaces building towards an independent citizen’s agenda on peace and security are needed to break the deadlock, and to infuse political will, accountability and creativity into the peace process. Judge Soliman Santos, one of the leading legal and peace scholars working on the intersection of human rights and conflicts involving non-state armed groups, posited that “*A critical mass of local community-based peace constituencies—in other words, a local mass base for peace—should also be able to help push the talks to move...*”²⁶²

Notably, there are ongoing efforts to further broaden the GRP-NDF peace constituency and to strengthen the community and citizens’ voices, with the aim of lifting fundamental material and political barriers to a political settlement. For one, the Initiatives for International Dialogue (IID) and Gaston Z. Ortigas Peace Institute (GZOPI) have been involved in convening, on the one hand, GPPAC Working Group on Enabling Collaboration/WGEC, an international solidarity and support group of peacebuilders, mediators and conflict experts to accompany and interface with local peacebuilders; and on the other, the National Civil Society Peace Dialogue/s, a dialogue platform across various regions of the country and across peacebuilding, human rights, community-based organizations and even international non-governmental organizations (INGOs) to map, discuss and problem-solve the web of issues driving the GRP-NDFP conflict, ranging from economic development, agrarian reform, militarism and impunity, to often forgotten and critical issues like gender and feminist conceptions of security, and indigenous people’s rights and domain. These are just two of the many spaces for rethinking peace and security and for bridging expertise and energy across international, national and local levels.

However, long-term support, investment and commitment are needed to carve out and nurture a civic space that allows for this broad societal reflection and deliberation—what do safety and security mean to each of us and all of us especially the most marginalized, and what steps should we take to build and nurture societies where the well-being, dignity and autonomy of the many and not the few is at the center?

261 Lumad Husay Mindanaw. “Among Hunghong alang sa Kalinaw” An Open Letter to the Filipino People from the Stewards of the Lands, Mountains, Forests, and Rivers in Mindanao. March 29, 2019. On file.

262 Soliman M. Santos Jr., ‘How Do You Solve a Problem Like the GPH-NDFP Peace Process: Paradigm Shifts for 2016 & Beyond,’ Siem Reap, Cambodia: Center for Peace and Conflict Studies (May 2016).

[Annex:

The Philippine Government's Counterterrorism and Counterinsurgency Architecture

The **1987 Constitution** is the fundamental law of the land in the Philippines, which establishes the structure, policies, roles and duties of the Philippines' government and which contains the Bill of Rights. The **President** is the Head of State and Head of Government, and functions as the commander-in-chief of the **Armed Forces of the Philippines (AFP)**.

Except under the martial rule of the dictator Ferdinand Marcos Sr.(1972-1986) the post-colonial Philippines has a tradition of democratic and civilian control over the military. In principle, civilian authorities formulate the national security policy – through a **five-year National Security Policy** – and determine the functions of the armed forces in its implementation.

Supporting the President on national security issues are two bodies: the **National Security Council (NSC)**¹ and the **Cabinet Security Cluster**². The NSC comprised of, on one hand, a collegial and advisory body, chaired by the President, composed of concerned officials of the Cabinet and Congress and other government officials and private citizens who may be invited by the President; and a permanent Secretariat, which provides technical support to the former and which is headed by a **Director-General / National Security Adviser**. On the other hand, Cabinet Security Cluster members are exclusive to the President's Secretaries, and cabinet clustering serves as a mechanism for coordination among different departments. In principle, Cabinet secretaries act as mere alter egos of the President.

1 The Council was created during the Quirino Administration through Executive Order (EO) No. 330, dated 01 July 1950. It was last reorganized by virtue of EO No. 34, series of 2001. The Council's Executive Committee is composed of the President and at least nine others: the Vice President; the AFP chief of staff; National Security Council director; the Executive Secretary; and the Secretaries of Foreign Affairs, National Defense, Interior and Local Government, Justice, and Labor and Employment.

2 Every President is empowered to reorganize their Cabinet according to their priorities. Under President Duterte, the Security, Justice and Peace Cabinet Cluster (SJGCC) was created pursuant to Executive Order No. 24 s.2017. The NSC was the Secretariat of the SJGCC.

Key bodies and actors involved in peace and security policy-making and implementation are:

- The **Philippine National Police (PNP)** reports to the **Department of the Interior and Local Government (DILG)** and is charged with maintaining internal security in most of the country. On the other hand, the **AFP** reports to the **Department of National Defence (DND)** and is responsible for external security but also carries out domestic security functions in regions where the government assesses a high incidence of terrorist or separatist insurgent activity, particularly the Mindanao region. The two agencies share responsibility for counterterrorism and counterinsurgency operations. The PNP's Special Action Force (SAF) is responsible for urban counterterrorism operations.
- **Governors, mayors, and other local government officials** have considerable influence over local police units, including the appointment of top provincial and municipal police officers and the provision of resources.
- The government also continues to support and arm civilian militias. The armed forces control the **Civilian Armed Force Geographical Units (CAFGU)**, while the national police commands the **Civilian Volunteer Organizations**. These paramilitary units often receive minimal training and are poorly monitored and regulated. Some political families and clan leaders, particularly in Mindanao, maintain private armies and, at times, recruit CAFGU and Civilian Volunteer Organization members into those armies. Civilian control over some security forces is not fully effective.³
- The **Office of the Presidential Adviser on Peace, Reconciliation and Unity (OPAPRU)**, formerly called the Office of the Presidential Adviser on the Peace Process (OPAPP),⁴ was first established in 1993 and is responsible for “the coordination and implementation of all components of the comprehensive peace process.” Under the agency, there are several government peace panels (or implementing panels, in the case of a final peace agreement) established to conduct negotiations with rebel groups, such as the MILF, MNLF, CPP-NPA-NDF, CBA-CPLA and RPM-P/RPA/ABB. The government peace panel for the GRP-NDF was dissolved following the termination of the talks in November 2017.
- President Duterte issued Executive Order 70 s. 2018 which, among others, formed the **National Task Force to End Local Communist Armed Conflict (NTF-ELCAC)** to lead the implementation of the government's “Whole-of-Nation approach” and formulation and coordination of a National Peace Framework, including a “mechanism for localized peace engagements or negotiations”.

3 U.S. State Department, ‘Philippines 2021 Country Report on Human Rights Practices,’ (12 April 2022). Accessed 17 July 2022.

4 The agency was created through Executive Order No. 125, s. 1993, later amended through Executive Order No. 3, s. 2001 and re-organized through Executive Order No. 158, s. 2021.

In the past decade, the Philippines adopted two laws that are primarily aimed at counterterrorism: (1) the **Anti-Terrorism Act (ATA) of 2020**⁵, which superseded the **Human Security Act (HSA) of 2007**⁶, and (2) the **Terrorism Financing Prevention and Suppression Act (TFPSA) of 2012**⁷.

Expanding on the executive branch's power, the ATA also allows state security forces to arrest suspected terrorists and detain them for up to 24 days without charge and without sufficient judicial oversight. Another controversial provision is one referring to "material support" (to an activity that is deemed a terrorist act) which may have a chilling effect on agencies delivering humanitarian aid. The June 2020 communication of the Mandates of the Special Rapporteurs to the government of the Philippines, including by the Special Rapporteur on the protection and promotion of human rights and fundamental freedoms while countering terrorism Fionnuala Ni Aolain, has expressed concerns that the law's definition of terrorism and terrorist acts (including "incitement" and "encouragement, praising, glorification or justification") is "overbroad and vague", does not fall within agreed international law boundaries of terrorist acts, and may curtail freedom of opinion, expression and right to privacy.⁸

Prior to the ATA, the prosecution has to prove elements of terrorism with the courts in order to designate an organisation or an individual as terrorist. Due to difficulty in doing this, law enforcement would usually use **provisions of rebellion or insurrection**⁹, or more often, **on common crimes**, such as murder or illegal possession of firearms, **under the Revised Penal Code and special laws** to run after alleged insurgent rebels or terrorists.

Key governmental bodies, including private actors, are involved in implementing and oversight on counterterrorism laws and measures, and their mandates are described below:

- The **Anti-Terrorism Council (ATC)** was first established under the HSA 2007 and was further empowered through the ATA 2020. The ATA granted the ATC the power to determine probable cause and to unilaterally designate individuals or organizations as terrorists, including to authorize their arrest without a judicial warrant.
- The **National Intelligence Coordinating Agency (NICA)** serves as the Secretariat of the ATC.
- The **Anti-Money Laundering Council (AMLC)** created by the Anti-Money Laundering Act of 2001¹⁰ has the authority to investigate allegations of and to freeze property or funds believed to be linked to terrorist financing. AMLC represents the Philippines in the Asia/Pacific Group on Money Laundering (APG), an inter-governmental/regional organisation consisting of 41 member jurisdictions and the largest Financial Action Task Force (FATF)-style regional body (FSRB) in the world. APG's objective is "to ensure that individual members effectively implement the international standards against money laundering, terrorist financing and proliferation financing related to weapons of mass destruction."¹¹

5 Republic Act No. 11479 (3 July 2020).

6 Republic Act No. 9372 (6 March 2007).

7 Republic Act No. 10168 (18 June 2012).

8 OHCHR, 'Comments on the pending legislation 'The Anti-Terrorism Act of 2020'', (29 June 2020). OL PHL 4/2020.

9 Republic Act No. 6968 (24 October 1990).

10 Republic Act No. 9160, as amended, (23 July 2021).

11 Asia/Pacific Group on Money Laundering, 'APG History and Background,' accessed 17 July 2022.

- Law enforcement and military personnel have to file for an order from the **Court of Appeals (CA)** to surveil any suspects and their communications, and to compel **Telecommunications Service Providers (TSP) and Internet Service Providers (ISP)** to produce any suspects' customer information and identification records, call and text data records, content and other cellular or internet metadata. The CA has the power to hear applications to proscribe an individual or groups as terrorists upon giving due notice and opportunity to be heard to those about to be proscribed, and to hear any appeal against or any application for extension for actions made due to terrorist designations. The courts and the **Commission on Human Rights (CHR)** have to be immediately notified of the detention of suspects without a warrant of arrest. The CHR has the mandate to investigate violations of human rights, including those in relation to the ATA.
- The **United States, Japan, and Australia** are the Philippines' three most important security partners, especially on counterterrorism and P/CVE initiatives.

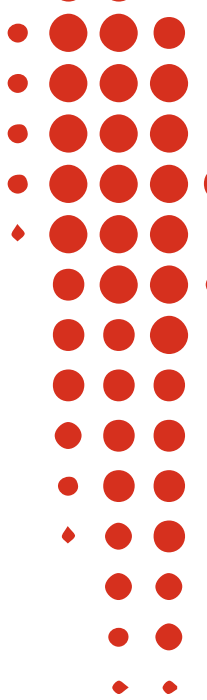
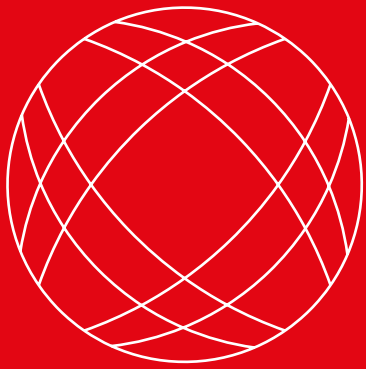
Aside from the ATA and the TFPISA, another key measure is the **National Action Plan on Preventing and Countering Violent Extremism (NAP P/CVE)** adopted in mid-2019.¹² Ostensibly, it was designed to broaden counterterrorism strategy from an exclusively kinetic, military approach to include and complement a “soft approach that addresses the underlying conditions that drive individuals to support and join violent extremist groups”. Moreover, it is aimed to elicit a new ‘whole-of-society’ approach to tackling the threat posed by violent groups, by engaging a wide range of stakeholders including communities, prisons, religious leaders, learning institutions, social media users, and Filipinos working and studying overseas.

The creation of the Philippines' NAP P/CVE followed the development and adoption of action plans to prevent or counter ‘violent extremism’ in the past years – by the United Nations Secretary-General (in 2016), the UN Office of Counterterrorism (in 2017), the ASEAN (in 2018) and several countries (Albania, Burkina Faso, Denmark, Finland, France, Kenya, Kosovo, Mali, Montenegro, Morocco, Nigeria, Norway, Somalia and Switzerland). The NAP was an inter-agency **United Nations** and government effort, spearheaded by **UNDP Philippines** and supported by the government of **Japan**. On the government side, it was led by the National Security Council and the Anti-Terrorism Council (ATC). UNDP, not having previously been involved in counter-terrorism efforts, was now leading the UN charge on P/CVE as part of the development agency's global shift in priorities.¹³

To mainstream and coordinate the P/CVE efforts of the government, a new unit called **Preventing and Countering Violent Extremism and Insurgency – Project Management Office** under the DILG was formed.

12 National Security Council, ‘The National Action Plan on Preventing and Countering Violent Extremism (NAP P/CVE),’ (July 2022). On file.

13 Lynch C (2017), ‘U.N. Seeks More Than \$100 Million to Tackle Violent Extremism’, Foreign Policy, 8 March (<https://foreignpolicy.com/2017/03/08/u-n-seeks-more-than-100-million-to-tackle-violent-extremism/>)



The Effect of the Philippine ‘War on Drugs’ on Civic Space

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B. Agunoy, Maria Paula S. Villarin,
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Source: Photo by Raffy Lerma
Families of drug war victims carry a banner from artists' group RESBAK and join the protest ahead of President Rodrigo Duterte's fifth and final State of the Nation Address (SONA) along Commonwealth Avenue, Quezon City, July 26, 2021.



I. Context

A *Rappler* article¹ published at the beginning of the year 2016, a few months before the presidential election that catapulted Rodrigo Duterte to the presidency, painted a picture of the crime situation in the Philippines. It stated that “[t]he number of reported crimes has been rising, while the ability of the police to solve crimes has decreased.” The years 2012 to 2014 showed that serious crimes, such as murder, rape, robbery, and carnapping, rose by 300%; “[i]n 2012, 129,000 index crimes were reported. In 2013, they shot up to 458,000, while in 2014, the number rose slightly to 493,000.”

It also gave a glimpse of the illegal drug situation in the country, saying that according to the United Nations World Drug Report [2012], “the Philippines has the highest rate of shabu use in East Asia” although it clarified that the Aquino administration “reported the decline of industrial-size meth labs” which the US State department attributed to the “45% increase in anti-drug operations.”

It was no surprise then that the idea of a leader with a “strong hand” or an “iron fist” resonated among the Filipino electorate.

1 Pia Randa, A look at the state of crime, drugs in the Philippines, *Rappler*, January 5, 2016, <https://www.rappler.com/nation/118004-crime-drugs-philippines/>

Prior to his election as the 16th President of the Republic of the Philippines, Duterte vowed to campaign against illegal drugs and that it would be bloody. He said he would order the killing of all criminals and drug lords, including their dependents.² In fact, even before Duterte was sworn in as President on 30 June 2016, there had already been a rise in drug-related killings.³

This position emboldened the already lopsided view that the drug problem in the Philippines is primarily an issue of law enforcement and criminality, rather than of health.⁴ Duterte's campaign promise paved the way for a securitized approach to the drug problem by putting emphasis on punitive measures and the major role he gave the Philippine National Police (PNP) in the so-called "war on drugs". Its intensified implementation heavily limited the civic space on drug-related matters and concerns, not only with regard to the health policies that should go hand-in-hand with law enforcement, it also discouraged, in fact, blatantly intimidated, any opposition to the policies set by the Duterte administration.

This research paper explores the impact that Duterte's securitized approach to the drug problem had on the civic space of those who advocate against the drug policy and document abuses under it, and concerned citizens who organize and speak out against the human rights abuses wrought in their communities under the guise of public security. It documents how a national health problem was reframed as a security threat, fueling a moral panic that helped Duterte justify and popularize the security-first approach to the nation's drug problem. At the core of it, the "war on drugs" was characterized by initiatives meant to incite fear and shame, to dissuade people from engaging and exercising their rights, thus effectively shrinking the civic space.

A national health problem was reframed as a security threat, fueling a moral panic that helped Duterte justify and popularize the security-first approach to the nation's drug problem. At the core of it, the "war on drugs" was characterized by initiatives meant to incite fear and shame, to dissuade people from engaging and exercising their rights, thus effectively shrinking the civic space.

2 Patricia Lourdes Viray, "Duterte Admits to 'bloody' Presidency If He Wins," *The Philippine Star*, February 21, 2016, <https://www.philstar.com/headlines/2016/02/21/1555393/duterte-admits-bloody-presidency-if-he-wins>

3 Mara Cepeda, "Drug Suspect Killings Rise after Duterte Victory," *Rappler*, June 24, 2016, <https://www.rappler.com/nation/137528-rise-drug-suspect-killings-duterte-presidency>

4 Nymia Simbulan, Leonardo Estacio, Carissa Dioquino-Maligaso, Teodoro Herbosa and Mellissa Withers, "The Manila Declaration on the Drugs Problem in the Philippines," *Annals of Global Health*, March 5, 2019, <https://annalsofglobalhealth.org/articles/10.5334/aogh.28/>

II. The ‘War on Drugs’

Duterte’s “war on drugs” officially started immediately upon his assumption of office, when his Chief of the PNP, Director General Ronaldo dela Rosa, issued Command Memorandum Circular No. 16-2016, a.k.a “Project: Double Barrel”. The circular stated that there were around 1.8 million drug users in the Philippines, 38.36% of whom are unemployed. Project: Double Barrel had a two-pronged approach – Project TOKHANG and Project HVT (High Value Target). The circular provided the “general guidelines, procedures and tasks” to be followed by all police personnel “in support of the Barangay Drug Clearing Strategy of the government and the neutralization of illegal drug personalities nationwide.”

The approach was unique in itself. The term *Tokhang* comes from the words “*Toktok*” and “*Hangyo*.” *Toktok* means “to knock” while the Visayan word *Hangyo* means “to make an appeal or plead”. In short, *Tokhang* refers to knocking on the doors of the houses of suspected drug users or peddlers and appeal to them to surrender and change their ways.

On paper, Project *Tokhang* had five stages: (1) the collection and validation of information, (2) coordination by the PNP with the local government officials of the barangay, (3) house-to-house visitation, (4) processing and documentation of the surrenderer, and (5) monitoring and evaluation of the persons on the list of suspected drug personalities.

Tokhang, however, is an aberration of the Rules of Criminal Procedure since it requires neither a criminal complaint that is actually filed against suspected drug personalities, nor an arrest or search warrant when the house-to-house visitation is conducted.⁵ Yet, hundreds of thousands of drug users surrendered due to the climate of killings that came simultaneously with what is now known as the “war on drugs”. Once a suspected drug personality surrenders, he or she has to accomplish an affidavit with no choice but to claim that the surrenderer is a “user, drug dependent, or pusher.”

From July 1, 2016 to September 26, 2017, the PNP conducted 76,863 anti-drug operations that resulted in the death of 3,906 drug personalities and the arrest of 113,932 others. The drug war was criticized by opposition lawmakers, the United Nations, and local and international human rights groups for extrajudicial killings allegedly committed by police officers.⁶

As of February 2022, the drug-related killings in the country totaled 6,235, according to the Philippine Drug Enforcement Agency (PDEA).⁷ However, the actual figure could go as high as 30,000, according to human rights groups monitoring the situation.⁸

The anti-drug campaign was much different before Duterte.

5 Euan McKirdy, “‘Knock and Plead’ – On Night Patrol with Philippines Police,” CNN, August 25, 2016, <https://www.cnn.com/2016/08/25/asia/philippines-police-knock-and-plead-drug-operations/index.html>

6 Lara Tan, “No More ‘Oplan Tokhang’: Police Suspends All Anti-Drug Operations,” CNN Philippines, October 12, 2017, <https://www.cnnphilippines.com/news/2017/10/12/npn-oplan-tokhang-project-double-barrel-suspended-bato-dela-rosa.html>

7 Zacarian Sarao, “Total Drug War Deaths at 6,235 as of February 2022, Says PDEA,” Inquirer.net, March 30, 2022, <https://newsinfo.inquirer.net/1575931/total-drug-war-deaths-at-6235-as-of-feb-28-says-pdea>

8 Franco Luna, “New PNP Chief Promises ‘Finale Version 2022’ in ‘War on Drugs,’” The Philippine Star, November 15, 2021, <https://www.philstar.com/headlines/2021/11/15/2141486/new-npn-chief-promises-finale-version-2022-war-drugs>



Source: Photo by Raffy Lerma
A wreath adorns the site where 17-year-old Kian delos Santos was shot and killed by three police officers during the first anniversary of his death in Caloocan, Metro Manila, on August 15, 2018.

III. The Comprehensive Dangerous Drugs Act of 2002

The Philippine legislature passed the Comprehensive Dangerous Drugs Act of 2002⁹ which repealed the Dangerous Drugs Act of 1972. The current law provides that “the government shall pursue an intensive and unrelenting campaign against the trafficking and use of dangerous drugs and other similar substances through an integrated system of planning, implementation and enforcement of anti-drug abuse policies, programs, and projects” with the “aim to achieve a balance in the national drug control program so that people with legitimate medical needs are not prevented from being treated with adequate amounts of appropriate medications...”

The law retained the Dangerous Drugs Board (DDB) of the Philippines which is the policy-making and strategy-formulating body on drug prevention and control, and is responsible for developing and adopting a comprehensive, integrated, unified and balanced national drug abuse prevention and control strategy. The DDB recognizes that “[t]he drug issue is undoubtedly a public health challenge that must be prioritized because it creates complex health and social problems,” and recommends a “rigorous anti-drug cleansing through the shared efforts of national government agencies, non-government organizations, faith-based groups and the private sector.”¹⁰

9 Republic Act No. 9165 “Comprehensive Dangerous Drugs Act of 2002”.

10 Dangerous Drugs Board of the Philippines, “Major Programs & Projects,” Dangerous Drugs Board of the Philippines, at <https://ddb.gov.ph/major-programs-projects/>, last accessed 17 January 2023.

In 2002, the DDB adopted a National Anti-Drug Strategy (NADS) with a three-pronged approach to the anti-drug campaign: a supply and demand reduction campaign; a development/ reform package; and a people empowerment campaign.¹¹ To operationalize the NADS, the National Anti-Drug Program of Action (2002 NADPA) was developed.¹² Over a decade later, the 2002 NADPA was re-examined and updated to include and consider changes to the evolving campaign against drugs.¹³ This led to the development of the National Anti-Drug Program of Action 2015–2020 (NADPA 2015–2020).

The DDB led the drafting of the NADPA 2015–2020, which provided for a broad framework to address the drug problem in the Philippines. It listed five strategies, namely:¹⁴

- a. *Drug Supply Reduction Strategy* that aims to remove drugs from the public for the purpose of abuse, through market denial operations and prevention of diversion from the licit to the illicit markets. Programs under this strategy involve law enforcement, regulatory compliance, and judicial and legislative measures designed to stop the production, processing, trafficking, financing and trade of dangerous drugs.
- b. *Drug Demand Reduction Strategy* takes people away from abusing dangerous drugs and controlled substances and aims to reduce their desire to abuse drugs. Programs under this strategy cover the formulation of policies in accordance with RA 9165; the development and implementation of preventive education programs for different target groups; adoption and utilization of effective treatment and rehabilitation and after-care programs; and the continuous conduct of research on vital aspects of the drug abuse problem.

- c. *Alternative Development Strategy* which has the objective to reduce the production of marijuana and eventually eliminate its cultivation through sustainable rural development and alternative livelihood programs.
- d. *Civic Awareness and Response Strategy* that aims to increase community awareness and social responsibility on the ill effects of dangerous drugs by promoting the non-use of dangerous drugs through community information and development activities; publication and distribution of IEC materials; implementation of public communication strategies through press conferences, press releases, media guesting, and community/ family participation.
- e. *Regional and International Cooperation Strategy* that focuses on forging and fostering cooperation with regional and international agencies and counterparts, as well as participating in drug-related international efforts.

Under each of these strategies are detailed programs with their corresponding objectives, points of action, and performance measures.

11 Dangerous Drugs Board. n.d. “National Anti-Drug Plan of Action 2015–2020.” Dangerous Drugs Board of the Philippines. <https://nia.gov.ph/content/plan-action-2015-2020>

12 *Id.*

13 *Id.*

14 *Id.*

The anti-drug advocacy programs of the DDB encouraged public participation. It created the DDB Drug Information Action Line (DDB-DIAL) to receive reports and complaints related to drug abuse and to provide relevant information and assistance to the public. The DDB also set up an online drug data pooling and collection system, Integrated Drug Abuse Data and Information Network (IDADIN), that allows better management and assessment of the overall drug demand and supply reduction efforts undertaken by the government. There is also the *Barkada Kontra Droga*, the DDB's flagship program, a peer-based program designed as a preventive education and information strategy to counter the dangers and disastrous effects of drug abuse.¹⁵

In 2015, former President Benigno “Noynoy” Aquino III issued Memorandum Circular No. 89 directing all government offices, departments, bureaus, agencies, offices and government-owned or controlled corporations to implement the NADPA.¹⁶ The circular instructed the Department of Labor and Employment (DOLE) to ensure the implementation of a drug-free workplace policy and program.¹⁷ It also enjoined local government units and NGOs, CSOs, and the private sector to actively assist and participate in the implementation of the NADPA.¹⁸ Moreover, implementing agencies were given authorization to include the necessary funding in their respective budgets.¹⁹

IV. Enter Project: Double Barrel

However, in 2016, and without prior consultation, the PNP's Command Memorandum Circular on Project Double Barrel, with its notorious *Tokhang* approach which, to the public, was synonymous to killing, became the primary policy of Duterte's “war on drugs”.²⁰

There were tell-tale signs during the presidential campaign of how deadly Duterte's anti-drug campaign could be. He was known for his no-nonsense approach in addressing the problem when he was mayor of Davao City. He made it clear during his campaign to use his unconventional ways of addressing drugs and criminality, which alarmed his fellow candidates who warned voters about the deadly measures promised by Duterte, should he win.²¹

His deadly rhetoric secured the presidency for Duterte.²² And his approach to criminality through his “war on drugs” was brandished by his administration, with the PNP claiming that immediately, the crime rate dropped by at least 64% compared to his predecessor.²³

15 Dangerous Drugs Board. n.d. “History.” Dangerous Drugs Board of the Philippines, <https://ddb.gov.ph/ddb-history/>

16 Memorandum Circular No. 89, “Implementation and Institutionalization of the National Anti-Drug Plan of Action”. 17 December 2015.

17 *Id.*

18 *Id.*

19 *Id.*

20 Robert Vergara, “Ex-PDEA Chief Says ‘Oplan Tokhang’ Should Be Renamed,” CNN Philippines, November 12, 2019, <https://www.cnnphilippines.com/news/2019/11/12/dionisio-santiago-oplan-tokhang-rename.html>

21 Manuel Mogato and Karen Lema, “Crime-Buster the Man to Beat on Eve of Philippines Election,” Reuters, May 8, 2016, <https://www.reuters.com/article/philippines-election-idINKCNOXZ037>

22 Anna Tasnim Basman and Rood Basman, “Philippine Elections: Politics and Peace Make Strange Bedfellows,” The Asia Foundation, May 18, 2016, <https://asiafoundation.org/2016/05/18/philippine-elections-politics-peace-make-strange-bedfellows/>

23 Emmanuel Tupas, “PNP: Crimes Drop by 64% in Duterte's Term,” The Philippine Star, July 11, 2021, <https://www.philstar.com/nation/2021/07/11/2111641/pnp-crimes-drop-64-dutertes-term>

The policy pronouncements on the “war on drugs” “point to a war waged mainly as a police operation with accomplishment/success pegged on an ever-lengthening trail of bodies and victims.”²⁴ It is evident that it was more of a police or law enforcement operation rather than an integrated or wholistic approach, which should have included the health aspect.

The lack of understanding of the drug problem, even the populist approach to it, “used the literature on ‘moral panic’ to explain the long-standing vilification of drugs in the country. Drawing on the literature on penal and medical populisms, more recent scholarship has implicated political actors in reflecting and reinforcing public attitudes about drugs, portraying these actors as ‘moral entrepreneurs’ who simplify, spectacularize, and forge divisions between ‘addicts’ and the virtuous public.”²⁵

To further add to the “moral panic,” Duterte not only called the drug problem a crisis, he even referred to it as a national security threat, “an invasion of a new kind.”²⁶ And indeed, with overwhelming public support, Duterte was successful in securitizing the drug problem in the Philippines as a criminal rather than a health issue, emphasizing that “the smugglers to the dealers to the end users [who] seek to destroy the fabric of society... forfeit their very right to live.”²⁷

It was more of a police or law enforcement operation rather than an integrated or wholistic approach, which should have included the health aspect.

The idea of “speedy justice” also added to the appeal of Duterte’s “war on drugs”. As noted by the International Committee of the Red Cross, “[t]he perception of a continuing failure of the Philippine criminal justice system to deliver fast and efficient justice has inevitably led to the erosion of public trust in the government. As a consequence, citizens are laden with anxiety because of unabated criminality and violence in their communities.”²⁸ The current state of criminal investigation in the country has been described as “slow and ineffective in prosecuting criminal cases and securing convictions in court.”²⁹ Consequently, as observed by criminal justice system expert Raymund Narag, “[e]xtrajudicial killings (EJKs) are justified for Filipinos because of the failure of the criminal justice system. It becomes a vicious cycle.”³⁰

24 Clyde Ben Gacayan, “Till Death(s) Do Us Part?: Policy ‘Design Trace’ of the Philippine Anti-Illegal Drug Campaign,” n.d. University of the Philippines - Center for Integrative and Development Studies. https://cids.up.edu.ph/wp-content/uploads/2020/10/Article_Gacayan.pdf

25 Gideon Lasco and Lee Edson Yarcia, “The Politics of Drug Rehabilitation in the Philippines.” *Health and Human Rights* 24 (1): 147–58, July 2022, <https://www.hhrjournal.org/2022/06/the-politics-of-drug-rehabilitation-in-the-philippines/>

26 Camille Diola, “How Duterte’s Drug War Can Fail,” *The Philstar*, September 19, 2016, <https://newslab.philstar.com/war-on-drugs/policy>

27 Henry Pope, “Philippines’ Duterte Says He Will Never Apologize for Drug War Deaths.” *Organized Crime and Corruption Reporting Project*, January 6, 2022, <https://www.occrp.org/en/daily/15739-philippine-s-duterte-says-he-will-never-apologize-for-drug-war-deaths>

28 Roy Panti Valenzuela, *Glimmers of Hope: A Report on the Philippine Criminal Justice System*, International Review of the Red Cross, 2018, <https://international-review.icrc.org/sites/default/files/irrc-903-8.pdf>

29 Senate of the Philippines: Press Release: De Lima Introduces Bill to Address Slow, Ineffective Justice System in the PH, Senate of the Philippines Website, July 4, 2019, https://legacy.senate.gov.ph/press_release/2019/0704_delima2.asp

30 Aye Macaraig and Agene France-Prese, “Slow Justice in Philippines as Drug War Rages,” *ABS-CBN News*, September 5, 2017, <https://news.abs-cbn.com/focus/09/05/17/slow-justice-in-philippines-as-drug-war-rages>

This has also been the pattern within the ASEAN (Association of Southeast Asian Nations).³¹ A research³² by the International Drug Policy Consortium, stated that drug policies in the region are usually made with a social context that disapproves of illicit drug use, constructing both intoxication and dependence as socially undesirable and a sign of moral weakness. This is a view that drugs diminish a person's social responsibility and it becomes a law and order issue – with drug use equated with criminal activity. Thus, drug laws focus on harsh punishment, allowing it to be, more or less, exclusively dominated by law enforcement agencies, with limited input from social and health disciplines. This point of view is evident in the “Bangkok Political Declaration in Pursuit of a Drug-Free ASEAN” adopted by the Association of Southeast Asian Nations in 2018.

V. Duterte Administration's Anti-Illegal Drug Policy: The Political Message and High-level Rhetoric

The “war on drugs” was heavily enabled by the high-level rhetoric from no less than President Duterte himself. In many of his statements, he ordered law enforcement to “shoot and kill” drug smugglers and users.³³ In his early days as president, he made a controversial remark comparing himself to Adolf Hitler, saying, “Hitler massacred three million Jews ... there are three million drug addicts. I'd be happy to slaughter them.”³⁴

President Duterte also made direct threats against drug users, saying in one speech, “Those who destroy my country, I will kill you. And those who destroy the young people of our country, I will kill you.”³⁵ On the eve of his 2016 election victory, he directly addressed drug pushers and users, saying, “If I make it to the presidential palace, I will do just what I did as mayor. You drug pushers, hold-up men, and do-nothings, you better get out because I'll kill you.”³⁶

On his second day as President, Duterte gave the following order to the Philippine National Police: “Do your duty and if in the process you kill 1,000 persons because you were doing your duty, I will protect you.” Again and again, Duterte committed his full backing to the police force, reiterating the promise that he would take care of them,³⁷ and allowing them to go all-out in the “war on drugs”, even if it meant “destroying human life”.³⁸

31 Association of Southeast Asian Nations (ASEAN), “ASEAN Good Practices and New Initiatives in HIV and AIDS,” ASEAN Website, 2014, <https://asean.org/wp-content/uploads/2021/03/63-2.pdf>

32 Simon Baldwin, “Drug Policy Advocacy in Asia: Challenges, Opportunities and Prospects,” International Drug Policy Consortium, 2013, <https://idhdp.com/mediaimport/43513/idpc-report-drug-policy-in-south-east-asia.pdf>

33 The Guardian, “‘If It's Drugs, You Shoot and Kill,’ Duterte Orders Philippine Custom Chief,” The Guardian, September 1, 2020, <https://www.theguardian.com/world/2020/sep/01/if-its-drugs-you-shoot-and-kill-duterte-orders-philippine-custom-chief> – “I told him straight, ‘Drugs are still flowing in. I'd like you to kill there ... anyway, I'll back you up and you won't get jailed. If it's drugs, you shoot and kill. That's the arrangement.’”

34 Megan Trimble, “9 of Rodrigo Duterte's Most Controversial Quotes,” U.S. News, December 19, 2019, <https://www.usnews.com/news/best-countries/slideshows/philippine-president-rodrigo-dutertes-9-most-controversial-quotes?slide=2>

35 Jim Gomez, “Philippine President Duterte Unabashedly Threatens to Kill Drug Dealers,” The Diplomat.com, July 27, 2021, <https://thediplomat.com/2021/07/philippine-president-duterte-unabashedly-threatens-to-kill-drug-dealers/>

36 Sebastian Strangio, “Duterte Says He Will ‘Never Apologize’ for Drug War Deaths,” The Diplomat.com, January 6, 2022, <https://thediplomat.com/2022/01/duterte-says-he-will-never-apologize-for-drug-war-deaths/>

37 Lim, Frinston and Nawal, Allan. 2018. “Duterte to Cops: Kill Criminals If You Have to, I'll Protect You.” Philippine Daily Inquirer, January 18, 2018. <https://newsinfo.inquirer.net/961396/duterte-to-cops-kill-criminals-if-you-have-to-ill-protect-you>

38 *Id.*

The President's statements were also addressed to the public, inciting public outrage against drug users and gaining support for his anti-drug policies. He went as far as saying that he would have his own son killed if the latter was involved in the drug trade.³⁹ This statement confirmed his commitment to go all out, sparing no one in the interest of the public. It is noted that many of his speeches circled around the narrative that drug users and traffickers are “destroying the country”, and that the “war on drugs” is needed “to save the country”. The drug war was also enabled by the rhetoric that criminals can be humiliated and killed in order to protect law-abiding and god-fearing Filipinos.⁴⁰

Such statements could have been interpreted as a “license to kill”, by both law enforcement and vigilantes.⁴¹ The repeated verbal encouragement by the President, together with the promise of impunity, popular support, and enabling policies, paved the way for government-orchestrated violence in the form of red-tagging, arbitrary arrests and detentions, and documented widespread and systematic killings.

Many of his speeches circled around the narrative that drug users and traffickers are “destroying the country”, and that the “war on drugs” is needed “to save the country”.

VI. Civil Society Engagement on Harm Reduction

Despite the popularity of *Tokhang* in Duterte's “war on drugs”, there have been efforts, though low in support and popularity, to push for harm reduction strategies as a response to the country's drug problem emphasizing “not only a compassionate response, [but] also the most effective response.”⁴² Senator Risa Hontiveros, a staunch advocate of harm reduction, emphasized that “[i]n order for our government to succeed in its campaign against illegal drugs and trafficking, we must also respond to the health and social issues that lead to drug dependence.”

The concept of harm reduction is not new in the Philippines. It has been used in addressing the spread of HIV-AIDS and has been advocated in the past by some civil society groups as well.⁴³ As explained by Senator Hontiveros, “Harm reduction strategies will allow the creation of friendly, community-based drop-in centers and outreach services, encourage the uptake of health services through improved peer education and support, and spend resources on sustainable, evidence-based policies and interventions at the community level.”

39 The Guardian, “Duterte Says His Son Will Be Killed If He Is Involved in Drugs,” *The Guardian Website*, September 21, 2017, <https://www.theguardian.com/world/2017/sep/21/philippines-duterte-son-will-be-killed-if-he-is-involved-in-drugs>

40 Danilo Andres Reyes, “The Spectacle of Violence in Duterte's ‘War on Drugs’,” *Journal of Current Southeast Asian Affairs* 35 (3): 111–137, <https://d-nb.info/1124904387/34>

41 United Nations High Commissioner for Human Rights, “Situation of Human Rights in the Philippines.” <https://www.ohchr.org/sites/default/files/Documents/Countries/PH/Philippines-HRC44-AEV.pdf>

42 Senate of the Philippines, “Press Release: Hontiveros: Harm Reduction Is the Most Effective and Compassionate Response to the Drug Problem,” Senate of the Philippines Website, September 15, 2016, https://legacy.senate.gov.ph/press_release/2016/0915_hontiveros1.asp

43 Armando F. de Jesus, Minerva P. Calimag, Maria Carinnes A. Gonzales and Fredrick I. Rey, “Unsafe Injecting Drug Use, a Growing Source of HIV Transmission in the Philippines: Implications to Policy: Policy Brief,” United Nations Development Programme, December 2012 <https://www.undp.org/sites/g/files/zskgke326/files/migration/p11fd23d4859b9152e57c6b78a26c13129ab1d8d9dc9f9a903f1e288bbd048037.pdf>

At present, the closest and most recognizable medical approach to the drug problem is rehabilitation. However, as observed in a paper⁴⁴, “[t]here is a dangerous tendency for reform advocates to condemn extrajudicial killings and due process rights violations as human rights concerns, while supporting rehabilitation as an acceptable alternative.” It emphasized that “the motivations behind gross human rights violations and forcing people to treatment are the same: the dehumanization of people who use drugs and the removal of their autonomy to decide on the treatment approaches that respond to their felt needs.” Clearly, this is an avenue for civic engagement.

Further, the DDB recognizes that “[t]he drug issue is undoubtedly a public health challenge that must be prioritized because it creates complex health and social problems”, and recommends a “rigorous anti-drug cleansing through the shared efforts of national government agencies, non-government organizations, faith-based groups and the private sector.”⁴⁵

Even the UN Resident Representative to the Philippines emphasized that “[b]reaking the cycle of drugs, marginalization and poor socioeconomic prospects requires programs that link ‘science-based drug use prevention and treatment’ as well as ‘policies that prevent individuals and communities from participating in drug trafficking and production’, with ‘efforts to improve public health, increase economic development and public security, and reduce socio-economic inequalities’.”⁴⁶

The UN Office on Drugs and Crime (UNODC) further explained that “[p]eople who use drugs are a heterogeneous population who may experience multiple and complex difficulties” and “problems may arise from a number of patterns of drug use and not just because someone is dependent on a drug.”⁴⁷



Source: Photo by Raffy Lerma
Mothers of extrajudicial killing victims join thousands of protesters along Commonwealth Avenue, Quezon City as President Rodrigo Duterte delivered his fourth State of the Nation Address on July 22, 2019.

The health aspect of the drug problem has been, and continues to be, one of the clear spaces for civic engagement in addressing the drug situation in the Philippines. But what are the consequences on peoples’ civic freedoms of this rhetorical and policy reframing of a health crisis as a security crisis and its manifestation in state violence and crackdown on civil society?

44 Gideon Lasco and Lee Edson Yarcia, “The Politics of Drug Rehabilitation in the Philippines.” *Health and Human Rights* 24 (1): 147–58, July 2022, <https://www.hhrjournal.org/2022/06/the-politics-of-drug-rehabilitation-in-the-philippines/>

45 Dangerous Drugs Board of the Philippines, “Major Programs & Projects,” Dangerous Drugs Board of the Philippines, n.d. <https://ddb.gov.ph/major-programs-projects/>

46 United Nations, “UN Philippines Chief Calls for Science-Based Prevention and Treatment to Break Cycle of Drug Abuse,” United Nations Website, June 16, 2021, <https://philippines.un.org/en/131561-un-philippines-chief-calls-science-based-prevention-and-treatment-break-cycle-drug-abuse>

47 United Nations Office on Drugs and Crimes, “Guidance for Community-Based Treatment and Care Services for People Affected by Drug Use and Dependence in Southeast Asia,” United Nations Office on Drugs and Crimes, April 2014, https://www.unodc.org/documents/drug-treatment/UNODC_cbt_x_guidance_EN.pdf

VII. Effect of the ‘War on Drugs’ on Civic Space

In the simplest sense, civic space is the space “where people come together to exercise their human rights and core freedoms.”⁴⁸ This space is important as it helps shape policies and governance. How big and conducive this space is to allow participation and debate depends on a set of legal conditions and governmental response that enables an environment for people to be active, participate, and speak out – for people to act.⁴⁹

Freedom of speech and expression is guaranteed by the Philippine Constitution which mandates that “[n]o 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.”⁵⁰ Furthermore, the Constitution recognizes the people’s right to “effective and reasonable participation at all levels of social, political, and economic decision-making” and mandates “the establishment of adequate consultation mechanisms.”⁵¹

The Asian Development Bank (ADB) noted that “civil society organizations (CSOs) in the Philippines engage in a broad range of activities, the most common being in (i) education, training, and human resource development; (ii) community development; (iii) enterprise development and employment generation; (iv) health and nutrition; (v) law, advocacy, and politics; and (vi) sustainable development.”⁵² To highlight how influential CSOs are, the ADB mentioned their “major roles in achieving Filipino independence from the Spanish and the Americans, in toppling the Marcos regime, and in ending the administration of President Joseph Estrada.”

The ADB emphasized that “the government has always maintained some openness to civil society. However, the democratic space for CSOs has been expanded or constricted through the years depending on the inclinations of those in power (both elected and appointed leaders and bureaucrats), the general political conditions, and the positioning of CSOs with the incumbent political leaders, among other factors.”⁵³

48 Lydia Cocom and James Savage, “What is Civic Space?”, The Fund for Global Human Rights, July 26, 2021, <https://globalhumanrights.org/commentary/fund-101-what-is-civic-space/>

49 *Id.*

50 PHILIPPINE CONSTITUTION, Article III, Section 4.

51 PHILIPPINE CONSTITUTION, Article XIII, Section 16.

52 Asian Development Bank, “Civil Society Briefs: Philippines,” February 2013. <https://www.adb.org/sites/default/files/publication/30174/csb-phi.pdf>

53 *Id.*

A. Civic Space Before the ‘War on Drugs’

Although there are groups that have been engaging the government regarding the drug problem in the country, particularly on harm reduction, such as NoBox Philippines, CSO participation in drug policymaking was pretty much undocumented before Duterte’s “war on drugs”. Prior to the “war on drugs”, there were neither attacks nor vilification of groups working on drug policy issues. Generally, the shrinking of civic space amid attacks or vilification of human rights advocates and groups, has been connected to the government’s counterinsurgency campaign.⁵⁴

But Duterte’s “war on drugs” raised barriers to the expansion or even the maintenance of civic space. One barrier is official bullying. Ideally, the approach of the Dangerous Drugs Act of 2002 involved an unrelenting campaign, an integrated system, a balance in the national drug control program addressing the legitimate medical needs of drug users, and working towards their reintegration into society. However, immediately upon the assumption of the Duterte Administration, when the heavy-handed Tokhang approach was employed, those who dared question the policy set down by the president faced dire consequences.

Immediately upon the assumption of the Duterte Administration, when the heavy-handed Tokhang approach was employed, those who dared question the policy set down by the president faced dire consequences.

For instance, Duterte fired the chairperson of the DDB when the latter said that his agency’s estimate of the number of drug users in the country was only 1.8 million, much lower than the 3 million figure often cited by the President to justify his “war on drugs”.⁵⁵ The same fate happened to his successor when he voiced out in media that the mega drug rehabilitation facility in Tarlac being bannered by Duterte as an accomplishment, was actually ineffective, a mistake.⁵⁶

Rather than basing his statements, figures and decisions on empirical data coming from the specialized government agencies, the President forced the agencies to follow and support what he said, even if his perception and data were questionable.

Another is Duterte’s skill in sizing up public opinion and his flexibility to adjust. There were two significant events that reshaped Duterte’s “war on drugs” in response to public opinion that shook his presidency. The first was in March 2017 when *Tokhang* was suspended for two months after rogue police officers used Oplan *Tokhang* to kidnap and kill Korean entrepreneur Jee Ick-joo. The crime happened right inside the National Headquarters of the Philippine National Police.⁵⁷

54 Center for International Human Rights, John Jay College of Criminal Justice, University of New York, “The Closing of Civic Space in the Philippines: Submission to the OHCHR for HRC Report 41/2.” http://www.jjay.cuny.edu/sites/default/files/News/cihr_report_to_ohchr_on_the_philippines.pdf

55 Jodesz Gavillan, “Duterte ‘Fires’ DDB Chair: You Do Not Contradict Your Own Gov’t.” *Rappler*, May 24, 2017, <https://www.rappler.com/nation/170839-duterte-fires-ddb-benjamin-reyes-contradict-government/>

56 Pia Ranada, “DDB Chief Dionisio Santiago Asked to Resign.” *Rappler*, November 7, 2017, <https://www.rappler.com/nation/187586-ddb-chief-dionisio-santiago-resignation/>

57 Lara Tan, “PNP Relaunches ‘less Bloody’ Oplan Tokhang.” *CNN Philippines*, March 7, 2017, <https://www.cnnphilippines.com/news/2017/03/06/Oplan-Tokhang-Part-2-war-on-drugs-PNP.html>

The second incident that negatively affected the “war on drugs” was the killing of a minor, 17-year-old Kian delos Santos, in August 2017 by police officers in Kalookan City in Metropolitan Manila. Despite self-serving claims by the police that Kian was a drug mule who shot it out with them, closed-circuit television footage revealed that Kian was escorted and shot to death by two police officers. The damning evidence led to the first and only conviction, thus far, related to the “war on drugs.”⁵⁸

After the killing of Kian, an independent survey showed a decline in Duterte’s satisfaction ratings. This led to the transfer of the government’s anti-drug operations from the PNP to the Philippine Drug Enforcement Agency (PDEA), at least publicly.⁵⁹

But despite Duterte’s popularity with the public and his control of the government, many civil society groups struggled to push back. Among these are groups advocating for more humane drug policies, and human rights groups working on a vast array of civil and political rights, such as the iDefend Movement (In Defense of Dignity and Human Rights)⁶⁰, the Philippine Alliance of Human Rights Advocates⁶¹, KARAPATAN⁶², and the movement Rise Up for Life and For Rights⁶³, among others. These groups have actively campaigned against impunity and for justice for all the victims of the “war on drugs”.

VIII. The Shrinking of Civic Space: Threats and Challenges

“If I become president, there’s no such thing as bloodless cleansing.”⁶⁴ Duterte said during his campaign for the presidency. He added that he would not hesitate to use “all forces of the government” in his “all-out war” against drugs.⁶⁵

Despite earning the ire of human rights defenders for the violent and bloody fulfillment of his campaign promise, Duterte maintained his popularity with the masses. His approach posed layers of problems for human rights advocates that resulted in the shrinking of civic space. Some of these were more direct, such as the government-orchestrated violence and attacks against justice actors and human rights defenders. Others are challenges in public perception and penal populism, as well as gaps in policy and access to justice mechanisms.

But at the core of these is the shrinking of civic space in the context of the “war on drugs” which was characterized by initiatives meant to incite fear and shame, to effectively dissuade groups and individuals from engaging and exercising their rights, as discussed below.

58 CNN Philippines Staff, “What We Know so Far about Kian’s Death.” *CNN Philippines*, August 24, 2017. <https://www.cnnphilippines.com/news/2017/08/24/timeline-kian-delos-santos-death.html>

59 Frances Mangosing, “PNP Officially Terminates Oplan Tokhang.” *Inquirer.Net*, October 12, 2017. <https://newsinfo.inquirer.net/937482/pnp-officially-terminates-oplan-tokhang-pnp-oplan-tokhang-pdea>

60 <https://www.idefend.ph>

61 <https://philippinehumanrights.org/about/>

62 <https://www.karapatan.org>

63 <https://www.facebook.com/RiseUpForLifeAndRights/>

64 Tricia Terada, “Five Vows, Five Years Later: A Lookback into Duterte’s Major Campaign Promises.” *CNN Philippines*, July 22, 2021. <https://www.cnnphilippines.com/news/2021/7/22/SONA-2021-Duterte-presidential-campaign-promises.html>

65 Ariel Paolo Tejada, “Duterte Vows to End Criminality in 3 Months.” *The Philippine Star*, February 20, 2016. <https://www.philstar.com/headlines/2016/02/20/1555349/duterte-vows-end-criminality-3-months>

A. Human Rights Defenders and Justice Actors

Even during his time as the long-term mayor of Davao City, the human rights community was critical of Duterte's "war on drugs". His drug war and the infamous "Davao Death Squad" were the subject of numerous national and international calls for investigation, even before he was elected president of the Philippines. When the drug war became a matter of national policy, the human rights community was vocal in its opposition and came together to help its victims obtain justice, both in the domestic and international fora, particularly the families of those who were killed.

The President lost no time sending the message that if they stand in the way of his "war on drugs", human rights activists would be killed together with the drug addicts.⁶⁶ In a speech, he blasted the human rights community's condemnation of the drug war saying, "Human rights defenders said I ordered the killings so I told them, 'Okay, let's stop and let [drug users] multiply so when it's harvest time, there will be more deaths. I will include you because you let them multiply'."⁶⁷ In another speech, he instructed the PNP to "shoot those who are part of [drug activity]. If they [members of human rights organizations] are obstructing justice, you shoot them."⁶⁸

Since the "war on drugs" began, human rights defenders have reported a surge of attacks, extrajudicial killings, surveillance, defamation campaigns, and unfounded terrorist accusations against them. In particular, human rights defenders who have exposed the killings resulting from the Duterte administration's "war on drugs" have been accused of working against the interests of the country.⁶⁹

Since the "war on drugs" began, human rights defenders have reported a surge of attacks, extrajudicial killings, surveillance, defamation campaigns, and unfounded terrorist accusations against them.

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

67 Jodesz Gavilan, "CHR in 2016: 'We Are Not Enemies of the Fight against Drugs.'" *Rappler*, December 3, 2016. <https://www.rappler.com/newsbreak/in-depth/154217-2016-chr-human-rights-duterte-drugs-war/>.

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

69 The Observatory for the Protection of Human Rights Defenders, "'I'll Kill You Along with Drug Addicts' President Duterte's War on Human Rights Defenders in the Philippines." https://www.omct.org/files/2019/02/25257/philippines_hrd_report_2019.pdf

The Observatory for the Protection of Human Rights Defenders, in documenting and assessing the massive deterioration of the situation of human rights defenders under the Duterte administration, stated in a report that numerous CSOs reported “increased surveillance, intimidation, threats, and harassment from local authorities”.⁷⁰ There was also a proliferation of suspected fake accounts or bots on social media, which were used to send death threats and other malicious messages to them. Moreover, “At least five members of iDEFEND reported they had been listed as ‘persons of interest’ on PNP and AFP watch lists. Social workers assisting drug war victims’ families were warned by police against intervening in cases where people have been killed in the “war on drugs”. Several NGOs reported decreased cooperation from various government departments while trying to access information and public records on the “war on drugs”.⁷¹

B. Church Groups

Among the drug war’s most vocal critics are the Catholic Church and related faith-based organizations. It is no secret that the Church has operated a network that hides the targets and aids widows and orphaned children, serving as a refuge for victims of *Tokhang* and their families.⁷² This invited a number of tirades from President Duterte, who made remarks such as, “Who is this stupid God?”⁷³ and calling bishops “sons of bitches”, “homosexuals”⁷⁴, and “useless fools”. He even called on the community to “kill them”.⁷⁵

At the height of the drug war, several pastoral letters issued by the Catholic Bishops’ Conference of the Philippines (CBCP) labeling the anti-drug crusade a “reign of terror” were read during Sunday Mass.⁷⁶ President Duterte responded to this by addressing the Catholic community, saying: “You Catholics, if you believe in your priests and bishops, you stay with them. If you want to go to heaven, then go to them. Now, if you want to end drugs ... I will go to hell, come join me.”

Church leaders were included by the President in his so-called “narco-list” which identified high level personalities allegedly involved in the drug trade. In one speech, President Duterte explicitly addressed Bishop Pablo Virgilio David of Kalookan, a consistent drug war critic, saying: “I am puzzled why you always go out at night. I suspect, son of a b****, you are into illegal drugs”. The allegation came with a threat: “Bishop, ask someone to buy drugs for you. I will decapitate you.”⁷⁷

70 Rappler, ‘Demonizing’ human rights in the first year of Duterte, Rappler Website, June 26, 2017. <https://www.rappler.com/newsbreak/in-depth/171558-demonizing-human-rights-rodrigo-duterte-first-year/>

71 Supra note 69.

72 Poppy McPherson, “‘Open the Doors’: The Catholic Churches Hiding Targets of Duterte’s Drug War.” *The Guardian*, February 28, 2017. <https://www.theguardian.com/world/2017/feb/28/catholic-churches-hiding-targets-of-dutertes-drug-war>

73 Dan Manglinong, “Duterte Has Been Seen Praying and Kneeling. But He Calls God ‘Stupid.’” *Interaksyon*, June 25, 2018. <https://interaksyon.philstar.com/breaking-news/2018/06/25/129336/duterte-complicated-relationship-with-god-catholic-church/>

74 Reuters Staff, “Philippine President Renews Attack on Catholic Church,” *Reuters*, January 10, 2019. <https://www.reuters.com/article/us-philippines-duterte-church-idUSKCN1P41JH>

75 Ted Regencia, “Philippines’ Duterte: ‘Kill Those Useless Bishops.’” *Aljazeera*. December 5, 2018, <https://www.aljazeera.com/news/2018/12/5/philippines-duterte-kill-those-useless-bishops>

76 Supra note 72.

77 Dan Manglinong, “Duterte Trading Barbs with Bishop Months after Repairing Ties with Church,” *Interaksyon*, November 27, 2018, <https://interaksyon.philstar.com/politics-issues/2018/11/27/139168/church-and-state-duterte-trading-barbs-with-bishop-months-after-repairing-ties-with-church/>

Accompanying these attacks by the President, was a series of death threats against church leaders who are vocal critics of the drug war. Though not proven to be directly linked to the drug war, there have been three documented killings of priests. That two out of the three killings were committed right at the altar shows how strong the culture of impunity is.⁷⁸ The killings got the attention of the Senate as Senator Risa Hontiveros filed a resolution urging the Senate Committee on Public Order and Dangerous Drugs to conduct an investigation of the attacks that “came on the heels of continued verbal attacks by President Rodrigo Duterte on the Catholic Church and its religious leaders.” Senator Hontiveros added: “These verbal attacks as well [as] the dismissive attitude towards the killings may result in even more priest-murders and other acts of violence against members of religious communities.”

Hontiveros added, “Given this current political climate, these killings further reinforce the culture of impunity to silence valid Church-led criticisms on state policies, particularly those with respect to human rights and due process.”⁷⁹

C. Lawyers and Judges

President Duterte also issued threats addressed to lawyers whom he accused of employing circuitous judicial processes to enable their clients to continue their involvement in the drug trade. He ended his statement with a warning that, “Even their lawyers, I will include them.”⁸⁰

As of March 2021, the number of lawyers killed under any presidential administration had reached a record high – with 61 lawyers down five years into Duterte’s term.⁸¹ The National Union of People’s Lawyers (NUPL) states that of the 61 incidents, 54 were work-related; the victims of the attacks were either defense lawyers who handled drug cases or were involved in human rights and public interest lawyering.⁸² NUPL further said, “These attacks produce a chilling effect which affects the performance of their sworn duties to the courts, their clients, their colleagues and the society. Filipino lawyers, right now, fear that they might be the next victims of these attacks.”⁸³

Judges were not spared inclusion in Duterte’s narco-list, where he named more than 150 officials from the judiciary, police, and local governments allegedly involved in the drug trade. Upon checking, it was found that the list included a judge who has been dead for almost ten years, a judge who was dishonorably discharged in 2007, a judge who has already retired, and judges who have no jurisdiction over drug cases.⁸⁴ The initial narco-list released in 2016 was followed by another list in 2019 that allegedly involved 13 other judges.⁸⁵

78 Rappler.com, “Suspect in Killing of Father Richmond Nilo Arrested in Quirino.” *Rappler*, October 6, 2018, <https://www.rappler.com/nation/213678-suspect-bernie-limpio-arrested-richmond-nilo-murder/>

79 Camille Elemia, “Senate to Investigate Killings of Priests,” *Rappler*, June 13, 2018, <https://www.rappler.com/nation/204821-senate-investigate-killings-filipino-priests/>

80 Marlon Ramos, “Duterte Warns Drug Lords’ Lawyers,” *Inquirer.net*, October 13, 2017, <https://newsinfo.inquirer.net/852028/duterte-warns-drug-lords-lawyers>

81 Carlos Conde, “Record High Killing of Philippine Lawyers.” *Human Rights Watch*, March 15, 2021, <https://www.hrw.org/news/2021/03/15/record-high-killing-philippine-lawyers>

82 Mike Navallo, “UN Rapporteur Urged to Probe Attacks on Philippine Lawyers.” *ABS-CBN News*, March 15, 2021, <https://news.abs-cbn.com/news/03/15/21/un-rapporteur-urged-to-probe-attacks-on-philippine-lawyers>

83 *Id.*

84 Rappler.com, “The Duterte List: Judges, Mayors, Police Officials Linked to Drugs.” *Rappler*, August 7, 2016, <https://www.rappler.com/nation/142210-duterte-list-lgu-police-officials-linked-drugs/>

85 Jerald Ulep, “13 ‘Narco-Judges,’ Nais Imbestigahan Ng Supreme Court.” *Bombo Radyo Philippines*, April 1, 2019, <https://www.bomboradyo.com/13-narco-judges-nais-imbestigahan-ng-supreme-court>

The inclusion of judges in the narco-list triggered a reaction from then Chief Justice Maria Lourdes Sereno, who wrote a letter to the President reminding him that the Supreme Court is the sole entity tasked to discipline judges. She lamented that the President's public announcement could jeopardize court proceedings and the safety of the entire judiciary. She wrote: "Moreover, because of the extrajudicial killings, which you had spoken out against, perpetrated by persons and groups that remain unidentified, our judges may have been rendered vulnerable and veritable targets for any of those persons and groups who may consider judges as acceptable collateral damage in the 'war on drugs'."⁸⁶

In response, the President unleashed a series of attacks against the Chief Justice, calling her "ignorant", "dumb", and a "coward". She was eventually removed from the Supreme Court by her colleagues through a *quo warranto* action. United Nations Special Rapporteur on the Independence of Judges and Lawyers Diego García-Sayán observed, "The unprecedented decision of the Supreme Court of the Philippines seems directly related to the threats made against the Chief Justice in relation to her professional activities in defense of the independence of the judiciary."⁸⁷

D. Lawmakers and the Political Opposition

President Duterte also launched his attacks against members of the political opposition who are critical of the drug war. The one who has borne the brunt of his ire is former Senator Leila de Lima, a long-time critic of President Duterte, who investigated the drug-related killings in Davao when Duterte was Mayor, in her capacity as the Chairperson of the Commission on Human Rights.⁸⁸ An incumbent Senator, she has been detained on unsubstantiated drug charges since 2017. The attacks against Senator de Lima began after she filed a resolution in the Senate on July 13, 2016, to investigate the "rampant extrajudicial killings and summary executions of suspected criminals."⁸⁹ In August 2016, as Chair of the Senate Committee on Justice and Human Rights, de Lima convened hearings on the killings of hundreds of victims that were carried out in Davao City as part of then Mayor Duterte's "war on drugs."⁹⁰ Making no secret of his personal vendetta against de Lima, President Duterte pledged to "destroy her in public."⁹¹

Also at the receiving end of Duterte's attacks were Senator Risa Hontiveros, former Senator Antonio Trillanes, and former Vice President Leni Robredo. In 2019, the three were charged with the crimes of Sedition, Inciting to Sedition, Cyberlibel, Libel, Estafa, Harboring a Criminal, and Obstruction of Justice, together with activist lawyers, private citizens, and members of the clergy.⁹²

86 Rappler.com, "FULL TEXT: Sereno's Letter to President Duterte," *Rappler*, August 8, 2016, <https://www.rappler.com/nation/142329-full-text-sereno-letter-duterte-judges/>

87 Judicial Independence in Philippines Is under Threat, Says UN Human Rights Expert," OHCHR, Accessed February 1, 2023, <https://www.ohchr.org/en/press-releases/2018/06/judicial-independence-philippines-under-threat-says-un-human-rights-expert>

88 Carolyn O. Arguillas, "De Lima: CHR Will Prove There Is a Davao Death Squad," *MindaNews*, April 17, 2009, <https://www.mindanews.com/c166-the-davao-killings/2009/04/de-lima-chr-will-prove-there-is-a-davao-death-squad/>

89 Diane Louys, *I'll Kill You Along with Drug Addicts: President Duterte's War on Human Rights Defenders in the Philippines* (Observatory for the Protection of Human Rights Defenders, 2019), https://www.omct.org/files/2019/02/25257/philippines_hrd_report_2019.pdf

90 Bea Cupin, "Dela Rosa to Senate: We Are Not Butchers," *Rappler* August 23, 2016, <https://www.rappler.com/nation/143942-pnp-ronald-dela-rosa-illegal-drugs-butchers/>

91 Trisha Macas, "Duterte to a Critic: 'I Will Destroy Her,'" *GMA News Online*, August 12, 2016 <https://www.gmanetwork.com/news/topstories/nation/577315/duterte-to-a-critic-i-will-destroy-her/story/>

92 Glee Jalea, "Robredo, Opposition Members Cleared, Trillanes Charged with Sedition," *CNN Philippines*, February 10, 2020, https://www.cnnphilippines.com/news/2020/2/10/trillanes-robredo-sedition.html?fbclid=IwAR0QHgdjAiNQMmA4wWRsExbsiJsYW0F6RmtOLdJhN9PgCH-VmzEzRjHH_w

It is worth mentioning that in response to Vice President Robredo's public statements critical of the "war on drugs", Duterte appointed her as co-chair of the Inter-agency Committee on Anti-Illegal Drugs (ICAD), only to remove her less than three weeks later, when she proved to be too focused and conscientious on the job.⁹³

E. Commission on Human Rights (CHR)

After his second State of the Nation Address, President Duterte declared that he wanted the CHR, a constant and persistent critic of the drug war, abolished for "obstructing justice." The Congress immediately heeded his call and gave the CHR an unrealistic budget of Php 1,000 (less than 20 USD) for the year 2018.

As the CHR probed deeper into the drug war, its attempts to conduct investigations were blocked by government agencies that refused to give the agency access to crucial documents.⁹⁴ CHR Commissioners reported difficulty in obtaining detailed documentation from the PNP of cases where victims were killed in connection with the "war on drugs".⁹⁵ At one point, the PNP agreed to provide the CHR with case files of deaths involving police operations as part of the "war on drugs", but this was taken back when Duterte declared that "all investigations to be conducted on police and military actually pertaining to human rights violation[s]" had to be cleared with him.⁹⁶

Attempts to discredit the CHR included making personal attacks against its Chair, the late Jose Luis Martin 'Chito' Gascon, publicly calling him an "idiot" and a "fair-skinned fool."⁹⁷ In another instance, Duterte asked Gascon if he was "gay" or "a pedophile" after the CHR voiced concern over the alleged killing by police of teenagers in the "war on drugs".⁹⁸ Members of the CHR also reported receiving harassment and threats online from the public, accusing them of being protectors of criminals, and for allegedly not taking action on human rights violations of past administrations.⁹⁹

F. Media.

Two major media – *Rappler*, the on-line news outlet, and the *ABS-CBN* radio and television network – faced dire consequences for their critical reporting on the drug war. *Rappler* was charged in a string of cases¹⁰⁰ – one filed by the Solicitor General before the Securities and Exchange Commission that led to the revocation of its certificate of incorporation, which is still being legally contested by *Rappler*;¹⁰¹ a criminal case for tax evasion against *Rappler* founder, the Nobel peace laureate Maria Ressa, that she recently won when she was acquitted by the Court of Tax Appeals;¹⁰² and a cyber libel suit filed against Ressa that led to her conviction, and is currently on appeal before the Supreme Court.¹⁰³

93 Ina Andolong and Xave Gregorio, "Duterte Fires Robredo from Anti-Drug Czar Post," *CNN Philippines*, November 24, 2019, <https://www.cnnphilippines.com/news/2019/11/24/Rodrigo-Duterte-Leni-Robredo-fired-ICAD.html>

94 *Supra note 89*.

95 Jodesz Gavilan, "CHR in 2016: 'We Are Not Enemies of the Fight against Drugs,'" *Rappler*, December 3, 2016, <https://www.rappler.com/newsbreak/in-depth/154217-2016-chr-human-rights-duterte-drugs-war/>; Jodesz Gavilan, "'Puro Dribble': CHR Hits PNP for Not Cooperating in Drug War Probes," *Rappler*, August 24, 2017, <https://www.rappler.com/nation/179928-chr-hits-pnp-failure-cooperate-probes-drug-war-killings/>

96 Rambo Talabong, "Duterte Ordered Police Not to Share Files with CHR – DILG," *Rappler*, September 8, 2017, <https://www.rappler.com/nation/181519-duterte-order-pnp-chr-refuse-share-case-folders/>

97 *Supra note 89 citing* Karlos Manlupig and Tarra Quismundo, "Duterte Calls CHR Chair Idiot," *Inquirer.net*, May 27, 2016, <https://newsinfo.inquirer.net/787771/duterte-calls-chr-chair-idiot>; *The Philippine Star*, "Duterte Slams CHR Chief: Are You a Pedophile?" *The Philippine Star*, September 16, 2017, <https://www.philstar.com/headlines/2017/09/16/1739962/duterte-slams-chr-chief-are-you-pedophile>; Pia Ranada, "Duterte Warns He'll Order Shooting of Human Rights Advocates," *Rappler*, August 16, 2017, <https://www.rappler.com/nation/178968-duterte-probe-shoot-human-rights-advocates/>

98 *Supra note 89*.

99 *The Philippine Star*. "Duterte Slams CHR Chief: Are You a Pedophile?" *The Philippine Star*, September 16, 2017, <https://www.philstar.com/headlines/2017/09/16/1739962/duterte-slams-chr-chief-are-you-pedophile>

100 Carlos Conde, "[OPINION] A New Weapon against Press Freedom in the Philippines," *Rappler*, December 6, 2018, <https://www.rappler.com/voices/thought-leaders/218315-court-cases-new-weapon-against-press-freedom-philippines/>

101 CNN Philippines Staff, "TIMELINE: Rappler-SEC Case," *CNN Philippines*, June 30, 2022, <https://www.cnnphilippines.com/news/2022/6/30/Rappler-SEC-case-timeline.html>

102 Heather Chen, Kathleen Magramo, and Angus Watson, "Nobel Laureate Maria Ressa Cleared by Philippine Court of Tax Evasion," *CNN*, January 18, 2023, <https://www.cnn.com/2023/01/17/asia/maria-ressa-court-verdict-acquittal-intl-hnk/index.html>

103 *Id.*

ABS-CBN, on the other hand, was denied the renewal of its congressional franchise when it expired during the incumbency of the Duterte administration. Various unfounded issues were hurled against the network to justify the denial of the franchise – from alleged tax evasion to alleged violations of labor laws.¹⁰⁴

As the Human Rights Watch researcher in the Philippines put it, “[W]hat’s being done to *Rappler* reflects the Duterte administration’s wider confrontational attitude toward the media. Through social media, the President’s office has unleashed its attack dogs on news organizations and journalists who report critically on the drug war.”¹⁰⁵

G. Public Perception

Some sectors perceived the “war on drugs” as one backed by “popular justice”, which meant that the support for EJKs was a “form of communal self defense” when the legal system was perceived as being too slow, ineffective, and dysfunctional in addressing crimes. The political rhetoric generated by President Duterte in his speeches and other communications using exaggerated stories and threats to kill, evoked public rage to act on this perceived threat. This “moral panic” made more acceptable, even desirable, the framing of the “heroic saga” of the “war on drugs”.¹⁰⁶

To illustrate, President Duterte said in one of his speeches: “*Kaya ang sakit talaga ng loob ko na makita ko ang sakripisyo nila, binababoy nitong durugista. If you know better, huwag ka talagang magkumpiyansa diyan sa human rights na iyan, kay pati iyan sabayin ko kayo putulan ng ulo. Hindi ako madala ng ganoong takot. Ikulong mo ako eh di ikulong mo ako.*” (“That’s why I feel bad when I see that the sacrifices of the people are simply disregarded by these drug addicts. If you know any better, you will not depend too much on human rights, because if you do, I will behead you. I do not fear them. If you will jail me, then jail me.”)¹⁰⁷

This illustrates Duterte’s use of a *justification strategy*, which claims that an alleged instance of illegitimate state killing was actually legitimate and within acceptable norms, and that is, to preserve the peace and the Filipino family.

Another strategy he used is *othering*, which identifies persons who use drugs as “non-human” in order to fuel and make palatable his violent policies. In a public address, Duterte rhetorically questioned the humanity of drug users: “Are they human? What is your definition of a human being? Tell me.”¹⁰⁸

In effect, people see persons who use drugs as non-human, assuming that criminality has taken away their humanity, and it also puts in a negative light those who see drug users as human, regardless of their criminal activities and behavior. This *othering* strategy creates an illusion of us-versus-them, and regards persons who use drugs and those who care for them as excluded from humanity.¹⁰⁹

104 Eimor Santos, “House Panel Denies ABS-CBN’s Bid for Fresh Franchise,” *CNN Philippines*, July 10, 2020, <https://www.cnnphilippines.com/news/2020/7/10/abs-cbn-franchise-denied-.html>

105 Carlos Conde, “[OPINION] A New Weapon against Press Freedom in the Philippines,” *Rappler*, December 6, 2018, <https://www.rappler.com/voices/thought-leaders/218315-court-cases-new-weapon-against-press-freedom-philippines/>

106 Jon Fernquest, “State Killing, Denial, and Cycles of Violence in the Philippines,” *Philippine Sociological Review* 66: 5–34, <https://www.jstor.org/stable/26905842>

107 Trisha Macas, “Duterte Threatens to Behead Human Rights Advocates,” *GMA News Online*, May 18, 2017, <https://www.gmanetwork.com/news/topstories/nation/611343/duterte-threatens-to-behead-human-rights-advocates/story/>

108 Delfo C. Canceran, “‘We are Humans’: Counternarratives of Drug Users in a Philippine Rehabilitation Facility,” *Philippine Sociological Review* 66: 91–110, <https://www.jstor.org/stable/26905845>

109 *Id.*

By defining persons who use drugs (PWUD) as non-human, Duterte employed a strategy which allowed greater acceptance of the denial of their human rights, and the increasing complacency/acceptance of the public when police authorities “neutralized” them.

The Duterte administration intentionally demonized human rights defenders to the public which led to a distortion of human rights and the public image of its advocates. On August 16, 2017, Duterte alleged that human rights organizations criticized the “war on drugs” to protect drug criminals saying, “When it comes to criminals, you [human rights organizations] will proclaim, ‘human rights violations’ [to protect them].”¹¹⁰ The government went even a step further, tagging human rights groups as drug coddlers. Then Presidential Spokesperson Harry Roque stated that the government did not discount the possibility that some human rights groups had become “unwitting tools of drug lords to hinder the strides made by the administration.” The statement was issued after then-Foreign Affairs Secretary Alan Peter Cayetano claimed that some human rights groups were being “unwittingly used by drug lords” to destabilize the government and discredit its “war on drugs”.¹¹¹

Even the CHR was not spared from being demonized for criticizing the drug war and invoking the rights of persons who use drugs. The attacks against the Commission sought to diminish its credibility, undermine public trust in the body, and threaten its ability to fulfil its mandate. The Duterte administration vilified the CHR for defending the rights of those killed in the drug war, alleging that it put more weight on the rights of the persons who use drugs over the rights of their actual victims.

Duterte alleged that “most of the time, the Commission on Human Rights defends criminals.” This started the trend on-line, “*Nasaan ang CHR?*” (Where is the CHR?) that questioned the Commission’s supposed inaction on other human rights issues. This was addressed by the CHR which reminded the public that its mandate is to ensure respect of human rights by the State, first and foremost. However, the damage had been done after the disinformation campaign against it went viral in social media.

In the meantime, the satisfaction rating on the anti-illegal drugs campaign of the Duterte Administration remained excellent.¹¹² There was a public perception that families were much safer because of it.¹¹³ The slow justice system described earlier, further supported the idea that indeed the “war on drugs” was the right way to go. This also shrank the public space for critical dissent and dialogue over the “war on drugs”.

110 Pia Ranada, “Duterte Warns He’ll Order Shooting of Human Rights Advocates,” *Rappler*, August 16, 2017, <https://www.rappler.com/nation/178968-duterte-probe-shoot-human-rights-advocates/>

111 Nestor Corrales, “Palace Insists: Rights Groups ‘Unwitting Tools of Drug Lords,’” *Inquirer.net*, March 27, 2018, <https://newsinfo.inquirer.net/978431/palace-insists-rights-groups-unwitting-tools-of-drug-lords>

112 Social Weather Stations, “Second Quarter 2019 Social Weather Survey: Net Satisfaction with Anti-Illegal Drugs Campaign at ‘Excellent’ +70,” *Social Weather Stations*, September 22, 2019, <https://www.sws.org.ph/swsmain/artclisppage/?artcsyscode=ART-20190922154614>

113 Social Weather Stations, “Third Quarter 2019 Social Weather Survey: Families victimized by common crimes subside to 5.6%,” *Social Weather Stations*, October 30, 2019, <https://www.sws.org.ph/swsmain/artclisppage/?artcsyscode=ART-20191030164733>

IX. The Effect of the ‘War on Drugs’ on Public Engagement

The atmosphere for dialogue has been damaged by the hate and intolerance that has dominated social media. Hateful and abusive statements from top level officials has trickled down to the masses, inciting rage and even violence against persons who use drugs and the organizations that care for them.

This environment of hate and intolerance is further enabled by the slow and dysfunctional justice system, the gaps in drug policies, and the narrowing avenues for public participation. As it stands, the policy emanating from the top, and the policy as applied in the streets, are grounded on the use of violence and humiliation, which incites fear and shame on those whose rights are trampled upon.

In summary, the shrinking of civic space due to the drug war has been brought about by: (i) fear of attacks against life and liberty; (ii) fear of social exclusion; (iii) shame caused by the stigma on a person who uses drugs or by association with them; (iv) the slow justice system; and (v) the inaccessibility of accountability mechanisms.

X. Efforts to Maintain the Civic Space

Aside from the pushback and protests mounted by various human rights groups, the following tracks are being used to resist the shrinking of civic space:

A. Access to Justice and Human Rights Compliance

The Philippines is currently engaged in a technical cooperation and capacity building program with the United Nations called the UN Joint Program on Human Rights (UNJP). This was brought about by UN Human Rights Council Resolution 45/33 “[c]ondemning all acts of intimidation and reprisal, both online and offline, by State and non-State actors against individuals and groups working to promote and protect human rights and those who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights.”¹¹⁴ Through the UNJP, there are opportunities to engage in six focus areas: (i) Accountability; (ii) Improved data of human rights violations by the police; (iii) Strengthened engagement with international human rights mechanisms; (iv) Strengthened human rights capacity of civil society and broader human rights engagement on critical areas; (v) Human rights based approach to drug control; and (vi) Counter-terrorist legislation.

114 “A/HRC/51/58: Implementation of Human Rights Council Resolution 45/33 and on the Progress and Results of Technical Cooperation and Capacity Building for the Promotion and Protection of Human Rights in the Philippines,” OHCHR, September 13, 2022, <https://www.ohchr.org/en/documents/country-reports/ahrc5158-implementation-human-rights-council-resolution-4533-and-progress>

B. UN Joint Program on Human Rights

Although the UNJP is only a three-year program, there are opportunities to open up spaces for engagement due to civil society membership in the Steering Committee and the different technical working groups.

C. International Criminal Court

Another avenue to push back and press for accountability is the current situation in the Philippines that is being considered by the International Criminal Court. Currently, the Philippines is under investigation for crimes against humanity through murder “allegedly committed on the territory of the Philippines between 1 November 2011 and 16 March 2019 in the context of the Government of the Philippines’ ‘war on drugs’ campaign.”¹¹⁵

D. Narrative Change

Alternative forms of resistance have also been taken to counter the negative narratives used by the Duterte administration. Groups such as RESBAK and Night Watch or Nightcrawlers have used their respective crafts to change the narratives and make the public more aware of the true effects of Duterte’s drug war.

E. Harm reduction and public health

Continued engagement on harm reduction and public health is an avenue worth pursuing. If there is any indirect benefit that can be cited from Duterte’s “war on drugs”, there is now more heightened awareness of the health aspect of the drug problem. There are opportunities present to promote policies that go beyond incarceration and rehabilitation.

XI. Reclaiming Civic Spaces

In the end, it is the attraction of populism and overwhelming state violence perpetrated in the name of public security, that perpetuates a weak and disempowered civil society base and shrinks civic space.

The pushback from civil society, limited as it is, has shown how civic space can be reclaimed through a multifaceted strategy that centers on humanity, health, and respect for human rights.

The pursuit of the following actions has worked to repel the forces of violence, and reclaim civic spaces, one step at a time.

The pushback from civil society, limited as it is, has shown how civic space can be reclaimed through a multifaceted strategy that centers on humanity, health, and respect for human rights.

115 “ICC Pre-Trial Chamber I Authorises Prosecutor to Resume Investigation in the Philippines,” International Criminal Court, January 26, 2023, <https://www.icc-cpi.int/news/icc-pre-trial-chamber-i-authorises-prosecutor-resume-investigation-philippines>

A. Humanize the victims by presenting their narratives

With the thousands killed and the regularity of the killings in the name of the drug war, the public has, unwittingly, been numbed to the violence. Humanizing the victims stirs a feeling of connectedness among the public. The story of Kian as a minor and a student who pleaded for his life saying that he had an exam the next day¹¹⁶ humanized him to the public and resulted in a public outcry that made President Duterte rethink his strategy for his drug war.

B. Use technology to aid in documentation of violations and for prosecution

It helped that in the case of Kian, there was a closed-circuit television footage that was used by the media to make the public realize what actually happened. This same footage was used to help secure the conviction of the perpetrators. This highlights the need for improving technological capacity in the Philippines, including forensics capability, to successfully prosecute crimes, since vast numbers of prosecutions still rely merely on witness testimony.

C. Use the justice system

There is a need to earnestly seek justice and use the justice system, domestically or internationally. Only through the use of accountability mechanisms can impunity for human rights violations be addressed.

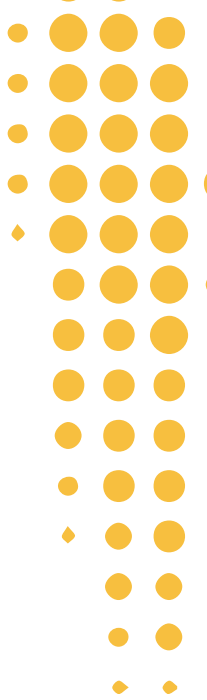
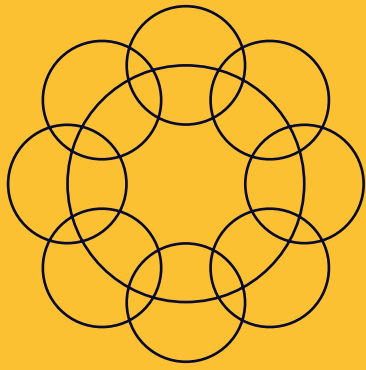
D. Continued advocacy for good governance and local engagement

It helped that in the case of Kian, the local government of Kalookan City was proactive in addressing the damage wreaked by Duterte's drug war. This highlights the importance of working towards good governance by public officials, and working with local government officials as part of the checks and balances to national policies that may be detrimental to human rights and civic spaces.

E. Creative communications

Lastly, there must be efforts to counter populist approaches that abound in many social media platforms. These compete with and overwhelm legitimate and traditional media which follows strict ethical conduct in its reporting. As such, there must also be communication strategies employed to deliver legitimate and credible news to the public.

116 Edu Punay, "Kian Begged for His Life before Cops Shot Him," *The Philippine Star*, October 3, 2017, <https://www.philstar.com/headlines/2017/10/03/1745309/kian-begged-his-life-cops-shot-him>



Not Safe: Securitization of the COVID-19 Crisis and its Impact on Civic Space in the Philippines

Mary Jane N. Real



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Groceries operate and implement safety measures during COVID-19 in the Philippines.

I. Summary

This research focuses on the response of the administration of President Rodrigo Duterte to the COVID-19 health crisis. Specifically, it probes the central role of the national government in declaring a “war against COVID-19” as it rolled out a national action plan that resulted in a securitized approach to the pandemic.

It examines the domestic translation of global and regional imperatives to manage the spread of the COVID-19 virus. While the activism of civil society against securitization in the context of the internet is discussed in another paper in this series, this research closely documents the experiences of civil society – specifically the impact on civic space – and their strategies of resistance to push back the government’s heavy-handed approach to the health emergency. It foregrounds possibilities for more inclusive and expansive expressions of activism to counter the shrinking civic space central to upholding democracy in the country. Informing this research are the contestations between upholding the human right to health, and the consequent violations of fundamental freedoms.

II. Global Directives and Securitized Concept of ‘Safety’

On 30 January 2020, The World Health Organization (WHO) declared the virus outbreak in China a global health emergency,¹ and thereafter named the new disease COVID-19, short for Coronavirus Disease 2019².

At around the same time, the Department of Health (DOH) in the Philippines confirmed the first COVID-19 case in the country – a female Chinese national who travelled to the Philippines from Wuhan, China via Hong Kong.³ On 2 February 2020, the DOH confirmed the second case, another Chinese national who was the companion of the Chinese woman from Wuhan who travelled to the country. The patient died following admission at a hospital the day before. According to WHO, this was the first reported case of a COVID-19 related death outside China.⁴

By 11 March 2020, WHO Secretary-General Tedros Adhanom Ghebreyesus declared the spread of the COVID-19 virus a global pandemic.⁵ For over two years since then, COVID-19 cases spread throughout the country. As of 12 December 2022, the total of reported cases reached over four million.⁶

The WHO released its 2019 Novel Coronavirus (2019-nCoV): Strategic Preparedness and Response Plan on 4 February 2020 to guide countries in developing their own national and regional operational plans. The global plan explicitly requires that member states “must take a whole-of-society and whole-of-government approach” in scaling up their respective country readiness and response operations.⁷ The Philippine government, in drafting its National Action Plan against COVID-19 (NAP COVID-19), reiterated this directive. At least on paper, the National Task Force against COVID-19 (NTF-COVID-19) mandated to implement the plan characterized it as “people-centered, local government unit-led, and nationally-enabled” in its approach.⁸

As the outbreak of the virus worsened, the WHO COVID-19 Strategy Update released on 14 April 2020 acknowledged that countries “with explosive outbreaks that grow at an exponential rate...must immediately adopt and adapt population-level distancing measures and movement restrictions in addition to other public health and health system measures”.⁹ However, it cautioned that such measures often referred to as “shutdowns” or “lockdowns” could have a profound negative impact on societies, and disproportionately affect disadvantaged groups.¹⁰ Such adverse consequences became evident especially in its effects on the civic space as the Philippines imposed one of the longest lockdowns in the world, lasting over a year.

1 “Archived: Who Timeline - Covid-19.” 2023. World Health Organization. World Health Organization, accessed 18 May 2022, <https://www.who.int/news/item/27-04-2020-who-timeline---covid-19>

2 “Novel Coronavirus(2019-NCov) - World Health Organization.” 2023, accessed 18 May 2022, https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200211-sitrep-22-ncov.pdf?sfvrsn=fb6d49b1_2

3 “Doh Confirms First 2019-NCOV Case in the Country; Assures Public of Intensified Containment Measures: Department of Health Website.” 2023. DOH Confirms First 2019-NCOV case in the country, assures public of intensified containment measures Department of Health (website), <https://doh.gov.ph/doh-press-release/doh-confirms-first-2019-nCoV-case-in-the-country>

4 Neil Arwin Mercado, “DOH Confirms 2nd Case of NCoV in Ph, Says Patient Died Saturday.” *Philippine Daily Inquirer* (website), 10 February 2021, <https://newsinfo.inquirer.net/1222873/doh-confirms-second-case-of-ncov-in-ph>

5 “Archived: Who Timeline - Covid-1927.” 2020. *World Health Organization*. World Health Organization. April 27, accessed 5 May 2022, <https://www.who.int/news/item/27-04-2020-who-timeline---covid-19>

6 Mathieu, Edouard, Hannah Ritchie, Lucas Rodés-Guirao, Cameron Appel, Charlie Giattino, Joe Hasell, Bobbie Macdonald, et al. “Coronavirus Pandemic (COVID-19).” *Our World in Data*, 5 March 2020, accessed 14 July 2022, <https://ourworldindata.org/coronavirus>

7 “Strategic Preparedness and Response Plan for the Novel Coronavirus.” World Health Organization. 4 February 2020, accessed 14 July 2022, <https://www.who.int/publications/i/item/strategic-preparedness-and-response-plan-for-the-new-coronavirus>

8 “National Action Plan against Covid-19 - Ndrmmc.gov.ph.” National Disaster Risk Reduction and Management Council Office of Civil Defense. National Disaster Risk Reduction and Management Council Office of Civil Defense, 2020, accessed 10 June 2022, <https://ndrrmc.gov.ph/index.php/2014-09-05-06-17-43/2014-10-27-08-59-42/s-2014/9-ndrrmc-advisory/4148-national-action-plan-against-covid-19.html>

9 “Strategic Preparedness and Response Plan for the Novel Coronavirus.” *World Health Organization*, accessed 11 June 2022, <https://www.who.int/publications/i/item/strategic-preparedness-and-response-plan-for-the-new-coronavirus>

10 Ibid.

The Philippine government's efforts to contain the COVID-19 pandemic was also influenced by directives at the global level that tie together a securitized approach to counter terrorism and the COVID-19 crisis. In June 2020, the Counter Terrorism Executive Directorate (CTED) launched a report on the convergences between COVID-19 and counter terrorism. On the one hand, it suggests that the COVID-19 emergency may exacerbate the terrorist threat; on the other hand, it proposes that counter terrorism expertise and programming are relevant to public health responses in the context of the pandemic. In effect, this approach has led to the "ever increasing securitization of diverse fields of practice previously outside the scope of counter terrorism" with far-reaching adverse consequences for human rights and civic space.¹¹

Such securitized measures, including those derived from counterterrorism strategies, became apparent as the Duterte government rolled out its approach to control the COVID-19 pandemic. Contrary to the caution raised by the WHO in its directives, "safety" or what it means to keep the populace safe from the virus, primarily centered on measures to control the population through the increased involvement of security forces to maintain safety and security. Consequently, human rights abuses abound such as the prolonged suspension of fundamental freedoms under extended lockdowns, arbitrary arrests and detention of alleged violators, including activists, and expanded surveillance practices drawn from technological measures to combat counterterrorism. The right to peaceful assembly was among the rights curtailed, a harbinger of the constriction of civic space in the country.

III. A Key Role for Defense Establishments in ASEAN

At a regional level, the Association of Southeast Asian Nations (ASEAN), of which the Philippines is a member, issued several statements and convened several meetings to try to stem the spread of the virus. As early as 20 February 2020, the ASEAN Coordinating Council (ACC) held a Special Meeting in Vientiane, Lao PDR to discuss follow-up actions to the ASEAN Chairman's Statement on ASEAN Collective Response to COVID-19 issued on 14 February 2020.¹² On 9 April, the ASEAN foreign ministers held an ASEAN Coordinating Council Meeting and called for a Special ASEAN Summit and the ASEAN Plus Three (China, Republic of Korea, Japan) on COVID-19, which was held on 14 April via video conference. ASEAN member-states issued a statement from the summit that called for a post-pandemic recovery plan and proposed the establishment of the COVID-19 ASEAN Response Fund. ASEAN pronouncements during the pandemic centered on strengthening public health cooperation among member states, and keeping markets open for trade and investments to stabilize the economy.

11 Gavin Sullivan and Chris Jones, "Is the counter-terrorism agenda shrinking civic space?" *Funders Initiative for Civil Society*, accessed 5 May 2022, <https://www.fundersinitiativeforcivilsociety.org/wp-content/uploads/2022/05/Is-CT-shrinking-civic-space-FICS-May-2022.pdf>

12 "Press Statement by the Chairman of the ASEAN Coordinating Council," ASEAN Coordinating Council. ASEAN (website), 2 February 2020, https://asean.org/wp-content/uploads/2021/09/Press-Statement-of-the_Special-ACC-20.2.2020.pdf

Many of the ASEAN member-states have a long history of the politicization of its military, and in the last decade, there has been a revival of military dominance and control against the backdrop of rising authoritarian or autocratic rule in Southeast Asia. Today, armies are in direct control in two countries – Myanmar and Thailand. In other ASEAN countries such as Cambodia, Indonesia, and the Philippines, the armed forces have continued to play a dominant role in civilian affairs. In coping with the challenges of the pandemic, ASEAN and its member-states reaffirmed this pivotal role of the military, and explicitly carved out a key role for the defense establishments.

Ratified on 14 April 2020, the 2019 Declaration of the Special ASEAN Summit on Coronavirus Disease explicitly commends “the efforts to enhance practical cooperation among ASEAN defense establishments to organize information and best practice sharing activities,...”¹³ The Declaration further affirms the need to leverage “the Network of ASEAN Chemical, Biological and Radiological Defense Experts in promoting scientific cooperation and enhancing professional linkages” as agreed upon by the ASEAN Defense Ministers in their Joint Statement on Defense Cooperation against Disease Outbreak issued on 19 February 2020.

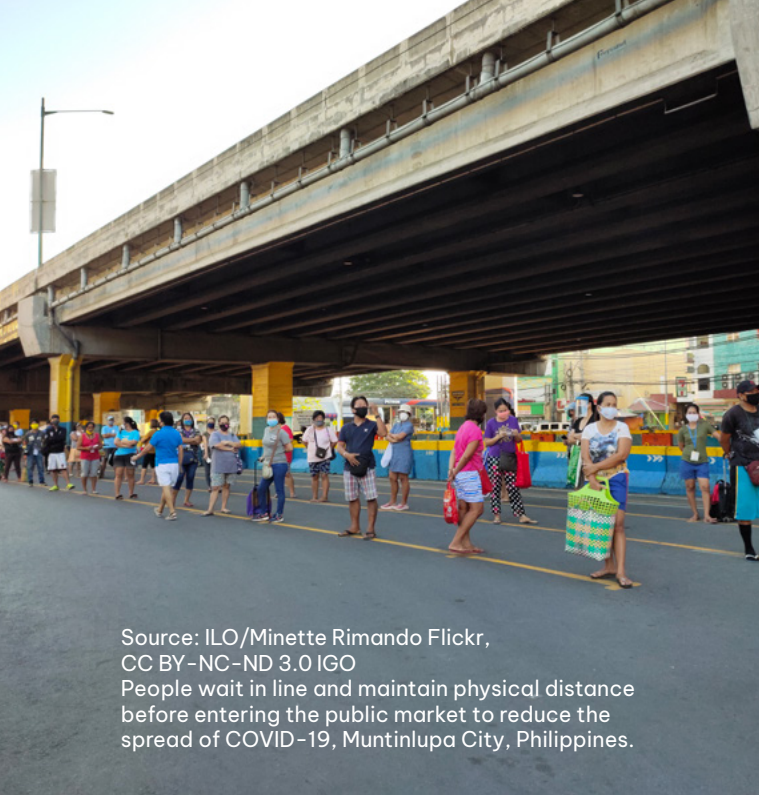
The key role of defense establishments in responding to the COVID-19 pandemic was confirmed in the Phnom Penh Vision on the Role of Defense Establishments in Support of COVID-19 Recovery, which was adopted at the ASEAN Defense Ministers’ Meeting convened on 22 June 2022. According to the statement adopted at the meeting, the Defense Ministers resolved to “strengthen defense cooperation between ASEAN defense establishments to enhance our militaries’ capabilities to respond swiftly and effectively to the COVID-19 pandemic”.¹⁴

The Defense Ministers commended the efforts of the Network of ASEAN Chemical, Biological and Radiological Defense Experts in convening a virtual workshop on “Promoting Scientific Cooperation to Manage Infectious Disease Outbreaks”. They encouraged the efforts of the ASEAN Center of Military Medicine (ACMM) to strengthen cooperation among military medicine experts by organizing workshops on quarantine camp management, COVID-19 management in a disaster area, medical logistics management in a pandemic, among others.¹⁵

13 “Declaration of the Special ASEAN Summit on Coronavirus Disease 2019 (COVID-19).” ASEAN Summit, ASEAN (website), 2020, <https://asean.org/wp-content/uploads/2021/09/FINAL-Declaration-of-the-Special-ASEAN-Summit-on-COVID-19.pdf>

14 “Phnom Penh Vision on the Role of Defense ... - ASEAN Main Portal,” ASEAN Organization (website), 22 June 2022, https://asean.org/wp-content/uploads/2022/06/JS_PNH-Vision_on_COVID_19_Recovery_Adopted-by-the-16th-ADMM-22-June-2022.pdf

15 Ibid.



Source: ILO/Minette Rimando Flickr, CC BY-NC-ND 3.0 IGO
People wait in line and maintain physical distance before entering the public market to reduce the spread of COVID-19, Muntinlupa City, Philippines.

IV. The Government's Response of Control

The politicization of the Armed Forces of the Philippines (AFP), like in many other ASEAN member-states, has a long history that traces back to the post-war politicization of the country itself, and was accelerated during the years following former President Ferdinand Marcos' declaration of martial law in 1972. The AFP, together with other auxiliary security forces in the country, became the chief implementer of martial law, subverting the constitutional practice of civilian control of the military. Since then, the military has played an expanded role in political rule, especially in the context of the growing inability of the civilian government to perform its basic functions of governance.

Among other examples, the politicized role of the AFP has been institutionalized in the civilian-military coordination mandated to be carried out under the National Disaster Risk Reduction and Management Council (NDRRMC) constituted in 2010. The NDRRMC, which is at the helm of disaster risk reduction and management in the country, is chaired by the Secretary of National Defense and its operating arm is the Office of Civil Defense under the Department of National Defense¹⁶. During the COVID-19 pandemic, the NDRRMC recommended to the President to declare a state of calamity as early as 16 March 2020, to mobilize resources and enjoin its member agencies to support the Inter-Agency Task Force on Emerging Infectious Diseases (IATF-EID) in the management of the disease.¹⁷ The initial role that NDRRMC played in the government's response to the pandemic was subsequently affirmed on 20 July 2022 when the IATF-EID announced its dissolution, and the transfer of its functions to the NDRRMC.¹⁸

Under this backdrop, it becomes a foregone conclusion that the government will default into a securitized approach and rely on its security forces to control the spread of the virus. Already, the military and the police were mandated by law, and allocated resources under the Philippine Risk Reduction and Management Act of 2010 to directly intervene in a state of calamity, in this case, the COVID-19 pandemic.¹⁹ Except that under these circumstances, the central role of the security forces in punitively enforcing the government's wars against terrorism and illegal drugs has been further enhanced by extending them a legitimate role in humanitarian assistance.

16 Republic Act 10121 Philippine Risk Reduction and Management Act of 2010, [Ndrmmc.gov.ph](https://ndrrmc.gov.ph), 2023. National Disaster Risk Reduction and Management Council (website), accessed 13 July 2022, https://ndrrmc.gov.ph/attachments/article/45/Republic_Act_10121.pdf

17 "NDRRMC Resolution No. 02, s. 2020 Resolution Recommending the Declaration of a State of Calamity Throughout the Philippines due to the Corona Virus Disease 2019," National Disaster Risk Reduction and Management Council (website), 2020, https://ndrrmc.gov.ph/attachments/article/4143/NDRRMC_Resolution_No_02_s_2020.pdf

18 Priam Nepomuceno, "NTF Covid-19 transfers functions to NDRRMC," *Philippine News Agency Website*. 20 July 2022, <https://www.pna.gov.ph/articles/1179393>

19 "NDRRMC Resolution No. 02, s. 2020 Resolution Recommending the Declaration of a State of Calamity Throughout the Philippines due to the Corona Virus Disease 2019," National Disaster Risk Reduction and Management Council (website), 2020, https://ndrrmc.gov.ph/attachments/article/4143/NDRRMC_Resolution_No_02_s_2020.pdf

In the end, the government's overriding securitized approach to curb the disease became evident even in its handling of humanitarian aid during the pandemic. Activists involved in humanitarian missions were arrested. For example, seven activists involved in food distribution in Bulacan province were charged with violating the Bayanihan to Heal as One Act and inciting to commit sedition after police found newspapers and magazines with anti-government content in their vehicle.²⁰ As discussed in succeeding sections, organizers of humanitarian efforts, including those who mobilized to set up community pantries, have been red-tagged and targeted by security forces.

A. Heightened role of the security forces

The IATF-EID, in place since 2014 to coordinate the government's response to any potential epidemic in the country, was convened on 28 January 2020 to address the emerging pandemic.²¹ The IATF-EID, composed of different executive departments and agencies of the government, took on the role of "the policy-making body" in addressing the threat of the virus while the NTF COVID-19, which it set up, assumed "the operational command headed by the Secretary of the National Defense".²²

The National Action Plan COVID-19 (NAP COVID-19) approved by the IATF-EID through a resolution passed on 24 March 2020 presents the government's general approach to address the pandemic.²³ It details the "Prevent-Detect-Isolate-Treat-Reintegrate plus Vaccinate (PDITR+V) strategy", and a "four-door strategy of stricter border control, heightened surveillance, quick response, and focus and expand mass vaccination" to contain the spread of the virus in the country.²⁴ But contrary to the stated intent of the NAP COVID-19 to carry out a "people-centered" approach, early on, it became apparent that the government viewed the pandemic as a public order and law enforcement crisis, rather than a public health emergency.

Like in most of ASEAN, the key role of the security forces in managing the pandemic in the country was clear from the start. President Duterte appointed military generals instead of public health experts at the helm of the NTF COVID-19, the body mandated to implement NAP COVID-19 with the IATF-EID. Of the members of the Cabinet at that time, Defense Secretary Delfin Lorenzana was appointed as chair of the task force; Interior Secretary Eduardo Año who also had supervision over the police as the vice chair; and Peace Process Secretary Carlito Galvez, Jr as chief implementer to manage the day-to-day operations of the task force. All three are retired army generals.²⁵

20 Carlos Conde, "Philippine Activists Charged with Sedition, 'Fake News': Government Misusing Covid-19 Law Against its Critics," *Human Rights Watch* (website), 22 April 2020, <https://www.hrw.org/news/2020/04/22/philippine-activists-charged-sedition-fake-news>

21 Interagency Task Force for the Management of Emerging Infectious Diseases Resolution No. 01 series of 2020, "Recommendations for the Management of Novel Coronavirus Situation," Department of Health (website), <https://doh.gov.ph/sites/default/files/basic-page/IATF%20Resolution.pdf>

22 Interagency Task Force for the Management of Emerging Infectious Diseases Resolution No. 15 series of 2020, "Recommendations Relative to the Management Coronavirus Disease (COVID-19) Situation," Department of Health (website) 24 March 2020, <https://doh.gov.ph/sites/default/files/health-update/IATF-RESO-15.pdf>

23 Ibid.

24 Philippine News Agency, "Gov't boosts response, contingency ops vs. COVID-19 variants," *Philippine News agency* (website), 7 August 2021, <https://www.pna.gov.ph/articles/1149681>

25 JC Gotinga, "In this order: Lorenzana, Año, Galvez to lead task force vs coronavirus," *Rappler* (website), 27 March 2020, <https://www.rappler.com/newsbreak/iq/256136-lorenzana-ano-galvez-lead-task-force-coronavirus/>

The government’s declaration of war against COVID-19 led by its security forces, in effect, became a battleground between upholding the public’s right to health vis-a-vis the overall health of the country’s democracy. Put in charge of managing the pandemic, the military and police enforced strict compliance with the public health protocols and community quarantine guidelines to safeguard public health with detrimental consequences to the exercise of fundamental freedoms. Abuses committed against human rights defenders have had serious implications in sustaining a robust civic space, essential to upholding the country’s democracy.”

B. A series of lockdowns and restrictions

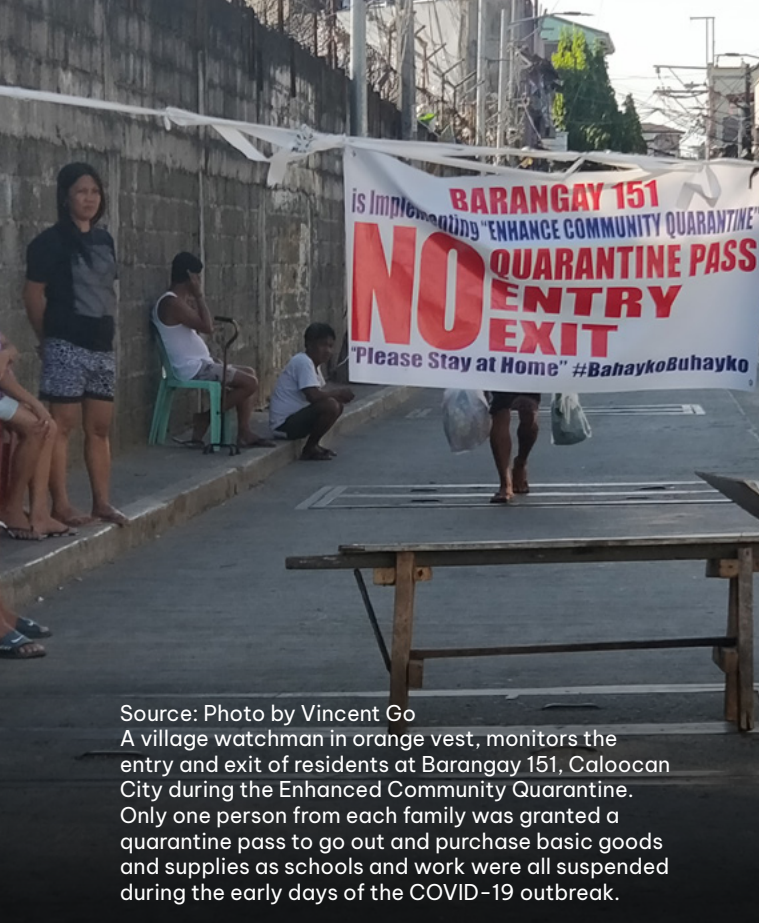
President Rodrigo Duterte signed on 8 March 2020, Proclamation No. 922, Declaring a State of Public Health Emergency Throughout the Philippines.²⁶ On 16 March 2020, he signed Proclamation No. 929 that placed the Philippines under a State of Calamity for six months, Section 4 of which specifically directed “all law enforcement agencies, with the support from the AFP” to “undertake all necessary measures to ensure peace and order in affected areas”.²⁷ Through subsequent proclamations, President Duterte extended the State of Calamity for a total of two years, ending on 12 September 2022. These proclamations ushered in the President’s full use of his police powers based on an exception provided for in the 1987 Constitution.

Pursuant to such exercise of police powers, the national and local governments in the country followed suit imposing travel bans and community quarantines since 10 March 2020. A restriction policy declared by the President, community quarantines are a series of stay-at-home orders and other restrictions implemented through the IATF-EID and the NTF COVID-19. The policy has four levels: enhanced community quarantine (ECQ), modified enhanced community quarantine (MECQ), general community quarantine (GCQ), and modified general community quarantine (MGCQ). ECQ is the strictest of all levels, while MGCQ is the most lenient.

The government’s declaration of war against COVID-19 led by its security forces, in effect, became a battleground between upholding the public’s right to health vis-a-vis the overall health of the country’s democracy.

26 Proclamation No. 922, s. 2020, Declaring a State of Public Health Emergency Throughout the Philippines, accessed 11 June 2022, <https://www.officialgazette.gov.ph/downloads/2020/02feb/20200308-PROC-922-RRD-1.pdf>

27 Proclamation No. 929, s. 2020, Declaring a State of Calamity Throughout the Philippines Due to Corona Virus Disease 2019, accessed 11 June 2022, <https://www.officialgazette.gov.ph/downloads/2020/03mar/20200316-PROC-929-RRD.pdf>



Source: Photo by Vincent Go

A village watchman in orange vest, monitors the entry and exit of residents at Barangay 151, Caloocan City during the Enhanced Community Quarantine. Only one person from each family was granted a quarantine pass to go out and purchase basic goods and supplies as schools and work were all suspended during the early days of the COVID-19 outbreak.

Issued on 12 March 2020, the IATF-EID Resolution No. 11 recommended putting the entire Metro Manila under ECQ. President Duterte adopted the recommendation and, flanked by army and police officials, announced the strictest of lockdowns to be imposed in Metro Manila from 15 March to 14 April 2020.²⁸ Explicitly, the resolution prohibited mass gatherings defined as “a planned or spontaneous event where the number of people attending could strain the planning and response resources of the community hosting the event”.²⁹ The IATF-EID called on coordination with the police and military “to ensure effective and orderly implementation” of the measures.³⁰ IATF-EID Resolution No. 12 issued March 13, 2020, which defined the new alert level system used in the country, clearly stated “the heightened presence of uniformed personnel to enforce quarantine procedures” under ECQ. Even in the more lenient GCQ, the IATF-EID decreed that “uniformed personnel and quarantine officials shall be present at border patrol”.³¹ On 16 March 2020, the President extended the ECQ to cover the entire Luzon,³² and extended it in certain areas, including the capital until May 15.³³

28 Nick Aspinwall, Coronavirus Lockdown Launches Manila into Pandemonium, *Dispatch, Foreign Policy* (website), 14 March 2020, <https://foreignpolicy.com/2020/03/14/duterte-quarantine-philippines-coronavirus-lockdown-launches-manila-into-pandemonium/>

29 Interagency Task Force for the Management of Emerging Infectious Diseases Resolution No. 10 series of 2020, Recommendations for the Management of Novel Coronavirus Situation, *Freedom of Information* (website), 9 March 2020, https://efoi-ph.appspot.com/downloads/IATF_Resolution_No._10.pdf

30 Interagency Task Force for the Management of Emerging Infectious Diseases Resolution No. 11 series of 2020 Recommendations for the Management of Novel Coronavirus Situation, Department of Health (website), 12 March 2020. <https://doh.gov.ph/sites/default/files/health-update/IATF-RESO-11.pdf>

31 Interagency Task Force for the Management of Emerging Infectious Diseases Resolution No. 12 series of 2020 Recommendations for the Management of Novel Coronavirus Situation, Department of Health (website), 13 March 2020 <https://doh.gov.ph/sites/default/files/health-update/IATF-RESO-12.pdf>

32 Krissy Aguilar, “Luzon now under ‘enhanced community quarantine’ – Palace,” *Philippine Daily Inquirer* (website), 16 March 2020 <https://newsinfo.inquirer.net/1243036/luzon-island-now-under-enhanced-community-quarantine-palace>

33 Nick Aspinwall, “Philippines Extends Lockdown in Manila and Other High-Risk Areas to May 15,” *The Diplomat* (website), 24 April 2020, <https://thediplomat.com/2020/04/philippines-extends-lockdown-in-manila-and-other-high-risk-areas-to-may-15/>

By the last week of April 2020, ECQ covered 92% of the top 300 cities and municipalities in the country. Thereafter, several configurations of community quarantines have been enforced in different parts of the country, in the attempt to curb the spread of the disease. During the first half of May 2020, 60% of the cities and municipalities remained under ECQ. Subsequently, 70% of these shifted to GCQ in the second half; whereas Metro Manila and other high-risk areas were in and out of MECQ until August 2020.³⁴

The United Nations (UN) Office of the High Commissioner for Human Rights (OHCHR) described the extended lockdowns in the Philippines as indicative of a “highly militarized response” to the pandemic. Then OHCHR head Michelle Bachelet explained that respect for people’s rights cover their inherent freedoms “across the spectrum, including economic, social and cultural rights, and civil and political rights.” She added that protecting these rights was “fundamental to the success of the public health response and recovery from the pandemic”.³⁵

C. Sowing a narrative of fear and terror

President Duterte’s pronouncements following the full implementation of stringent lockdowns and the heightened presence of the military and police throughout the country, clearly conveyed the government’s securitized response to the pandemic. Many of the public addresses made by the President added to sowing a climate of fear. Several of his tirades were directed at those who were critical of his administration as well as those demanding for their basic rights that were unmet by the government grappling with the pandemic.

As ECQ was enforced in Metro Manila, residents of San Roque village in Quezon City demanding food and medical aid were arrested on 1 April 2020 for staging a rally without government permit. That evening, after the arrests, President Duterte said: “My orders to the police and military...if there is trouble and there’s an occasion that they fight back and your lives are in danger, shoot them dead.” He added, “Is that understood? Dead. Instead of causing trouble, I will bury you.”³⁶

There was such a strong social media backlash from President Duterte’s public address that the head of the Philippine National Police (PNP) at that time was compelled to clarify that the President’s statement was just a hyperbole, and that no police personnel has adopted a shoot-first mindset in enforcing the lockdown orders.³⁷ Activists criticized the President’s fierce rhetoric, and accused him of authorizing violence and vigilantism as demonstrated during his anti-terrorism campaign and his war against illegal drugs.

34 Yi Jiang, Jade R Laranjo and Milan Thomas, “COVID-19 Lockdown Policy and Heterogenous Responses of Urban Mobility: Evidence from the Philippines.” ADB Economics Working Paper Series No. 659, Asian Development Bank, May 2022, accessed 13 June 2022, <https://www.adb.org/sites/default/files/publication/798546/ewp-659-covid-19-lockdown-urban-mobility-philippines.pdf>

35 *UN News*. “Toxic lockdown culture’ of repressive coronavirus measures hits most vulnerable” (website), 27 April 2022, <https://news.un.org/en/story/2020/04/1062632?fbclid=IwAR3XIWVpwLY9c5ZWZRjSuo5s6IHkiHpG32W-brlSScOrXdKvowRFu0K1YZO>

36 Reuters Staff, “Shoot them dead’ - Philippine leader says won’t tolerate lockdown violators,” *Reuters* (website), 2 April 2020 <https://www.reuters.com/article/health-coronavirus-philippines-duterte-idINKBN21K0AQ>

37 Michael Yusingco & Angelika Pizarro, Ateneo Policy Center, “Philippines: An Escalating Threat to Human Rights” IACL - AIDC (blog), 18 June 2020, <https://blog-iacl-aidc.org/2020/6/18/the-militarized-response-to-the-covid-19-pandemic-in-the-philippines-an-escalating-threat-to-human-rights>

In another televised speech, President Duterte warned the public that a martial law-style enforcement would be implemented if they do not comply with the lockdown. “I’m just asking for a little discipline. If not, if you do not believe me, then the military and police will take over,” he said. “The military and police will enforce social distancing and curfew. They will. It is just like martial law too. You choose,” added the President. Then AFP spokesperson Brigadier General Edgardo Arevalo assured that there was no cause to be “alarmed”, that it is only natural for the military to prepare for a possible “martial law-like lockdown”. He clarified that “when he says martial law, it means the President would like to emphasize that we would really make some arrests.”³⁸

Upon declaring the enforcement of ECQ in Luzon and other high-risk areas until 15 May 2020, President Duterte was also quoted as saying that he had a standing order for security forces to “kill all” members of the communist New People’s Army (NPA), and its “legal fronts”. He accused guerrillas of attacking aid deliveries, derailing the government’s relief operations.³⁹

Such accusations made by the President and the security forces reinforced the red-tagging of leftist activists deemed associated with the Communist Party of the Philippines (CPA) and the NPA, congruent with the administration’s anti-terrorism propaganda (See *‘Counterinsurgency, Red-Tagging & The ‘War On Terror’: A War against Deliberation and Dissent, A War with No End’* by Marc Batac).

Despite the counter statements made by government officials to tone down President Duterte’s strongman rhetoric in handling the pandemic, the climate of fear had become undeniable among the populace as reports of killings, arrests, detention and excessive punishment of violators proliferated. Upholding the rule of law and human rights, which were already threatened during Duterte’s anti-terrorism campaign and war on drugs, has become more precarious. Human rights lawyer Jose Manuel Diokno warned that under the cover of the coronavirus, “there is a clear effort to shrink the democratic space, and free discussion that is essential to a democracy.”⁴⁰

D. Consolidation of executive power

As in the past, during emergencies or crises in the country, there has been greater consolidation of power in the executive during the COVID-19 crisis. This was not the first time that Congress granted special emergency powers to the President and to the executive branch of government to address a crisis under the 1987 Constitution. For example, President Corazon Aquino was granted emergency powers by Congress after a coup attempt in 1989 damaged the economy. In the 1990s, Congress granted President Fidel Ramos emergency powers to privatize water companies in the country.⁴¹

38 Athira Nortajuddin, “Martial Law-Like Lockdown for The Philippines?” *The ASEAN Post* (website), 23 April 2020, <https://theaseanpost.com/article/martial-law-lockdown-philippines>

39 Luis Liwanag and Froilan Gallardo, “Duterte Threatens to Declare Martial Law; Accuses Rebels of Disrupting Aid Deliveries,” *Benar News* (website), 24 April 2020, <https://www.benarnews.org/english/news/philippine/philippines-coronavirus-04242020145436.html>

40 Aie Balagtas See, “Rodrigo Duterte Is Using One of the World’s Longest COVID-19 Lockdowns to Strengthen His Grip on the Philippines,” *Time* (website), 15 March 2021 <https://time.com/5945616/covid-philippines-pandemic-lockdown/>

41 Maria Ela L. Atienza, Aries A. Arugay, Jean Encinas-Franco, et al. “Constitutional Performance Assessment in the Time of a Pandemic: The 1987 Constitution and the Philippines’ COVID-19 Response” International IDEA Discussion Paper 3/2020, International Institute for Democracy and Electoral Assistance, accessed 10 July 2022, <https://www.idea.int/sites/default/files/publications/constitutional-performance-assessment-in-the-time-of-a-pandemic.pdf>

More than a week after the declaration of a COVID-19 health emergency, President Duterte also asked Congress for emergency powers. The President certified as urgent the passage of the proposed Bayanihan Heal as One bill that would grant him emergency powers to implement measures to curb the spread of the virus. The abbreviated procedures for passing urgent legislation, and the support of blocs allied with the President in both Houses of Congress assured the swift passage of this Act and subsequent related laws.

And while this law required the President to submit reports on its implementation, Congress has not taken deliberate measures to exercise its oversight functions over the executive, including scrutinizing these reports. Both houses of Congress have not directed any specific concerns to the President and IATF-EID regarding their performance. In 2020, the Supreme Court, now dominated by Duterte appointees, denied a petition seeking to declare the Bayanihan Heal as One Act unconstitutional on the ground that it failed to show grave abuse of discretion.⁴²

E. Laws restraining defenders' human rights

The Bayanihan Heal as One Act (Republic Act 11469) was enacted into law on 24 March 2020. Among its many provisions, the law penalized individuals or groups “creating, perpetrating or spreading false information regarding the COVID-19 crisis on social media and other platforms”.⁴³ Effective for only three months, the law was repealed by the enactment on 11 September 2020 of Republic Act No. 11494 or Bayanihan to Recover As One Act, which was in effect until 19 December 2020.⁴⁴

In less than a month after the enactment of this law, which further criminalized the spreading of fake news, 47 persons were apprehended for alleged violations of this provision. They were charged under Article 154 of the Revised Penal Code on the “unlawful use of means of publication and unlawful utterances” in relation to Republic Act 10175 or the Anti-Cybercrime Law.⁴⁵ In a news report dated 4 April 2020, the National Bureau of Investigation (NBI) also summoned at least 17 individuals for allegedly spreading false information online.⁴⁶

42 Maria Ela L. Atienza, “The Philippines a Year under Lockdown Continuing Executive Dominance, Threats to Democracy, and Unclear Pandemic Response,” *Verfassungblog* (website), 26 April 2021, <https://verfassungsblog.de/the-philippines-a-year-under-lockdown/>

43 Republic Act No. 11469, An Act Declaring the Existence of a National Emergency Arising from the Coronavirus Disease 2019 Situation. Official Gazette, Congress of the Philippines, accessed 27 June 2022, <https://www.officialgazette.gov.ph/downloads/2020/03mar/20200324-RA-11469-RRD.pdf>

44 Republic Act No. 11494, An Act Providing for COVID-19 Response and Recovery Interventions and Providing Mechanisms to Accelerate the Recovery and Bolster the Resilience of the Philippine Economy, accessed 27 June 2022, <https://www.officialgazette.gov.ph/downloads/2020/09sep/20200911-RA-11494-RRD.pdf>

45 Christopher Lloyd Caliwan, “PNP nabs 47 Covid-19 fake news peddlers,” *Philippine News Agency* (website) 15 April 2020, <https://www.pna.gov.ph/articles/1099910>

46 Mariejo S. Ramos, “Rights groups wary as NBI summons 17 for ‘fake news’,” *Philippine Daily Inquirer* (website), 4 April 2020, <https://newsinfo.inquirer.net/1253684/rights-groups-wary-as-nbi-summons-17-for-fake-news>

On 3 July 2020, President Duterte signed into law the Anti-Terrorism Act of 2020⁴⁷ which raised the question, how a controversial non-health related legislation was passed during the pandemic. In a study on the securitization of the COVID-19 crisis in the country, researchers noted that this became possible because of two processes: the repositioning of the ongoing serious problem of terrorism within the pressing problem of the COVID-19 pandemic, which brought legitimacy to the need to urgently address the issue of terrorism despite it being a non-health concern; and the second process is the securitization of the government's response to the pandemic, which eventually provided a favorable political environment for the enactment of the new law. The President played a powerful role in bringing about this shift in policy.⁴⁸

The passage of the Anti-Terrorism Act of 2020 in the midst of the pandemic points to the success of the government's efforts to securitize its approach to curb the COVID-19 disease at the same time that it has portrayed terrorism as a continuing threat. Aside from calling attention to acts of terrorism committed during the outbreak of the virus, government officials pointed out that terrorist activities, such as alleged armed assaults by NPA members against security officers distributing relief goods, are disruptive of the country's efforts to contain the pandemic, and warrant counter terrorism maneuvers by the police or the military.⁴⁹ In effect, the President and his administration jointly framed terrorism and the COVID-19 pandemic as pressing threats to national security equally necessitating immediate attention and a continuing securitized response.

In a study undertaking a constitutional performance assessment of the Philippines' COVID-19 response, the researchers concluded that there is a marked weakening of the constitutional provisions for separation of powers essential to governmental checks and balances in a democracy. They pointed out that civilian supremacy over the military as envisioned by the 1987 Constitution has become a mere formality as the coercive power of the security forces largely informed the government's response to the pandemic. "In other words, the response was not only securitized in its approach, but also heavily militarized in its implementation", the study emphasized.⁵⁰

In a study undertaking a constitutional performance assessment of the Philippines' COVID-19 response, the researchers concluded that there is a marked weakening of the constitutional provisions for separation of powers essential to governmental checks and balances in a democracy. "... the response was not only securitized in its approach, but also heavily militarized in its implementation", the study emphasized.

47 Republic Act No. 11479, An Act to Prevent, Prohibit and Penalise Terrorism, Thereby Repealing Republic Act No. 9372, Otherwise Known As the Human Security Act of 2007, Official Gazette, Congress of the Philippines, accessed 27 June 2022, <https://www.officialgazette.gov.ph/downloads/2020/06jun/20200703-RA-11479-RRD.pdf>

48 Shivane Dolo, Crisha Mae DG. De Vera, Zhenia Flores, et al., "Effecting a Shift in State Policy during the COVID-19 Pandemic: The Case of the Philippines' Anti-Terrorism Act of 2020," *Philippine e-Journal for Applied Research and Development Research and Development*, 11, 55 - 68, 28 June 2021, accessed on 2 August 2022, <https://pejard2.slu.edu.ph/wp-content/uploads/2021.12.16.pdf>

49 Philippines Submission for the High Commissioner's Oral Updates on Covid-19," Office of the High Commissioner for Human Rights (website), 31 May 2020, <https://www.ohchr.org/sites/default/files/2022-03/Philippines.pdf>

50 Maria Ela L. Atienza, Aries A. Arugay, Jean Encinas-Franco, et al. "Constitutional Performance Assessment in the Time of a Pandemic: The 1987 Constitution and the Philippines' COVID-19 Response," International IDEA Discussion Paper 3/2020, accessed 2 August 2022, <https://www.idea.int/sites/default/files/publications/constitutional-performance-assessment-in-the-time-of-a-pandemic.pdf>

V. The Repressive Impact on Civic Space

Juxtaposed with the continuing urgency to combat terrorism and continue its war against illegal drugs, the government throughout the leadership of President Duterte viewed the pandemic as a security concern and painted a war-like scenario to curb it. For instance, the DOH in its press releases described the COVID-19 situation as “World War C”.⁵¹ With COVID-19 identified as an unseen enemy, the government pushed for extraordinary measures to combat it. This justified the extensive authority granted to the police and the military, and their full deployment to enforce stringent quarantine measures that curtailed fundamental freedoms.

As President Duterte declared in one of his public speeches: “We are in the fight for [our] lives. We are at war against a vicious and invisible enemy, one that cannot be seen by the naked eye. In this extraordinary war, we are all soldiers....” At the end of his address, he issued a warning: “Obey the police and the military.... You can be arrested.”⁵² This war-like narrative echoed the expansion of the government’s police powers, and its reliance on security forces to enforce punitive public health protocols to eliminate the virus as the perceived enemy. The securitization of COVID-19 has legitimized the draconian measures employed by the government to control it.

In an article explaining the securitization of COVID-19, Karl Hapal pointed out that the securitization of an issue consists of three main processes: the production of existential threats, emergency actions, and breaking free of rules. President Duterte’s securitizing act, according to him, relied on framing the pandemic as a fight for the nation’s survival, which requires swift, decisive action, and a wide latitude of powers lest the nation is destroyed. Once such discourse is accepted, emergency actions or measures beyond the ordinary take effect and are then rendered legitimate. In this case, the acceptance of the President’s populist rhetoric justified the militarist response by the government through the active deployment of its security forces to suppress the spread of the virus.⁵³

In the implementation of the government’s NAP COVID-19, chief implementer Carlito Galvez reiterated the call of the President that the first imperative of the NAP COVID-19 is on “changing [the people’s] mindset....” He pointed out that “the success of our campaign is basically anchored on the people’s support and active participation and vigilance to strictly observe and promote the minimum health standard and disease prevention.”⁵⁴ But to secure people’s compliance, the government has criminalized non-compliant behavior through the coercive powers of the military and the police. This has resulted in violations of civil liberties, including the suppression of the rights of human rights defenders.

51 Department of Health Press Release, “Honouring Nurse’s Day: DOH Calls for More HCWS to be Heroes of World War C,” Department of Health (website), 13 May 2020, <https://doh.gov.ph/doh-press-release/HONORING-NURSE%E2%80%99S-DAY:-DOH-CALLS-FOR-MORE-HCWS-TO-BE-HEROES-OF-WORLD-WAR-C>

52 Presidential Communications Operations Office, “Guidance of President Rodrigo Duterte During the Inter-Agency Task Force Meeting on the Coronavirus Disease 2019 (COVID-19),” Presidential News Desk (website), 16 March 2020, <https://mirror.pco.gov.ph/wp-content/uploads/2020/03/20200316-Guidance-of-President-Rodrigo-Roa-Duterte-on-the-Coronavirus-Disease-2019-COVID-19.pdf>

53 Karl Hapal, “The Philippines’ COVID-19 Response: Securitizing the Pandemic and Disciplining the Pasaway,” *GIGA Journal of Current Southeast Asian Affairs* Vol. 40 (2) 224 – 244 18 March 2021, accessed 30 June 2022, <https://journals.sagepub.com/doi/pdf/10.1177/1868103421994261>

54 Lade Jean Kabagani, “Galvez cites strategies for 2nd phase of gov’t plan vs. Covid-19,” *Philippine News Agency* (website), 8 July 2020, <https://www.pna.gov.ph/articles/1108322>

The focus on national security threats – real and inflated – through the extension of President Duterte’s war against terrorism, and the war against illegal drugs to a war against COVID-19 has led to serious human rights violations. Human rights defenders have been among those under attack as the government justified the criminalization of dissent and delegitimized their activism under these war narratives. In the context of the COVID-19 emergency, however, the abuses perpetuated by the government continued not only against those who self-identify or are identified by state agents as activists, but now extend to citizens who are non-compliant or complain of the government’s inadequate efforts to address the pandemic, as well as to defenders of rights who are critical of the government’s crackdown on the exercise of their fundamental freedoms during the health emergency.

A. Curtailment of freedom of peaceful assembly

As the government enforced stringent social distancing measures to curb COVID-19, it suppressed the exercise of the freedom of association and peaceful assembly, which constitutes an essential element of civic space. The prohibition on protests to stem the spread of the disease has led to the silencing of critics, and the stifling of criticism. Converging for demonstrations during the height of the pandemic became a challenge as freedom of movement was also curtailed with enforced travel bans, and restrictions on gatherings in public places. Demonstrators critical of the government and its policies during the COVID-19 emergency were arrested, in effect, extending President Duterte’s unrelenting campaign to eliminate dissent that began with his war against terrorism and illegal drugs.

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In Cebu City, the police arrested and detained protesters on 5 June 2020 allegedly for violating pandemic protocols during a rally against the enactment of the Anti-Terrorism Bill;⁵⁵ 16 students in Iligan City were also arrested and detained under the same charges for a similar protest on 12 June 2020.⁵⁶ Despite the ban on demonstrations because of the COVID-19 disease, protesters also rallied on 27 July 2020 during President Duterte's fifth State of the Nation Address. A total of 141 protesters were arrested nationwide, including four urban poor women who were jailed for joining an online protest. Some 64 individuals were also arrested on their way to attend the demonstrations in Cavite province.⁵⁷

On 1 April 2020, two weeks after ECQ was enforced in Metro Manila, the police dispersed with brute force close to a hundred urban poor settlers from San Roque village in Quezon City, and arrested 21 protesters who were demanding food and medical aid.⁵⁸ On 2 June 2020, six jeepney drivers, members of the transport group Piston, were arrested for rallying to resume their routes to earn a living, having not received any assistance from the government since the lockdown.⁵⁹ In effect, prohibiting the exercise of the freedom of assembly infringed on their exercise of other fundamental rights, such as their right to food and livelihood.

On 26 June 2020, LGBTIQ activists who marched to mark Pride Month and express their opposition to the Anti-Terrorism bill were met with police violence, and 20 were arrested for illegal assembly. The protesters explained that Pride demonstrations are occasions for protests as they are not only concerned with personal coming-out narratives, but also with demonstrating their solidarity with the experiences of oppressed Filipinos.⁶⁰ Thee then Independent Expert on sexual orientation and gender identity pointed out that such pride marches are critical in instilling public awareness and increasing visibility of LGBTIQ identities and issues. Given such importance, he argued for greater access to public space for LGBTIQ people and warned that that "dilemmas created by the pandemic in relation to public space are particularly grave".⁶¹

B. Suppression of freedom of expression

As mentioned previously, the enactment of the Bayanihan Heal as One Act, which included a provision criminalizing the spread of false information, triggered successive arrests of individuals charged under Article 154 of the Revised Penal Code and the Anti-Cybercrime Law for spreading false information online. An emergency legislation, the Cybercrime Law led to suppression of the freedom of expression during the COVID-19 crisis.

55 Beatriz Marie Cruz, "Reign of Terror: Activists in the Philippines arrested for questioning COVID-19 protocols and more," *The Gish* (website), 10 June 2020, <https://medium.com/the-gish/reign-of-terror-activists-in-the-philippines-arrested-for-questioning-covid-19-protocols-and-more-e48e8a22c57b>

56 Rambo Talabong, "16 students arrested in Iligan City during Independence Day protest," *Rappler* (website), 12 June 2020, <https://www.rappler.com/nation/263623-arrested-protesters-iligan-city-independence-day-2020/>

57 Karlo Mongaya, "Amid threats of mass arrest, Filipino protesters rally during Duterte's State of the Nation Address," *Global Voices* (website), 3 August 2020, <https://globalvoices.org/2020/08/03/amid-threats-of-mass-arrest-filipino-protesters-rally-during-dutertes-state-of-the-nation-address/>

58 CNN Philippines Staff, "21 protesters demanding food aid arrested in Quezon City," CNN Philippines (website), 1 April 2020, https://www.cnnphilippines.com/news/2020/4/1/quezon-city-protesters-arrested-.html?fbclid=IwAR24UXDVPPhHzPveZpDuaHKEDizEqm3MeM4C7dtaXpSbk_rLzAh7vB8zZqL0

59 Beatriz Marie Cruz, "Reign of Terror: Activists in the Philippines arrested for questioning COVID-19 protocols and more," *The Gish* (website), 10 June 2020, <https://medium.com/the-gish/reign-of-terror-activists-in-the-philippines-arrested-for-questioning-covid-19-protocols-and-more-e48e8a22c57b>

60 The News Lens, "Philippine LGBT Activists Fight Duterte's Machismo with Solidarity," TNL Media Group (website), 1 July 2020, <https://international.thenewslens.com/article/137151>

61 UN General Assembly, Protection against violence and discrimination based on sexual orientation and gender identity, A/75/258, United Nations, 28 July 2020, accessed 18 August 2022, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/197/62/PDF/N2019762.pdf?OpenElement>

Among those arrested was Cebu-based artist and scriptwriter, Maria Victoria Beltran, for her satirical post on COVID-19 in social media. After she was threatened by the city mayor, she took down her post, and said that she had no intention of “spreading confusion and fear”. Her statement added that the law prosecutes fake news purveyors only when they “promote chaos, anarchy, fear, or confusion”. Nevertheless, she was detained, and had to post bail.⁶²

In a news report dated 4 April 2020, the National Bureau of Investigation (NBI) explained that it had stepped up its investigation of fake news on the internet, particularly those relating to the pandemic, as this “could endanger public order”.⁶³ However, the securitized response to disinformation instilled fear that has precluded healthy dialogue among the citizenry. In denouncing the arrests, the Commission on Human Rights (CHR) asserted: “A fully functional democratic society should be able to allow the reasonable exercise of free speech and expression as a means to participate in matters concerning public life. Arrests should never be made as a default response to dissent.”⁶⁴

C. Surveillance and encroachment on the right to privacy

Aside from the freedom of expression and the right to association and peaceful assembly, the right to privacy is among the fundamental freedoms essential to sustain a free and open civic space in society. Already, as discussed in another research in this series, human rights defenders have reported numerous incidents of surveillance, particularly through the use of digital technology, in the context of the government’s campaigns against terrorism and illegal drugs that continued during the pandemic (See *‘Big Brother’s Grand Plan: A Look at the Digital Security Playbook in the Philippines’* by Jessamine Pacis).

Hence, there have been continuing legitimate concerns of the challenges to civic space that surveillance poses in the context of the COVID-19 pandemic.

The WHO generally defines public health surveillance as “the continuous, systematic collection, analysis and interpretation of health-related data needed for the planning, implementation, and evaluation of public health practice, and⁶⁵ member-states are obliged under its International Health Regulations to set up these systems.⁶⁶ The WHO adopted its own guidelines on ethical issues in public health surveillance⁶⁷, and in light of the pandemic, issued an interim guidance on ethical considerations to guide the use of digital proximity tracking technologies for COVID-19 contact tracing.⁶⁸

62 Coconuts Manila, “Writer arrested for allegedly spreading fake news about COVID-19 cases in Cebu City,” *yahoolnews* (website), 20 April 2020, <https://ph.news.yahoo.com/writer-arrested-allegedly-spreading-fake-013806267.html>

63 Mariejo S. Ramos, “Rights groups wary as NBI summons 17 for ‘fake news’,” *Inquirer.Net* (Philippine Daily Inquirer (website)), 4 April 2020, <https://newsinfo.inquirer.net/1253684/rights-groups-wary-as-nbi-summons-17-for-fake-news>

64 Llanesca T. Panti, “CHR decries warrantless arrest of Cebu-based writer over satirical COVID-19 post,” *GMA News* (website), 22 April 2020, <https://www.gmanetwork.com/news/topstories/nation/735177/decries-warrantless-arrest-of-cebu-based-writer-over-satirical-covid-19-post/story/>

65 World Health Organization, “International health regulations – 2nd edition”, 2005, Reprinted 2008, accessed 14 July 2022, https://apps.who.int/iris/bitstream/handle/10665/43883/9789241580410_eng.pdf?sequence=1

66 World Health Organization, “Ethical considerations to guide the use of digital proximity tracking technologies for COVID-19 contact tracing,” WHO, 28 May 2020, accessed 14 July 2022 https://www.who.int/publications/i/item/WHO-2019-nCoV-Ethics_Contact_tracing_apps-2020.1

67 World Health Organization, “International health regulations – 2nd edition”, 2005, Reprinted 2008, (accessed 14 July 2022) (https://apps.who.int/iris/bitstream/handle/10665/43883/9789241580410_eng.pdf?sequence=1)

68 World Health Organization, “Ethical considerations to guide the use of digital proximity tracking technologies for COVID-19 contact tracing,” 28 May 2020, accessed 14 July 2022, https://www.who.int/publications/i/item/WHO-2019-nCoV-Ethics_Contact_tracing_apps-2020.1

However, it remains to be seen if any of these guidelines have been followed in the implementation of the Philippines' public health surveillance systems. For example, while the WHO guidelines suggested that such public health surveillance system to be time-bound and temporary in nature, there is no clarity when such surveillance in the country will be lifted, and what will be done with the collected data thereafter. There are no expressed guarantees from the administration that the data collected for COVID-19 will not be used for other undisclosed purposes. While its actual occurrence in the country is difficult to prove at present, public health surveillance systems in the context of COVID-19 could easily cross over to mass surveillance of the population, or targeted surveillance of specific individuals.

With the securitization of COVID-19 embedded in the country's response to the pandemic, as the Funders Initiative for Civil Society (FICS) pointed out in its strategic review, health has now become a national security concern that warrants the government's intrusion further into the lives of the population during emergencies. The mass collection and surveillance of individual health data can readily enable the profiling of individuals and groups at a scale that was unimaginable pre-COVID-19. Institutionalizing such flagrant forms of surveillance can lead to discrimination and differential treatment violative of human rights.⁶⁹

D. Derailment of the right to vote in national elections

The securitized approach to the pandemic centered on enforcing extended lockdowns also had adverse effects on the conduct of the May 9 national elections in the country. In March 2020, rising COVID-19 cases prompted the Commission on Elections (COMELEC) to close its offices throughout the country, and suspended voter registration for 148 days from 10 March until 31 August 2020. While registration resumed in September, it was suspended again specifically in Metro Manila and neighboring provinces for about two weeks from 4–18 August 2020, and again for 28 days from 29 March to 14 May 2021 due to the successive imposition of lockdowns in these localities.⁷⁰

This resulted in an overflow of Filipinos trying to register within the deadline set on 30 September 2021. To address this, the COMELEC set up an online booking system, but it did not work. By the first week of June, appointment slots in some localities were already completely booked through the deadline.⁷¹ Despite these setbacks, the COMELEC was initially reluctant to extend the period for voter registration citing a short timeframe between the deadline and election day. With pressure from Congress, however, it subsequently agreed to a one-month extension.⁷²

69 Ben Hayes and Poonam Joshi, "Rethinking civic space in an age of intersectional crisis: a briefing for funders," *Funders Initiative for Civil Society*, May 2020, accessed 15 July 2022, <https://www.fundersinitiativeforcivilsociety.org/wp-content/uploads/2022/01/FICS-Rethinking-Civic-Space-Report-FINAL1.pdf>

70 Loreben Tuquero, "Almost 8 months of voter registration lost in some areas due to lockdowns," *Rappler* (website), 24 August 2021, <https://www.rappler.com/nation/elections/months-voter-registration-lost-some-areas-due-covid-19-lockdowns/>

71 Hannah So, "COVID-19 is Already Negatively Impacting Election Integrity in the Philippines," *International Republican Institute* (website), 16 July 2021, <https://www.iri.org/news/covid-19-is-already-negatively-impacting-election-integrity-in-the-philippines/>

72 Dwight de Leon, "Comelec extends voter registration, October 11 to 30," *Rappler* (website), 29 September 2021, <https://www.rappler.com/nation/elections/comelec-extension-voter-registration-october-31-2021/>

On election day, the COMELEC declared that COVID-19 patients who are isolating in their homes or in facilities would not be allowed to break their isolation hence were precluded from casting their vote. COMELEC Commissioner George Garcia asserted then that this was in accordance with the IATF-EID guidelines and resolutions.⁷³ However, he said those that came to the polling places and tested positive under the COVID-19 symptom checking process set up by local government units during election day would be led into isolation polling places and allowed to vote.⁷⁴ These mixed directives precipitated confusion among potential voters.

The right to vote, which is directly related to the citizens' direct participation in public decision-making is one of the fundamental rights necessary to maintain a robust civic space essential to uphold democratic governance in the country. Preoccupied with enforcing stringent security protocols, the government erred against ensuring the full exercise of this right during the recent elections.

E. Virulent red-tagging of government critics

(See *'Counterinsurgency, Red-Tagging & the War On Terror': A War against Deliberation and Dissent, A War with No End* by Marc Batac). While already practiced even before the COVID-19 pandemic in line with the government's ongoing anti-terrorism campaign, red-tagging intensified with the enactment of the Anti-Terrorism Law of 2020. The Anti-Terrorism Council (ATC) established to implement this law, followed the President's lead and issued Resolution No. 12 on 9 December 2020 designating the CPP and the NPA as terrorist organisations,⁷⁵ and thereafter, the NDF. This further justified the widespread use of red-tagging by the National Task Force to End Local Communist Armed Conflict (NTF-ELAC), the government's anti-communist task force. It has become prolific online as security forces have weaponized social media in pursuit of the government's counterinsurgency campaign.

73 Xave Gregorio, "COVID-19 patients under isolation won't be able to vote," *Phil Star Global* (website), 29 April 2022, <https://www.philstar.com/headlines/2022/04/29/2177636/covid-19-patients-under-isolation-wont-be-able-vote>

74 Christopher Lloyd Caliwan, "Those with Covid-19 symptoms still allowed to vote: DILG," *Philippine News Agency* (website), 29 April 2022, <https://www.pna.gov.ph/articles/1173305>

75 Anti-Terrorism Council Resolution no. 12, "Designating the Community Party of the Philippines and the New People's Army also known as Bagong Hukbong Bayan (CPP/NPA) as Terrorist Organisations, Associations, and/or Groups of Persons," *Official Gazette*, Congress of the Philippines, 9 Dec. 2020, accessed 2 September 2022, <https://www.officialgazette.gov.ph/downloads/2020/12dec/20201209-ATC-12-RRD.pdf>

Among those red-tagged were human rights defenders perceived by state authorities to be members of the CPP-NPA-NDF or supportive of their ideology. In a Facebook post on 30 April 2020, the AFP 303rd Infantry Brigade based in Negros Province linked civil rights organizations, including the Philippine Alliance of Human Rights Advocates (PAHRA) and the Medical Action Group (MAG) to the CPP-NPA-NDF. The APF labelled these organizations as “terrorist viruses” to be avoided.⁷⁶ In June 2020, a member of PAHRA and Executive Director of BALAOD Mindanao, Ritz Lee Santos III, was accused online of being a member of a local communist group because he organized a rally to denounce the Anti-Terrorism Law of 2020. Religious leader Sister Mary John Mananzan has been repeatedly accused by then NTF-ELAC spokesperson Lorraine Badoy of being a high-ranking member of a terrorist organization.⁷⁷

Some women celebrities were also among those red-tagged, regardless of whether they identify as activists or not. In November 2021, Lt. General Antonio Parlade Jr. who was then the head of the NTF-ELAC, posted warnings on Facebook against Filipina actors Angel Locsin and Liza Soberano, and Miss Universe 2018 Catriona Gray who had expressed their support for Gabriela, a left-leaning women’s alliance associated with networks considered as legal fronts of the CPP-NPA-NDF. Parlade discouraged them from having links with leftist groups warning that it could cost them their lives.⁷⁸

In the context of the COVID-19 crisis, security forces have cast a wider net in their red-tagging to include not only activists or those associated with leftist causes, but more extensively, to target those who complain or criticize government measures and policies in light of the pandemic. This has included academics, doctors, artists, and lawyers and ordinary citizens as they try to inform the public, defend those who have been arbitrarily charged, or provide humanitarian assistance during the pandemic.⁷⁹

On 11 April 2021, the Alliance of Health Workers (AHW) expressed alarm at being red-tagged in a column written by NTF-ELAC spokesperson Lorraine Badoy, after it called for increased government support and better response to the pandemic.⁸⁰ Likewise, Ana Patricia Non who started a community pantry that quickly caught the imagination of the public and became a nationwide initiative to provide basic goods to those in need during the enforced quarantine, was also red-tagged. The NTF-ELAC commented on their social media account that such community pantries were being used to spread communist propaganda.⁸¹

76 In Defense of Human Rights and Dignity Movement (iDEFEND), “An appeal to the Human Rights Council for a strong resolution that addresses the rapidly deteriorating human rights situation in the Philippines,” iDEFEND (website), 24 September 2020, <https://idefend.ph/news/statements/appeal-human-rights-council-strong-resolution-addresses-rapidly-deteriorating-human>

77 In Defense of Human Rights and Dignity Movement (iDEFEND), “Red tagging of human rights defenders distracts from government accountability- iDEFEND/PAHRA ,” iDEFEND (website), 23 June 2020, <https://idefend.ph/news/statements/red-tagging-human-rights-defenders-distracts-government-accountability-idefendpahra>

78 Aie Balagtas See, “Rodrigo Duterte Is Using One of the World’s Longest COVID-19 Lockdowns to Strengthen His Grip on the Philippines,” *TIME* (website), <https://time.com/5945616/covid-philippines-pandemic-lockdown/>

79 Imelda Deinla, “Red-tagging” and the Rule of Law in the Time of COVID-19,” Australian Institute of International Affairs (website), 1 April 2021, <https://www.internationalaffairs.org.au/australianoutlook/red-tagging-and-the-rule-of-law-in-the-time-of-covid-19/>

80 Christine Deiparine, “Health workers’ and teachers’ groups latest to be red-tagged by NTF-ELCAC,” *Philstar Global* (website), 11 April 2021, <https://www.philstar.com/headlines/2021/04/11/2090405/health-workers-and-teachers-groups-latest-be-red-tagged-ntf-elcac>

81 Ruth Abbey Gita-Carlos, “Community pantries welcome but Reds taking advantage: NTF-ELCAC,” *Philippine News Agency* (website), 20 April 2021, <https://www.pna.gov.ph/articles/1137446>

Red-tagging has become “a swift and deadly means” to silence members of civil society who continue to denounce and expose the ineffectiveness of the government’s securitized approach to the pandemic. “Many of those red-tagged by state authorities are subsequently killed or injured by unidentified assailants, similar to some of the killings arising from Duterte’s war on drugs,” stated the International Commission of Jurists (ICJ) in a legal brief. “There is no significant progress on effective investigation and accountability for such killings.”⁸² This practice has further jeopardized the remaining mechanisms of accountability and rule of law that were already eroded as the administration clamped down on fundamental freedoms during the health emergency.⁸³

F. Massive arrests of violators and activists

Arrests of a massive number of violators occurred during the pandemic as directed by President Duterte. The President issued his threats and ordered the police to arrest the following: those not wearing a mask properly⁸⁴; those who refuse vaccination⁸⁵; and those unvaccinated who flout quarantine protocols⁸⁶. And so, the police went ahead to execute his orders during the enforced lockdowns. As of 6 September 2020, close to six months after the punitive imposition of social distancing measures, over 100,486 alleged quarantine violators were arrested, and 1,735 were still detained in police stations, according to data from the JTF COVID Shield.⁸⁷ Most of these arrests were warrantless, their legality questioned, whether or not the police complied with the requirements of warrantless arrests prescribed by law.⁸⁸

Such wanton conduct of the police and the alarming number of arrests made has provoked fear and anxiety especially among the poor who have been penalized simply for attempting to survive.

82 International Commission of Jurists, “Danger in Dissent: Counterterrorism and Human Rights in the Philippines,” International Commission of Jurists (website), January 2022, https://www.icj.org/wp-content/uploads/2022/01/ICJ_PhilippinesRedTagging_270122.pdf

83 Imelda Deinla, “Red-tagging” and the Rule of Law in the Time of COVID-19,” Australian Institute of International Affairs (website), 1 April 2021, <https://www.internationalaffairs.org.au/australianoutlook/red-tagging-and-the-rule-of-law-in-the-time-of-covid-19/>

84 AFP, “COVID-19: Philippine President Duterte orders arrest of mask violators,” *WION news* (website), 6 May 2021, <https://www.wionews.com/world/covid-19-philippine-president-duterte-orders-arrest-of-mask-violators-383222>

85 AP News, “Duterte threatens to arrest Filipinos who refuse vaccination,” *AP News* (website), 22 June 2021 <https://apnews.com/article/coronavirus-pandemic-arrests-health-feeb885f996b2a6f0f425a315c6c5ed9>

86 Agencia EFE, “Duterte orders arrest of unvaccinated flouting stay-at-home orders,” *EFE News* (website), 7 January 2022, <https://www.efe.com/efe/english/world/duterte-orders-arrest-of-unvaccinated-flouting-stay-at-home/50000262-4712549>

87 Rambo Talabong, “Over 100,000 quarantine violators arrested in PH since March,” *Rappler* (website), 8 September 2020, <https://www.rappler.com/nation/arrested-quarantine-violators-philippines-2020/>

88 Tony La Vina, “Warrantless arrests in a pandemic,” *Manila Standard* (website), 2 June 2020, <https://manilastandard.net/opinion/columns/eagle-eyes-by-tony-la-vina/325003/warrantless-arrests-in-a-pandemic.html>

Already conjured during Duterte's campaign against illegal drugs, the poor, who comprised most of those arrested violators, have been lumped into the pejorative concept of 'pasaway', which loosely refers to a person who is obstinate, lacks discipline, and violates COVID-19 regulations. (See *'The Effect of the Philippine War on Drugs on Civic Space' by Ateneo Human Rights Center*)

Despite President Duterte's anti-elite rhetoric, and especially in the context of the bungled disbursement of the government's COVID-19 emergency subsidies for the poor authorized under the Bayanihan laws⁸⁹, the targeting of the poor – the 'pasaway' – betrays the deep-seated class prejudices of his administration.⁹⁰

The state's coercive power used to produce, maintain and reinforce social divides evident during its war on illegal drugs spilled into control over civic space during the COVID-19 pandemic. Arresting the 'pasaway' has the numbing effect of silencing dissent. Those arrested without due process were unable to question the legality of their arrests, or the reasonableness of stringent health restrictions that infringe on their fundamental rights. Under the cover of the crisis, there has been little room to question the President's directives that smack of violence and vigilantism, or investigate the abuses committed by the security forces.

Aside from the poor, among those arrested during the pandemic were activists caught in the military's continuing counterinsurgency campaign targeting the CPP-NPA. President Duterte's declaration of an "all-out war" against communist rebels following the breakdown of peace talks in 2017 has resulted in a raft of arbitrary arrests and detentions of activists deemed critical of the government on allegations that they are members or supporters of the CPP-NPA-NDF. The administration continued with its war on terrorism side by side with its declared war against COVID-19.

Leaders of left-leaning organizations caught during the Bloody Sunday and Tumandok raids that also killed activists accused of being communist rebels or sympathizers, were arrested. In addition, five people, including an *Altermidya Network* correspondent, were arrested during a raid conducted by the military on "identified Communist Terrorist Group safe houses" in Tacloban City, Leyte province on 7 February 2020.⁹¹ On 19 March 2020, Gloria Tumalon, a Manobo indigenous activist and opponent of mining projects, was arrested in Surigao del Sur on suspicion of being an NPA member.⁹² Arrests and abductions of NDF consultants and aides were reported on 11 April 2020.⁹³

89 Michelle Abad, "What went wrong in 2020 COVID-19 'ayuda,' lessons learned for 2021," *Rappler* (website), 8 April 2021, <https://www.rappler.com/newsbreak/explainers/coronavirus-ayuda-government-aid-what-went-wrong-2020-lessons-learned-2021/>

90 Karl Hapal, "The Philippines' COVID-19 Response: Securitising the Pandemic and Disciplining the Pasaway," *GIGA Journal of Current Southeast Asian Affairs* Vol. 40 (2) 224 – 244, 18 March 2021, accessed 30 June 2022 <https://journals.sagepub.com/doi/pdf/10.1177/1868103421994261>

91 Jodesx Gavilan, "Lives in danger as red-tagging campaign intensifies," *Rappler* (website), 20 February 2020, <https://www.rappler.com/newsbreak/in-depth/252028-lives-in-danger-duterte-government-red-tagging-campaign/>

92 Nick Aspinwall, "Philippines: brutal crackdown on activists and environmental defenders amid spread of Covid-19," Business and Human Rights Resource Centre (website), 6 April 2020, <https://www.business-humanrights.org/en/latest-news/philippines-brutal-crackdown-on-activists-and-environmental-defenders-amid-spread-of-covid-19/>

93 Pola Rubio, "NDFP consultants missing after arrested by police at vaccination site," *Yahoo news* (website), 11 April 2022, https://ph.news.yahoo.com/ndfp-consultants-missing-after-arrested-by-police-at-vaccination-site-094458042.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuc3RhcncRwYWdlMmNvbS8&guce_referrer_sig=AQAAANsmDGHltV2zs08_TosuB8WB3L6dntvlfL52xpnRJtqXVurKqfWlsANjLRJeQAjbyge8zGiQoTMMXSaQI_4IWu2_kpP_OwnrdeeBxJe-OfxbYHTaZ_y2CdAxcEi-sWhe_YLbmzfwbVTgtksKdBSiSN4gn2_k9PXDUZqy8QKEYfX

Close to Labor Day, the human rights NGO Karapatan claimed in a press release issued on 2 May 2020 that at least 76 individuals were arrested throughout the country, among them, 10 women's rights advocates, teachers, and relief volunteers who were organizing a community kitchen in Marikina City. Around 14 residents and four volunteers from Quezon City were also arrested after organizing a community kitchen for poor residents in the area.⁹⁴ Assisting in the relief efforts did not spare them from the administration's wrath as government officials tried to connect their acts to communist tactics and undermined the legitimacy of their activities.

G. Killing of human rights defenders

Alongside its campaign to curb COVID-19, the government continued its vicious campaign against terrorism. Hinged on the raging global war on terror post 9/11, previous administrations assimilated the long drawn-out fight against counterinsurgency into a globally supported counterterrorism campaign. With the breakdown of the peace talks with the CPP-NPA-NDF during the Duterte administration in 2017, these organizations were subsequently designated as terrorist organizations and all communist insurgents as terrorists. Caught in the crossfire are activists associated with these organizations who are now considered legitimate targets by the security forces in the government's extended militarized conflict with civil society. (See *'Counterinsurgency, Red-Tagging & the 'War On Terror': A War against Deliberation and Dissent, A War with No End'* by Marc Batac)

Among the activists targeted and killed during the pandemic were those suspected of being NPA rebels or communist sympathizers, or working with organizations considered as legal fronts of the CPP-NPA, which were declared terrorist organizations pursuant to President Duterte's Proclamation No. 374 signed on 5 December 2017.⁹⁵ Leaders or members of organizations in their alliance, including representatives of the Makabayan party list in Congress, that have been tagged as communists-terrorists by government authorities were among those killed.

On 30 April 2020, Jory Porquia, a founding member of Bayan Muna, a left-leaning organization belonging to the Makabayan bloc that held a seat in Congress, was shot dead by unidentified assailants in his rented home after providing relief assistance to urban poor communities.⁹⁶ Then on 10 August 2020, Randall Echanis, a political consultant of the NDFP and a former chair of Anakpawis, another party list organization affiliated with Makabayan, was tortured to death inside a rented house in Quezon City.⁹⁷ One week later, on 17 August 2020, Zara Alvarez, former campaign and education director of Karapatan in Negros Occidental was killed by an unidentified assailant in Bacolod City.⁹⁸

94 Karapatan Press Release, "Instead of addressing mass poverty and hunger on Labor Day, Duterte unleashes mass arrests and fascism," Karapatan organization (website), 2 May 2020, https://www.karapatan.org/media_release/instead-of-addressing-mass-poverty-and-hunger-on-labor-day-duterte-unleashes-mass-arrests-and-fascism/

95 "Proclamation No. 374, s. 2017, Declaring the Communist Party of the Philippines (CPP)-New People's Army (NPA) as a Designation/Identified Terrorist Organisation Under Republic Act No. 10168," Official Gazette, Congress of the Philippines, 2017, accessed 12 September 2022, <https://www.officialgazette.gov.ph/2017/12/05/proclamation-no-374-s-2017/>

96 Mongabay, "Deaths, arrests and protests as Philippines re-emerges from lockdown," Mongabay (website), 21 May 2020, <https://news.mongabay.com/2020/05/deaths-arrests-and-protests-as-philippines-re-emerges-from-lockdown/>

97 Nikko Dizon, "Randall 'Ka Randy' Echanis: Lifelong reform advocate," *Rappler* (website), 10 August 2020, <https://www.rappler.com/newsbreak/in-depth/randall-echanis-lifelong-reform-advocate/>

98 Marchel P. Espina, "Human rights activist shot dead in Bacolod City," *Rappler* (website), 17 August 2020, <https://www.rappler.com/nation/activist-zara-alvarez-shot-dead-august-17-2020/>

Their deaths are controversial and have remained unresolved; hence, it cannot be ascertained if they were killed by state-commissioned death squads. However, speculations abound that their deaths were extrajudicial executions, considering that the victims were threatened by government authorities prior to their deaths. Porquia was red-tagged and was in a “hit list” in 2018, and a week before he was shot, he and Bayan Muna personnel were harassed by Iloilo city police while on their way to conduct relief operations.⁹⁹ Both Echanis and Alvarez were also previously red-tagged. They were included in a list of 656 people that the government sought to designate as terrorists in a court petition filed by the Department of Justice (DOJ) on 21 August 2018, although their names were subsequently removed.¹⁰⁰

On 30 December 2020, nine indigenous Tumandok leaders were killed, and 17 others were arrested in an operation conducted by the police and military in various Tumandok communities in the provinces of Capiz and Iloilo. The leaders were known in their villages for fighting against land-grabbing and the construction of the Jalaur Mega Dam in Calinog, Iloilo province. The authorities claimed, however, that they were rebel sympathizers, and the raid was part of the government’s campaign against the rebels. A month before the raids, the Tumandok leaders were told by the military to surrender their membership in the NPA, and when they refused to surrender, they were warned that they could be charged under the new anti-terrorism law.¹⁰¹

The rhetoric of the President had been harmful and dangerous, with some statements directly inciting to violence, especially against his perceived enemies. On 7 March 2021, referred to as “Bloody Sunday”, nine activists were killed following simultaneous police raids in northern Philippines. The bloody assaults took place just two days after President Duterte appeared on television saying, “I’ve told the military and the police, if they find themselves in an encounter with the communist rebels and you see them armed, kill them.” The police said they had arrest warrants against 18 individuals, adding that some resisted arrest, resulting in their deaths.¹⁰²

Emboldened by the President’s pronouncements, security forces resorted to killings in carrying out what they claimed to be “legitimate operations”, given that they had valid arrest warrants against those shot and arrested. In the Bloody Sunday raid, the spokesperson of the police admitted that they had not yet properly established whether the suspects could be linked to previous crimes and if they were affiliated with any groups.¹⁰³ Yet, like in the killing of the Tumandok leaders, raids were conducted based on questionable warrants that by-passed the constitutional right to due process, and disregarded the non-derogable right to life.

99 *Davao Today* (website), “Groups condemn brutal killing of Bayan Muna coordinator in Iloilo,” 1 May 2020 <http://davaotoday.com/main/human-rights/groups-condemn-brutal-killing-of-bayan-muna-coordinator-in-iloilo/>

100 UN News 21, “UN rights office ‘appalled’ at violence against human rights defenders in the Philippines,” United Nations (website), August 2020, <https://news.un.org/en/story/2020/08/1070752>

101 Indigenous Peoples Rights International, “9 Indigenous Tumandok killed, 17 others arrested in police ops in Panay,” Indigenous Peoples Rights International (website), 8 January 2021, <https://www.iprights.org/news-and-events/news-and-features/philippines-9-indigenous-tumandok-killed-17-others-arrested-in-police-ops-in-panay>; Krixia Subingsubing, Nestor Corrales, Nestor P Burgos Jr., “Justice sought for 9 slain in Panay raids,” *Philippine Daily Inquirer* (website), 8 August 2022, <https://newsinfo.inquirer.net/1378106/justice-sought-for-9-slain-in-panay-raids>

102 CNN Philippines Staff, “9 dead as police crackdown vs activists in Southern Tagalog,” *CNN Philippines* (website), 7 March 2021, updated 8 March 2021, <https://www.cnnphilippines.com/regional/2021/3/7/pnp-operations-southern-tagalog-karapatan.html>; Ted Regencia, “Nine killed after Duterte’s order to ‘finish off’ communists,” *Aljazeera organization* (website), 7 March 2021, <https://www.aljazeera.com/news/2021/3/7/philippines-deadly-operation-after-order-to-kill-communists>

103 CNN Philippines Staff, “9 dead as police crackdown vs activists in Southern Tagalog,” *CNN Philippines* (website), 7 March 2021, <https://www.cnnphilippines.com/regional/2021/3/7/pnp-operations-southern-tagalog-karapatan.html>

The frontline defenders reported killed were mostly men, a reflection of the prevailing dominance of male leadership in social movements in the country. Among the marginalized groups attacked, a significant number were indigenous peoples based in rural or remote places whose communities bear the brunt of the government's counterinsurgency operations. Their unwarranted deaths, in effect, deprived marginalized communities of representation, and further derailed their advocacy for human rights and social justice. The killing of Echanis within the urban capital of Metro Manila, however, marked a turning point in the government's campaign to eliminate dissent. Any pretense that killings resulted from local conflicts and rural struggles was gone¹⁰⁴ as the government ramped up its counterinsurgency operations even during the pandemic and pursued "high-value" dissidents in the capital city.

Some of those killed were involved in carrying out humanitarian assistance to ease the adverse consequences of the health crisis on their communities. They were targeted by government authorities precisely because they were red-tagged, having played a critical role as advocates for the rights of peasants, urban poor, and labor, and led campaigns against large-scale mining, extractive projects, and encroachment in ancestral domains. In effect, their acts of extending humanitarian help have been redeployed by government authorities in its securitized approach to the public health emergency, as part of communist propaganda.

In addition to activists, journalists were also among the human rights defenders slain by security forces as the pandemic raged in the country. Ronnie Villamor, a freelance journalist, was shot dead by soldiers manning a military checkpoint in Masbate province on 14 November 2020. Previously, on 5 May 2020, radio broadcaster Cornelio Pepino was shot dead by unidentified men in Dumaguete City. A radio commentator who tackled illegal mining, graft and corruption, and poor governance in his daily program, his colleagues presumed his killing was politically motivated as he might have hit a raw nerve in some political actors.¹⁰⁵ Killing members of the media has also had a chilling effect in shrinking the space for discursive processes essential to uphold civic space and generate an informed public health response to the COVID-19 crisis.

In conclusion, as the war against COVID-19 has been made contiguous to the government's decreed wars against terrorism and illegal drugs, the health crisis has allowed President Duterte and his administration to consolidate power and descend further into authoritarian rule. Security forces were granted extensive authority to instill discipline during the pandemic even if this led to abuse of power and violations of human rights, especially of the poor and the political dissidents.

There is "a serious lack of due process in police operations, and near-total impunity for the use of lethal force by the police and the military", then High Commissioner for Human Rights Michelle Bachelet, noted in her report on the Philippines' response to the pandemic. Given such dismal lack of accountability for abuses committed against activists and other human rights defenders, she sounded the alarm that "vilification of dissent is being increasingly institutionalized and normalized in ways that will be very difficult to reverse".¹⁰⁶

104 Nick Aspinwall, "The killings in the Philippines grow more brazen," *The Interpreter* (website), 25 August 2020, <https://www.lowyinstitute.org/the-interpreter/killings-philippines-grow-more-brazen>

105 Amnesty International 2020 "My Job is to Kill": Ongoing Human Rights Violations and Impunity in the Philippines, accessed 20 September 2022, <https://www.amnesty.org/en/documents/asa35/3085/2020/en/>

106 Human Rights Council 4 June 2020 Report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Philippines A/HRC/44/22, accessed 18 September 2022 <https://www.ohchr.org/sites/default/files/Documents/Countries/PH/Philippines-HRC44-AEV.pdf>

VI. Resistance Amidst a Climate of Fear and Impunity

Populist leaders like President Duterte thrive on the control of narratives. This entails establishing that the state is in control, and those who criticize or oppose the state are labelled as communists, terrorists, ‘pasaway’, detractors, or opposition out to grab power from the incumbent.¹⁰⁷ With the government taking control of the ascent of fear narratives, over time, the securitized implementation of NAP COVID-19 was legitimized by the conflux between the public’s fear of the virus, and the fear drilled by the President in his rhetoric and his command over the security forces to enforce punitive measures to control the pandemic.

With the securitization of the pandemic in place, a national mood took shape characterized by a public, fearful of the potential life-threatening effects of the pandemic, conditioned towards obedience to government control. The chief executive, through his acts and pronouncements, latched onto this collective fear and strongly asserted his authority as the one in charge, exacting strict compliance from the general population. The executive, represented on the ground by the uniformed personnel, was in full control, while the citizens fearful for their lives, were fully expected to be obedient and submissive, like disciplined soldiers taking orders from their superiors.¹⁰⁸

But far from simply acquiescing to the curtailment of their fundamental freedoms and abstaining from questioning the abuses committed by the government, an analysis of social media data reveals peaks of dissatisfaction expressed by citizens regarding the mismanagement of the health crisis by President Duterte’s administration. An organic groundswell of discontent from the public was evident based on social media feeds.¹⁰⁹ At one point, #OustDuterteNow topped Philippine Twitter trends on a Tuesday as the public’s uproar against the red-tagging of community pantries and their organizers went viral on social media. As one post said: “That the state can arbitrarily tag people, organizations and movements as Red is a reminder that it conflates... the assertion of basic human rights with sedition and rebellion against the government”.¹¹⁰

As the public in general expressed discontent, human rights defenders, in particular, braved the risk of the virus, and the wrath of the state to demand from the government, as the duty bearer, accountability for the fulfillment of fundamental freedoms integral to upholding the safety of citizens. Many were killed, arrested and detained, harassed. Yet, the abuses did not stop them from protesting the derogation of rights – in the streets or through other means – at the risk of their lives. Clearly, these are courageous acts of resistance to reclaim the shrinking civic space and hold the government accountable for human rights violations.

107 Sofia Tomacruz and Don Kevin Hapal, “Coronavirus response: Online outrage drowns out Duterte propaganda machine,” *Rappler* (website), 24 April 2020, <https://www.rappler.com/newsbreak/in-depth/coronavirus-response-online-outrage-drowns-duterte-propaganda-machine/>

108 Shivane Dolo, Crisha Mae DG De Vera, Zhenia Flores, et al. “Effecting a Shift in State Policy during the COVID-19 Pandemic: The Case of the Philippines’ Anti-Terrorism Act of 2020,” *Philippine e-Journal for Applied Research and Development* 11(2021) 55 – 68, accessed on 2 August 2022, <https://pejard2.slu.edu.ph/wp-content/uploads/2021.12.16.pdf>

109 Active Vista. (no date or author specified) Strengthening Human Rights-Based Response of Civil Society in the Pandemic (internal document)

110 Iya Gozum, “Red-tagging of community pantry sparks uproar online,” *Rappler* (website), 20 April 2021, <https://www.rappler.com/moveph/philippine-government-red-tagging-community-pantry-sparks-uproar-online/>

Given the crippling effects on civic space with the securitization of the COVID-19 crisis, there were not many avenues available for human rights defenders at local or national levels to counter the state's denial of the people's rights. Among the options that remained was lodging litigation in the courts against the perpetrators or pursuing strategic litigation. For example, on 14 January 2022, murder complaints were filed by the National Union of Peoples' Lawyers (NUPL) against 17 police officers for the murder of the Evangelista couple who were killed during the Bloody Sunday raids on 7 March 2021.¹¹¹

There have been more chances of obtaining favorable rulings in filing these cases with the lower courts where it appears that individual judges have retained their independence. On 3 August 2022, for instance, NDF peace talks consultant Renante Gamara was cleared of charges of illegal possession of firearms and explosives by the Regional Trial Court in Marikina City. At that time, he was the 27th activist cleared of any charges by the lower courts in 2022.¹¹² Many of the countersuits filed on behalf of activists to refute baseless accusations against them, however, remain pending in the courts.

The regional trial court in Naga City, the metropolitan capital of the province of Camarines Sur, declared the Digital Contact Tracing System Ordinance of Naga City unconstitutional on 8 April 2021. In a landmark decision, the court ruled that the "No QR Code, No Entry" policy and mandatory registration to the contact tracing application set up by the local government was violative of constitutional rights, and the collection of personal information pertaining to birth dates and sex of registrants was also declared invalid. This is a significant victory in the defense of human rights that have been abrogated by the government in pursuit of its militarized implementation of COVID-19 protocols.¹¹³

Strategic litigation therefore is another important strategy to push back the government's encroachment on rights. On 31 December 2021, a court hearing was set before the Regional Trial Court in Manila for a petition to question the administration's enforcement of mandatory vaccination against COVID-19.¹¹⁴ A similar petition was filed before the Supreme Court subsequently to also assail the constitutionality of local ordinances that restrict the right to work, the right to privacy, and other fundamental freedoms of residents. These lawsuits have posed a counter-narrative that challenges the government's securitization of the COVID-19 emergency. Collectively called the "anti-vaxers", the petitioners rebuked the administration's disproportionate use of force in containing the disease and asserted the pre-eminence of upholding their fundamental rights.

111 Marlon Ramos, "17 more cops charged for 'Bloody Sunday' slays," *Philippine Daily Inquirer* (website), 15 January 2022, <https://newsinfo.inquirer.net/1540675/17-more-cops-charged-for-bloody-sunday-slays>

112 Lian Buan, "NDF consultant is 27th activist cleared by court in 2022," *Rappler* (website), 4 August 2022, <https://www.rappler.com/nation/national-democratic-front-consultant-activist-cleared-by-court-august-2022/>

113 Ed G Yu, "Court declares 2 'eSalvar' sections unconstitutional but rest of ordinance legal," *Bicol Mail* (website), 8 April 2021, <https://www.bicolmail.net/single-post/court-declares-2-esalvar-sections-unconstitutional-but-rest-of-ordinance-legal>

114 Jomar Canlas, "Court summons parties in suit vs mandatory vaccination," *The Manila Times* (website), 9 December 2021 in <https://www.manilatimes.net/2021/12/09/news/court-summons-parties-in-suit-vs-mandatory-vaccination/1825319>

With the exercise of the freedom of movement constrained and the freedom of assembly curtailed during the pandemic, civil society actors have ramped up their sites of resistance online and engaged a broader audience. Public campaigns on social media such as those run by Active Vista has expanded public participation to include “critics, activists, Lumads (i.e., indigenous peoples in Mindanao), students and others” to widely talk about extrajudicial killings in the context of the Duterte administration’s war against illegal drugs and its relation to the securitization of the COVID-19 crisis. Strategies for action were also discussed in these fora such that “resistance is not just a matter of going to the streets, it has to start at home”.¹¹⁵

Such forms of on-line resistance to shrinking civic space are discussed in more detail in the research on securitization in the context of internet included in this series (See ***‘Big Brother’s Grand Plan: A Look at the Digital Security Playbook in the Philippines’*** by Jessamine Pacis).

VII. Lessons of Resistance from Community Pantries

Community pantries, local food banks intended to help the poor, have existed prior to the COVID-19 emergency. Known as soup kitchens or food pantries, they have flourished in other countries such as in the United States during the crippling debt crisis in 2013. During the pandemic, community pantries were also set up in other countries. For example, Thailand’s community pantry project – *Too Pan Sook* or Pantries of Sharing – was launched in early May 2020 and immediately spread to at least 44 provinces in the country.¹¹⁶

In the Philippines, the first community pantry established during the COVID-19 pandemic was initiated by Ana Patricia Non, a local entrepreneur, in her neighborhood in Quezon City on 14 April 2021. She placed a single bamboo cart containing food items and other necessities along Maginhawa Street with the sign for people to “give according to your ability; take according to your need”. The initiative immediately went viral on social media and within a few weeks, as many as 6,700 community pantries sprouted in various cities and provinces nationwide.¹¹⁷

115 Active Vista, Twitter, 19 September 2020, <https://mobile.twitter.com/ActiveVistaPH/status/1307224213187473410>

116 Reuters, “Coronavirus: Dozens of local food banks spring up in Thailand as virus hits incomes,” *The Strait Times Asia* (website), 13 May 2020, <https://www.straitstimes.com/asia/se-asia/coronavirus-dozens-of-local-food-banks-spring-up-in-thailand-as-virus-hits-incomes>

117 “Ana Patricia Non: Her foodcart pushed back vs apathy,” *Philippine Daily Inquirer* (website), 23 January 2022, <https://newsinfo.inquirer.net/1543751/ana-patricia-non-her-foodcart-pushed-back-vs-apaty>

Source: A photo of the community pantry organized by BTS' fans in Cavite © ARMY Cavite Fanpage/Facebook.



Beyond civil society actors, citizens from different walks of life mobilized to establish their own community pantries.¹¹⁸ These efforts, including programs rolled out by the Office of then Vice President Leni Robredo to alleviate the hardships brought about by the crisis, were propelled by a collective spirit of volunteerism among citizens, referred to as the distinct Filipino value of ‘*bayanihan*’. This term, however, was eventually co-opted by the administration, and used to obscure its inability to meet the basic needs of the Filipinos during the pandemic. Then Presidential spokesperson Harry Roque remarked that setting up community pantries “is not a condemnation of the government, but a showcase of the best in the Filipino character” – their own capacity to help themselves.¹¹⁹

The pantries set up spontaneously in communities throughout the country had one clear purpose: to provide basic goods to the public that were rendered inaccessible due to poverty and the pandemic. Subsequently, they evolved into information centers disseminating information about free COVID-19 mass testing and other public health announcements. Other pantries eventually adopted issue-based slogans such as a critique on the inadequacy of government aid, and a call to report violence against women displayed in signages on site or in social media posts. Human rights activists and their organizations, including a labor group that mobilized a petition for more financial assistance to the unemployed, were among those that participated in these community pantries.¹²⁰

118 Julie Suazo, “What the community pantry movement means for Filipino,” *CNN Life*, CNN Philippines (website), 19 April 2021, <https://www.cnnphilippines.com/life/culture/2021/4/19/community-pantry-filipinos-pandemic.html>

119 Alexis Romero, “Palace On Community Pantries: Bayanihan, Not Gov’t Condemnation,” *One News* (website), 20 April 2021, <https://www.onenews.ph/articles/palace-on-community-pantries-bayanihan-not-gov-t-condemnation>

120 Josephine Dionisio, Arnold Alamon, Dakila Yee et al. “Contagion of Mutual Aid in the Philippines,” *Philippine Sociological Society*, 19 April 2021, accessed 10 November 2022, <http://philippinesociology.com/contagion-of-mutual-aid-in-the-philippines/>

Given that they served multiple purposes, community pantries could offer valuable insights into reconfiguring civil society activism in the context of shrinking civic space under a repressive government. Communities, which have proven to be the first line of defense in the outbreak of the pandemic, can be strengthened as “home fronts” for spreading awareness, deepening connections, and cultivating creative and transformative initiatives among citizens that may not be directly or formally involved in civic action, but nonetheless have stakes in the issues debated in the civic space.¹²¹ Community pantries thus offer a useful leitmotif within which to explore ways to engage the citizenry, and reshape the forms of resistance carried out by civil society actors that have become life-threatening in the context of authoritarian rule.

Consciousness-raising based on mutual aid.

Responding first and foremost to the basic needs of communities is a reiteration of a key principle in community organizing that has been eclipsed by existing organizing approaches that have revolved only around political discussion sessions, human rights trainings, or consciousness-raising cells. Putting this principle into practice underscores the importance of meeting an expressed, immediate need – e.g., for food – with a direct, concrete response as the critical touchpoint between the organizers and those being organized. Through demonstrated empathy, it establishes a foundation of trust between them upon which to ground consciousness-raising efforts.

Some of the community pantries established to meet basic needs evolved into platforms for consciousness-raising, including an advocacy against gender-based violence, for example. This phenomenon relates the necessity of meeting both practical and strategic gender needs that Caroline Moser and other feminist scholars identified years ago in strategizing towards the attainment of gender equality.¹²² **Practical needs** are needs for survival that are immediate and material, such as food or shelter. These needs must be met, otherwise, it will be a challenge to engage communities in efforts to address **strategic needs**, which are longer-term and seek to change structural concerns such as gender inequality.

The split in the advocacy for human rights into a prioritization of civil and political rights over economic, social and cultural rights has contributed to major drawbacks in the advancement of rights at present. This split, evident in many campaigns and other fora worldwide, reinforces the decreasing relevance of human rights in the lives of many who are increasingly burdened with pressing economic and social needs that remain grossly unaddressed. Hence, rather than dismiss the relevance of service delivery initiatives and completely do away with needs-based approaches, civil society organizations that have focused solely on rights-based approaches would do well to reconsider exploring collaborations of mutual aid to broaden and deepen their outreach to marginalized communities.

Rather than dismiss the relevance of service delivery initiatives and completely do away with needs-based approaches, civil society organizations that have focused solely on rights-based approaches would do well to reconsider exploring collaborations of mutual aid to broaden and deepen their outreach to marginalized communities.

121 DAKILA-Active Vista. (2020) The Philippine Pandemic: A Tale of Two Viruses, Strengthening Human Rights-Based Response of Civil Society in the Pandemic.

122 Candida March, Ines Smyth and Maitrayee Mukhopadhyay, “A Guide to Gender-Analysis Frameworks,” Oxfam Publication, 1999 (reprinted 2005), <https://www.ndi.org/sites/default/files/Guide%20to%20Gender%20Analysis%20Frameworks.pdf>

Organized around mutual aid, the community pantries are intended to encourage community engagement where all members are accorded equal treatment. As Non expressed, “Efforts like these give us hope that we can come together and help each other out....This initiative does not discriminate against gender, class, affiliation, religion or anything else. It’s just based on our capacity to help.”¹²³ Acknowledging the capacity of the marginalized to both receive and give mutual aid, community pantries offer potential platforms of consciousness-raising. Such collaborations can transform as communicative and participatory platforms of democratizing the social setting where the muted voices of the marginalized, e.g., the hungry or the poor, are heard, their articulated practical needs given paramount consideration and addressed together with their strategic needs.

Non explained that community pantries are intended “not as charity, but mutual aid”.¹²⁴ The community pantries refrain from stigmatizing the poor in their dependency. While most donations come from the rich and the middle class, the pantries also take in contributions from people who are struggling financially but contribute food or whatever they can share. Dispensing with hierarchies between donors and beneficiaries implicit in charities, the pantries engage with the marginalized as empowered citizens with agency to give mutual aid. “Emergent agencies”, or the capacity of individuals or groups on their own to effect change in their situation, is foregrounded in these community pantries.¹²⁵

Changing narratives, such as the narrative of the state on securitization, requires a key strategy of raising the consciousness of a critical mass to think critically in order to develop and deploy counter-narratives, and eventually become active actors in keeping a vibrant and discursive civic space.

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123 The News Lens, “How a Community Pantry Sparked Movement of Mutual Aid in the Philippines,” *TNL Media Group* (website), 21 April 2021, <https://international.thenewslens.com/article/149976>

124 Gretchen Malalad, “Coronavirus Pandemic: Community pantries pop up in Philippines after delay in government aid,” *CGTN* (website), 24 April 2021, <https://news.cgtn.com/news/2021-04-24/VHJhbnNjcmlwdDUOMjA2/index.html>

125 Josephine Dionisio, Arnold Alamon, Dakila Yee et al. “Contagion of Mutual Aid in the Philippines,” *Philippine Sociological Society*, 19 April 2021, accessed 10 November 2022, <http://philippinesociology.com/contagion-of-mutual-aid-in-the-philippines/>

Human rights activists who have engaged in community pantries could draw from experiences of mutual aid and alter these processes into open and democratic dialogues wherein the marginalized, treated as equals, are allowed to voice their needs and concerns from the margins, surface discourses that lie outside the dominant ones of the elite, and in the process, subvert their own marginality.

A. Fostering co-responsibility for human rights

Aside from challenging the government through litigation or other forms of resistance directly confronting the state, the emergence of community pantries presented a different expression of activism during the pandemic. Non explained the motivation behind her initiative: “I thought this might be just a small step, but we need to take action, because government aid has not been enough.”¹²⁶ As many others followed her example and organized community pantries throughout the country, an alternative form of activism took shape: to recognize the human right to food as well as acknowledge each one’s responsibility to fulfill it.

The government has not been absolved of this duty; it retains full accountability for the realization of human rights. Just as Non inferred in her criticism that the government has not done enough, the proliferation of pantries was an articulation of the peoples’ growing frustration over the administration’s incompetence in responding to the crisis. But rather than confront the state directly, the community pantries deflected antagonism against the administration, and relied on unleashing the latent agency of the people to help themselves and each other. With each bundle of goods handed out, the connection between people has been revitalized, and a new identity for collective action has been forged around a shared culture of co-responsibility for human rights.

“This community pantry became a way to prove to ourselves that we can help one another, and we are able to organize ourselves,” Non added in one of her interviews. As a modality for self-organizing, the existence of community pantries has pointed to possibilities of growing activism for human rights that is motivated by fostering co-responsibility for realizing each other’s rights. This form of activism is an alternative that complements the activism of confronting the state on its accountability. Other studies point out that indirect resistance that does not overtly confront the regime and is less threatening, such as the provision of charity, can also open a space for community involvement and collective civic action.¹²⁷

There is a growing awareness among social movements to break the silos created by organizing activism for human rights around identity politics. Quoting from the Combahee River Statement issued by a group of Black lesbian socialists formed in the 1970’s, Philosophy professor Olúfémi O. Táíwò in his recent book *Elite Capture: How the Powerful Took Over Identity Politics* acknowledged that “the most profound and potentially most radical politics come directly out of [one’s] identity, as opposed to working to end somebody else’s oppression”. However, over time, this has led to a compartmentalization of the struggle for rights wherein, for example, women’s rights activists do not necessarily take on campaigns regarding the rights of trans people.

126 Barnaby Lo, “COVID food pantry operators draw accusations of communism in the Philippines,” *CBS News* (website) 26 April 2021, <https://www.cbsnews.com/news/philippines-covid-community-food-pantry-accusations-communism-red-tagging/>

127 Czarina Medina-Guce and Ana Martha Galindes, “Democratic Backsliding & Shrinking Civic Spaces: Problematizing the Strengthening of Philippine Democratic Institutions,” *Academia* (website) 2018, <https://independent.academia.edu/AnaMarthaGalindes>

Táiwò observed that this form of organizing centered on identity politics is losing its potency, and is now at risk of “elite capture”: the way socially advantaged people within these identity formations tend to gain control over benefits meant for everyone in the collective, and how this cadre of elite then ends up simply maintaining the status quo.¹²⁸ Given these apparent pitfalls of continuing to anchor social movements on identity politics, it would be worthwhile for civil society actors to take the lesson from community pantries of mobilizing around a call for co-responsibility in the fulfillment of rights to break the silos among social movements, and avoid the peril of elite capture.

Shifting the focus on co-responsibility of rights will drive social movements: to seriously put into practice the concept of intersectionality or the intersections of privilege and discrimination that underpin the advocacy for rights; and pursue cross-movement alliance-building as a core, not a supplemental, strategy to address these intersecting forms of oppression. It holds the promise of expanding the shrinking civic space in the country by bringing in new advocates for human rights beyond the usual civil society actors who risk their lives to stand up against the atrocities of the government.

Further, fostering co-responsibility debunks the prevailing perception that engagement in the civic space is a monopoly of activists or defenders of human rights, excluding a wider public who also has a stake to claim these rights and a co-equal responsibility to fulfill them. It presents the civic space as a communal space for engagement not only for activists, but for many other actors who do not in any way identify as human rights defenders, but, as they have demonstrated in the phenomenon of the community pantries, are also invested in the fulfillment of fundamental rights. Claiming for rights based on identity politics alone is no longer sufficient. It has become imperative for human rights advocates to deliberately reach out to many other actors whose oppression is linked to theirs yet have previously been excluded or have not been involved in the defense of rights.

The co-responsibility for the fulfillment of each other’s fundamental rights does not emanate from the legalistic framework of state accountability for human rights. It is drawn from the realm of ethics, wherein “the ethical relation between the community and the self, demands to always think of the self with the insistence and persistence of one’s unlimited responsibility for the other”, as Alma Espartinez discussed in her critical reflection on community pantries from a theological and philosophical perspective.¹²⁹ This inescapable responsibility for the other is at the heart of the pursuit of social justice. It is an activism grounded on an ethical framework of establishing a relationship of mutual care for each other as a stance of resistance against the structures and relations sustained by the state’s indifference to the plight of the marginalized.

128 Keeanga-Yamahtta Taylor, “The Defeat of Identity Politics,” *The New Yorker* (website), 21 September 2022, <https://www.newyorker.com/books/under-review/the-defeat-of-identity-politics>

129 Alma Espartinez, “Emerging Community Pantries in the Philippines during the Pandemic: Hunger, Healing, and Hope,” *Religions* 12: 926, Molecular Diversity Preservation International (website), 2021, https://mdpi-res.com/d_attachment/religions/religions-12-00926/article_deploy/religions-12-00926.pdf?version=1635151788

B. Engaging in political contestation and civic space activism

The phenomenon of community pantries brought to the fore a broad spectrum of civil society actors that soon became embroiled in the government's campaign against advocates and defenders of human rights. As the number of community pantries grew eightfold almost overnight,¹³⁰ organizers quickly became targets of red-tagging, and were linked to the communist movement in the Philippines. Then NTF-ELAC's head Lt. General Antonio Parlade Jr. accused Non of deceiving the people: "Same with Satan. Satan gave Eve an apple. That's where it all started." After she was red-tagged, police officers showed up in Non's neighborhood with assault rifles and asked for her personal details. Parlade admitted that the police were profiling pantry organizers, whom they accused of spreading propaganda, and turning people against the government.¹³¹

Fearing for her life and the lives of other volunteers, Non closed the pantry for a day, and reopened only after getting assurances for her safety from the mayor of Quezon City, and the head of Department of Interior and Local Governments (DILG). The pantry's red-tagging and temporary closure generated a strong public backlash. Many Filipinos expressed their support for Non and the community pantries on social media. Several civil society organizations issued statements of support. The CHR, in a statement, disclosed reports of police officers handing out forms for pantry organizers to fill out with their personal information, and urged them to protect themselves against profiling and surveillance.¹³² The head of the National Privacy Commission (NPC) at that time, Raymund Liboro, also advised against the unjust profiling of community pantry organizers, and reminded the police to respect the safeguards on the right to privacy in carrying out their duties.¹³³

The government did not expect the public outrage and was caught off-guard when its red-tagging of the community pantry organizers backfired. Within days, it shifted from warning that community pantries are linked to communism, to voicing support for them. "Kindness is everyone's color. Whatever one's convictions are, if they're sincerely helping others, we will support them," then Defense Secretary Delfin Lorenzana said in a statement.¹³⁴ Subsequently, former National Security Adviser Hermogenes Esperon Jr. imposed a gag order on Parlade and NTF-ELAC spokesperson Lorraine Badoy to desist from issuing further statements on community pantries.¹³⁵ This was one rare instance where the government actually retracted on its red-tagging rhetoric in the face of sweeping public outcry.

130 Josephine Dionisio, Arnold Alamon, Dakila Yee et al., "Contagion of Mutual Aid in the Philippines," *Philippine Sociological Society*, 19 April 2021, accessed 10 November 2022, <http://philippinesociology.com/contagion-of-mutual-aid-in-the-philippines/>

131 Andrea Chloe Wong, "The politicization of community pantries in the Philippines," *ASEAN Today* (website), 29 May 2021, <https://www.aseantoday.com/2021/05/the-politicization-of-community-pantries-in-the-philippines/>

132 Atty. Jacqueline Ann de Guia, Commission on Human Rights (CHR), "Statement of CHR Spokesperson, Atty. Jacqueline Ann de Guia, on the community pantry initiative and profiling of its volunteers," Commission on Human Rights (website), 20 April 2021, <https://chr.gov.ph/statement-of-chr-spokesperson-atty-jacqueline-ann-de-guia-on-the-community-pantry-initiative-and-profiling-of-its-volunteers/>

133 Raymund Enriquez Liboro "On the Alleged Profiling of Community Pantry Organizers," National Privacy Commission (website), 20 April 2021, <https://www.privacy.gov.ph/2021/04/on-the-alleged-profiling-of-community-pantry-organizers/>

134 JC Gotinga, "Food pantries for hungry Filipinos get tagged as communist," *Aljazeera* (website), 24 April 2021, <https://www.aljazeera.com/news/2021/4/24/food-pantry-for>

135 Esperon orders Parlade, Badoy to stop commenting on community pantries," *Rappler* (website), 25 April 2021, <https://www.rappler.com/nation/esperon-imposes-gag-order-red-tagging-parlade-badoy/>

As a consequence of red-tagging the community pantries and their organizers, the administration publicly politicized the initiative, and made it a venue of political contestation. Government officials, even from the defense establishments, countered the accusations made by the NTF-ELAC and the police. The President's Communication Office issued a statement in support of community pantries. Quezon City Mayor Joy Belmonte declared support for Non and "colorless and apolitical community pantries", and several mayors appealed to the public not to promote their ideologies and exploit these initiatives "that are put up for purely humanitarian objectives". One of the labor groups suspected of distributing anti-government pamphlets in their pantry explained that they were advocating for financial assistance for the poor, an issue they have been vocal about so "there is no hidden agenda".¹³⁶ The public joined in with supportive posts on social media.

The confluence of these contesting voices into the discursive fray demonstrates the possibilities for discursive processes to take place even within the severely constricted civic space during the pandemic. What is noteworthy is that the government was not able to silence the dissenting voices that organized the pantries. In fact, the government's attacks against them precipitated more public indignation, particularly on social media, in spite of the imminent threat of criminal action against dissenting voices alleged to be spreading "fake news".

As protests mounted from the public, government authorities were eventually forced to retract their statements vilifying community pantries. Then AFP Chief of Staff Gen. Cirilito Sobejana even said that he was "contemplating convincing members of the AFP" to donate their subsistence allowance and support these humanitarian efforts.¹³⁷ On 25 May 2021, it was reported that the PNP eventually came up with its own version of food aid stations when it launched the "*Barangayanihan*" Help and Food Bank in police offices nationwide.¹³⁸ This initiative hints of spreading propaganda through humanitarian assistance that the police have accused activists of doing.

It is apparent that these new solidarities among the public to defend community pantries have the potential to disrupt and transform narratives that enabled the securitization of the COVID-19 health emergency. The community pantries had such broad support from the public because they responded to the basic need for food and other essentials as well as became a common rallying platform to express their discontent over the government's handling of the crisis. They represent new solidarities of activism for human rights forged out of the people's collective trauma of the pandemic.

136 Andrea Chloe Wong "The politicization of community pantries in the Philippines", *ASEAN Today* (website) 29 May 2021, <https://www.aseantoday.com/2021/05/the-politicization-of-community-pantries-in-the-philippines/>

137 Jeannette I. Andrade, "Red-tagged? Community pantries get military help," *Inquirer.net*, 23 April 2021 <https://newsinfo.inquirer.net/1422736/red-tagged-community-pantries-get-military-help>

138 PNP launches own community pantries," *Philippine Daily Inquirer* (website), 15 May 2021, <https://newsinfo.inquirer.net/1432051/pnp-launches-own-community-pantries>

C. Addressing the ‘private’ and the centrality of care

The phenomenon of community pantries underscores the importance of not simply focusing on curbing the spread of the virus, but also the need to extend care and support to those in need during the pandemic. This centrality of care in responding to the pandemic is exemplified in the initiative, Lunas Collective, a virtual chat service that provides support to victims of gender-based violence. Women and LGBTQI+ defenders who are sexually harassed for their online activism, are also among the victims. Akin to the spirit of community pantries, such an initiative demonstrates the possibility of creating community platforms, not only on the ground but even virtually, to respond with care and foster support and solidarity amidst the government-imposed isolation to control the pandemic.

These examples of community platforms of care illuminate the centrality of care not only in addressing the COVID-19 health crisis, but also in sustaining activists and their social movements that keep civic space alive. They point to the need to draw attention to the feminist call to break the artificial separation of the public-private spheres that many activists have also internalized in their lack of concern for self and collective care as integral to movement-building. These examples challenge the current conceptualization of civic space only as a discursive platform lodged in the public sphere to also incorporate the private sphere and meet the requirement of care necessary for actors engaged in the civic space to sustain themselves and their movements.

To conclude, the pandemic was a threat of “two viruses”: the spread of COVID-19 virus; and the proliferation of the government’s narrative of securitization, a ‘virus’ whose core DNA has become embedded in the decline of democratic rule, hosted in the weakening of governmental checks and balances essential to good governance. What was at stake during the pandemic was not only the right to health of citizens, but also the health of democracy in the country.¹³⁹ Posing the pandemic not only as a health risk, but also as a security threat became a justification for the curtailment of fundamental freedoms, and a cover for the persistent impunity for human rights violations in the country.

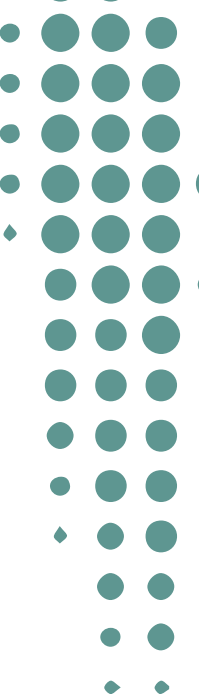
President Duterte’s deployment of his “war against COVID-19” wrapped in a narrative of fear, has normalized government control and coercion as “common sense” – the sensible thing for the public to concede to in the face of the pandemic. The rise of the community pantries, however, turned this narrative on its head. This phenomenon offers a counternarrative asserting that a different response – centered on the security of human beings, not the nation state’s – makes more sense in addressing this crisis. As the emergence of community pantries attests, specifically in the context of a health emergency such as a pandemic, people feel safe and secure when their basic needs are met, and their fundamental rights, including their right to food and adequate standard of living, are fulfilled.

139 DAKILA-Active Vista. (2020) The Philippine Pandemic: A Tale of Two Viruses, Strengthening Human Rights-Based Response of Civil Society in the Pandemic.

Besides the pandemic, the Philippines will encounter other crises in the future in which, on one hand, the government might simply rely on the might of its security forces and again roll out a securitized approach to national emergencies with consequent negative impacts on civic space in the country. On the other hand, the phenomenon of community pantries points to the possibility of an alternative approach of mobilizing civil society and the public, and for the government to carry out a response to the crisis centered on the fulfillment of human rights.

However, civil society actors should be wary of reifying this phenomenon into replicable and scalable initiatives and transplanting them into fixed and permanent entities that need to be sustained with funding. The dynamism of community pantries is inherent in its nature as temporary ad hoc mutual aid networks resourced organically through contributions from a wide range of civil society actors. Rather than institutionalize community pantries per se, human rights defenders could draw from the valuable lessons they offer as examples of “a new narrative of civic participation, integrating political, economic, and socio-cultural exercises in a democracy”.¹⁴⁰

140 Alyssa Mariel Suico, “The Magic of the Maginhawa Community Pantry” DAKILA-Active Vista Report 2020.



Big Brother's Grand Plan: A Look at the Digital Security Playbook in the Philippines

Jessamine Pacis



Source: Keith Bacongco, Flickr, CC BY 2.0 'Useless'.

I. Summary

The Philippines is a highly connected nation. Previously known for its high SMS use and now for its high social media use, the role of digital spaces in Filipinos' exercise of their civic freedoms is undeniable. However, numerous governance structures, laws and policies, and government activities pose threats to these civic freedoms in the digital environment. In the Philippines, surveillance, censorship, and disinformation are some of the most pressing of these threats. These were reinforced further by the unexpected massive shift to digital modes of public participation during the COVID-19 pandemic. Philippine civil society is pushing back against this digital security playbook through strategies, both old and new, asserting their own visions of safety and security in both offline and online spaces.

II. Introduction

On 10 October 2022, President Ferdinand Marcos Jr. signed into law Republic Act No. 11934 or the SIM Card Registration Act, the first law passed after he assumed office as the President of the Philippines. The law requires all Filipinos to register their SIM cards in an effort to combat SMS-based scams and other forms of fraud. Marcos Jr. also had an unlikely solution to the rising prices of petroleum – to implement the country's new national ID system. These measures might seem oddly placed in the eyes of an outsider, but they give an accurate indication of the Philippine government's attitude towards the internet and other data-intensive technologies. This research paper looks at the current state of Philippine digital spaces, how State and non-State actors have shaped definitions of and narratives about "cybersecurity," and how human rights figure into such definitions. It also looks at current threats on civic space, particularly those that take place in digital spaces. Finally, the paper investigates how civil society actors have resisted these through creative and innovative strategies and alternative narratives of security.

By way of limitation, while we look at the broader developments in cybersecurity and internet governance across history, this research is focused on the links between digital technologies and shrinking civic space in the Philippines during the Duterte administration (2016–2022).

The first part of this paper describes the global governance structures that affect security in cyberspace, and how the characteristics of Philippine internet and local policies shape the relationship between cybersecurity and civic space. The second section zeroes in on three major threats to civic space in relation to technology: surveillance, censorship, and disinformation. The last section highlights the forms of resistance and alternative meanings and manifestations of security that we have seen among local communities and lists several possible points of entry towards a new strategy of resistance. Weaved through all these sections is a probe into the different actors that drive key policies and programs related to internet governance and cybersecurity, and their respective motives and narratives.

III. History and Evolution of the Philippine Internet

The internet and other digital technologies have revolutionized the ways by which people participate in civic space.¹ Further, people’s relationship with the internet varies across cultures, and Filipinos, in particular, have a very unique perception and use of the internet, which first needs to be examined before we look at what civic space looks like online.

Even prior to the boom of social media, Philippine civil society was already making use of ICTs to build social movements and amplify protests. SMS played a very important role in the mobilization of the Filipino public for the removal of former President Joseph Estrada in 2001 in what some writers referred to as a “coup d’text.”² So high was the SMS usage of Filipinos in the late 1990s to 2000s that, for several years, the Philippines was known as the “texting capital of the world.”³

Technology also played an important role in the massive call for the ouster of former President Gloria Macapagal-Arroyo in 2005, which stemmed from a leaked recording of Arroyo’s conversation with Commissioner Virgilio Garcillano, a member of the Commission on Elections, which revealed a plan to rig the results of the 2004 presidential elections in favor of President Arroyo. Part of the leaked conversation was made into a mobile phone ringtone that was downloaded 350,000 times and was reportedly used by one million Filipinos during the height of the controversy.⁴

- 1 Institute of Development Studies, “Digital Rights in Closing Civic Space: Lessons from Ten African Countries,” February 2021, https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/15964/Digital_Rights_in_Closing_Civic_Space_Lessons_from_Ten_African_Countries.pdf?sequence=4&isAllowed=y
- 2 Raul Pertierra, “The New Media, Society & Politics in the Philippines,” 2012, <https://library.fes.de/pdf-files/bueros/asia-media/09241.pdf>
- 3 Emil Tapnio and Steven Rood, “Social Media in the Philippines is Widespread, but what is its Impact?,” October 12, 2011, <https://asiafoundation.org/2011/10/12/social-media-in-the-philippines-is-widespread-but-what-is-its-impact/>
- 4 Pauline Macaraeg, “LOOK BACK: The ‘Hello, Garci’ scandal,” *Rappler*, January 5, 2021, <https://www.rappler.com/newsbreak/iq/look-back-gloria-arroyo-hello-garci-scandal/>

The Philippines connected to the internet for the first time in March 1994. The country was a late adopter to the internet compared to its Asian neighbors, and internet access in the country took a long time to develop due to a conflation of factors, such as the challenge of distributing equal infrastructure to different parts of the country, and corruption in the government.⁵

But today, almost 30 years after the Philippines first went online, Filipinos have come to be known as the biggest social media users in the world. The penchant of Filipinos for social media began in the early 2000s when the social networking website Friendster was introduced. At one point, Friendster became the most-visited site in the Philippines and eventually, in other Southeast Asian countries.⁶ What was once the texting capital of the world, is now the social media capital of the world.⁷

We Are Social's Digital 2022 report says that Filipinos are the second biggest internet users in the world in terms of the average amount of time spent daily using the internet. This may not be surprising to most people, as the Philippines has been known for its widespread use of social media for years. What might be surprising to some, however, is the fact that based on the same report, in January 2022, there were only 76.01 million internet users but 92.05 million social media users in the country. There were even more Facebook users (83.85 million) than internet users in the Philippines in the same period.⁸

This “Facebook-first” internet access may have been a product of various reasons, but it is clear that such behavior is further encouraged by the way internet access is made available and accessible to Filipinos. In 2015, the Free Basics program was introduced by Facebook in the Philippines through the country's two major telco companies, Smart and Globe. The service allows users to load certain websites featured by Free Basics without incurring mobile data charges. This includes Facebook Free, which allows users to browse and post on Facebook for free without seeing photos or videos (i.e., free users can only view the text in Facebook posts). Users of this service are not able to access external content either. Hence, when viewing a posted link on their newsfeed, they can only read the headline, but they cannot view the thumbnail image or click on the link to read the full content. This phenomenon is widely known as a “walled garden,” a limited and curated space that users may confuse to be the entirety of the internet. Proponents of similar services argue that it is a way to make the internet more accessible and affordable to people in countries with a great digital divide, but the negative effects of reliance by users on a single platform has been documented all over the world.⁹ Such selective accessibility, and the dependence of a large sector of the population on this more affordable alternative, is believed to have facilitated the successful propagation of Duterte's anti-drug and anti-crime rhetoric,¹⁰ along with other strategies such as the deployment of paid troll armies and social media influencers that consistently and strategically pushed Duterte's narratives on how the war against drugs is a pressing security concern.

5 Center for Information & Society, “Philippines – Public Access Landscape Study,” archived September 27, 2013 at the Wayback Machine, https://web.archive.org/web/20130927181734/http://faculty.washington.edu/rgomez/projects/landscape/country-reports/Philippines/1Page_Philippines.pdf

6 Sasha Lim Uy, “Did Filipinos Literally Love Friendster to Death?,” *Esquire*, June 15, 2018, <https://www.esquiremag.ph/culture/tech/filipinos-killed-friendster-a00204-20180615-lfrm>

7 Janvic Mateo, “Philippines still world's social media capital – study,” *The Philippine Star*, February 3, 2018, <https://www.philstar.com/headlines/2018/02/03/1784052/philippines-still-worlds-social-media-capital-study>

8 Digital 2022: The Philippines,” DataReportal, last modified February 15, 2022, <https://datareportal.com/reports/digital-2022-philippines>

9 Sheera Frenkel, “This Is What Happens When Millions Of People Suddenly Get The Internet,” *BuzzFeed News*, November 20, 2016, <https://www.buzzfeednews.com/article/sheerafrenkel/fake-news-spreads-trump-around-the-world#.ca8ZvKzrQ>

10 Davey Alba, “How Duterte Used Facebook To Fuel The Philippine Drug War,” *BuzzFeed News*, September 4, 2018, <https://www.buzzfeednews.com/article/daveyalba/facebook-philippines-dutertes-drug-war>

IV. Cyber Policy and Governance

Since the early iterations of what we now know as the internet began to be developed in the 1960s, digital and virtual spaces have become major platforms where people all over the world exercise their civic freedoms, regardless of whether the same freedoms are respected or restricted in the state they reside in. Because the internet is a network of networks with no real center of power, there is no single entity that controls or governs it. Instead, internet governance involves various stakeholders such as governments, intergovernmental organizations, the private sector, the technical community, and civil society. Still, there are international treaties and cyber norms that serve as frameworks for acceptable behavior in digital spaces.

A. Global Cyber Policy

The most relevant international agreement in this area is the Convention on Cybercrime, also known as the Budapest Convention.¹¹ The Philippines' own cybercrime law is based in the Budapest Convention, albeit with several controversial additions.

At the time of writing, the United Nations is in the process of discussing a new cybercrime treaty that can completely change the way states behave in relation to each other in cyberspace. The treaty, first proposed by Russia, is presumably set to replace the Budapest Convention, which the Philippines' own cybercrime law is based on. The proposed treaty has been widely opposed since the beginning by digital rights organizations because of its treatment of cybercrime being extremely vague and open to abuse.¹² A key point of contention in these deliberations is the very nature of what constitutes a cybercrime. Cybercrime policy makes a distinction between “cyber-dependent” and “cyber-enabled” crimes. There is also concern among some states that the treaty might end up breaching the issues of national security, cybersecurity, or cyberwarfare on top of cybercrime.¹³

Cyber norms, on the other hand, come in the form of multilateral documents, multistakeholder statements, and outcome documents of multilateral forums. On top of being rare, international processes for setting cyber norms such as the Open Ended Working Group on security of and in the use of information and communications technologies (OEWG) of United Nations (UN) member states and the UN Group of Governmental Experts also remain largely inaccessible to and exclusive of civil society voices.¹⁴

11 “The Budapest Convention (ETS No. 185) and its Protocols,” Council of Europe, accessed December 15, 2022, <https://www.coe.int/en/web/cybercrime/the-budapest-convention>

12 Deborah Brown, “Cybercrime is Dangerous, But a New UN Treaty Could Be Worse For Rights,” Human Rights Watch, August 13, 2021, <https://www.hrw.org/news/2021/08/13/cybercrime-dangerous-new-un-treaty-could-be-worse-rights>

13 Katitza Rodriguez and Meri Baghdasaryan, “UN Committee To Begin Negotiating New Cybercrime Treaty Amid Disagreement Among States Over Its Scope,” *Electronic Frontier Foundation*, February 15, 2022, <https://www.eff.org/deeplinks/2022/02/un-committee-begin-negotiating-new-cybercrime-treaty-amid-disagreement-among>

14 Sheetal Kumar, “The missing piece in human-centric approaches to cybernorms implementation: the role of civil society,” *Journal of Cyber Policy* 6, no. 3 (2021): 375–393, <https://doi.org/10.1080/23738871.2021.1909090>

There is no universally accepted definition of cybersecurity. Unlike cybercrime, which is addressed by an international treaty called the Budapest Convention, there is no international instrument that governs matters relating to cybersecurity. States, therefore, are given free rein on how they define cybersecurity, as well as the structures and mechanisms they create to ensure it. Most cybersecurity policies follow the definition by the International Communications Union as “the collection of tools, policies, security concepts, security safeguards, guidelines, risk management approaches, actions, training, best practices, assurances and technologies that can be used to protect the cyber environment and organization and users’ assets.”¹⁵

However, human rights advocates and civil society groups all over the world raise the danger of this systems-centric approach to cybersecurity being used to justify policies and protocols that are repressive and violative of civic freedoms. A recent joint civil society statement to the UN General Assembly’s First Committee on Disarmament and International Security raised concern over the increase in offensive cyber capabilities and the use of cyber mercenaries among states. The statement points to the rising “toll of unrestrained cyber operations on human security” that makes it necessary for relevant UN processes to be guided by human-centric and rights-based approaches rather than securitized approaches that abuse cybersecurity laws, policies, and practices to violate human rights and fundamental freedoms.¹⁶

An alternative definition of cybersecurity proposed by the Freedom Online Coalition uses the same core principles as the one used by the International Organization for Standardization but puts the rights and safety of people at the forefront of cybersecurity, thus: “Cybersecurity is the preservation – through policy, technology, and education – of the availability, confidentiality, and integrity of information and its underlying infrastructure as to enhance the security of persons both online and offline.”¹⁷

15 Tim Maurer and Robert Morgus, “Compilation of Existing Cybersecurity and Information Security Related Definitions,” *New America*, <https://www.newamerica.org/cybersecurity-initiative/policy-papers/compilation-of-existing-cybersecurity-and-information-security-related-definitions/>

16 “Joint civil society statement on cyber peace and human security,” Association for Progressive Communications, last modified October 17, 2022, <https://www.apc.org/en/pubs/joint-civil-society-statement-cyber-peace-and-human-security-0>

17 Why Do We Need a New Definition for Cybersecurity?, Freedom Online Coalition, last modified September 2015, <https://freedomonlinecoalition.com/blog/why-do-we-need-a-new-definition-for-cybersecurity/>

B. Philippine Cyber Policy

In the Philippines, the Department of Information and Communications Technology (DICT) was created in 2016 by virtue of Republic Act No. 10844. Included in the law is the creation of the Cybercrime Investigation and Coordination Center (CICC), which is tasked to formulate the National Cybersecurity Plan (NCSP), which shall set the direction for cybersecurity in the country for a period of five years. What is curious, however, is that although the CICC is named as a *cybercrime* center, the law makes no mention of cybercrime when describing the mandates of the office, but instead refers to *cybersecurity*. These are two entirely different things that are often interchanged. While cybercrime is defined as a computer-enabled or -facilitated offense punishable by law, cybersecurity refers to the tools and practices used to protect the cyber environment and organization and users' assets from threats and cybercrimes.¹⁸

The DICT launched the first NCSP in 2017, to cover the period 2017–2022. The NCSP 2022 defines cybersecurity as “the protection of information systems [...], the data within these systems, and the services that are provided by these systems from any unauthorized access, harm or misuse, whether it includes intentional or accidental, or from natural disasters.”¹⁹ This follows the definition of cybersecurity as the “preservation of confidentiality, integrity, and availability of information in the Cyberspace” used both by the ISO and the ITU. As stated in the previous section, this approach has long been criticized by civil society groups for being focused on the security of systems over the security of persons.

V. Digital Threats to Civic Space in the Philippines

The Freedom on the Net Report, an annual assessment of individual countries' internet freedom published by Freedom House, gave the Philippines a score of 65/100 in 2022, deeming it “partly free.”²⁰ The last time the Philippines was marked “free” was in 2017, when it scored 72/100.²¹ The country's performance went on a downward spiral since, scoring 69/100 in 2018, 66/100 in 2019, and 64/100 in 2020. The annual report is based on combined scores in three areas: Obstacles to Access, Limits on Content, and Violations of User Rights. Similar to Freedom House's framework, this paper zeroes in on three of the most pressing threats to civic space in the Philippines, particularly with regard to the use of technologies for surveillance, censorship, and disinformation.

A. Surveillance

Surveillance, especially as it relates to civic space, can generally be divided into two categories: mass surveillance and targeted surveillance. While we use the general term “surveillance” in this section, we refer largely to the mass surveillance architecture built by the Philippine government that is designed to cover the entire population. Here we refer to the kind of surveillance defined by Privacy International as that which involves “the acquisition, processing, generation, analysis, use, retention or storage of information about large numbers of people, without any regard to whether they are suspected of wrongdoing.”²²

18 Republic Act No. 10175, An Act Defining Cybercrime Providing for the Prevention, Investigation, Suppression and the Imposition of Penalties Therefor and for Other Purposes.

19 National Cybersecurity Plan 2022,” Department of Information and Communications Technology, May 2, 2017, <https://dict.gov.ph/national-cybersecurity-plan-2022/>

20 “Freedom on the Net 2022: Philippines,” Freedom House, <https://freedomhouse.org/country/philippines/freedom-net/2022>

21 “Freedom on the Net 2017: Philippines,” Freedom House, <https://freedomhouse.org/country/philippines/freedom-net/2017>

22 “Mass Surveillance,” Privacy International, <https://privacyinternational.org/learn/mass-surveillance>

Instances of targeted surveillance that leads to the arrest and/or killing of journalists and activists will be covered in the next section on censorship.

1. The Philippine Surveillance Architecture

We begin by looking at the framework that allows the conduct of surveillance under Philippine law. Generally, the right against unlawful surveillance is protected by Article III Sections 2 and 3 of the Philippine Constitution.²³ There are, however, specific cases where communications surveillance is allowed by law, subject to certain conditions and processes. The Anti-Wiretapping Act, passed almost six decades ago in 1965, prohibits the covert interception or recording of any private communication or spoken word of another person or persons without the authorization of all parties to the communication. The law carves out an exception for law enforcement in specific instances such as in cases involving treason, espionage, provoking war and disloyalty in case of war, inciting to rebellion, sedition, and kidnapping, among others.

The Cybercrime Prevention Act of 2012 originally provided authority for law enforcement to conduct real-time collection of traffic data, but the provision was declared unconstitutional by the Supreme Court for giving law enforcement surveillance powers that are “too sweeping and lack restraint.”²⁴ A bill filed by Senator Imee Marcos, a sister of President Ferdinand Marcos Jr., in the 18th Congress aimed to reinstate this section in the cybercrime law, arguing that there is “a dire need to put order to the tremendous activities in cyberspace for public good.”²⁵

During the Duterte administration, what used to be a very small and specific niche of exemptions where surveillance may be authorized, was expanded through the Anti-Terrorism Act (ATA) of 2020. The ATA repealed the previous Human Security Act and carved out certain instances where surveillance may be done on judicially declared or suspected terrorists as defined by the same law. With the new surveillance powers granted by this law, the importation of surveillance technology, the creation of a massive database through the recently launched Philippine Identification System (PhilSys), and a highly militarized cybersecurity architecture, it is clear that the Duterte government had an agenda to build a surveillance state.

Indeed, cyber securitization is closely connected with securitization in the guise of other concepts such as counterterrorism, counterinsurgency, and Duterte’s War on Drugs. Notable in the National Cybersecurity Plan is the message from former Assistant Secretary for Cybersecurity and Enabling Technologies of the Department of ICT, Allan Cabanlong, which points to “policing the cyberspace” as necessary to protect Filipinos from “certain groups whose ideology is to destroy the order of our nation and are now using advanced and sophisticated technologies to carry out their plans.” In his own message, former National Security Adviser Hermogenes C. Esperon Jr. said that cybersecurity is an important part of national security.

23 Article III, Sec. 2. states that “the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable [;]” whereas Sec. 3 provides that “(1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise, as prescribed by law [.]”.

24 G.R. No. 203335, *Disini v. Secretary of Justice*.

25 Senate Bill No. 1905, “An Act Amending Republic Act No. 10175 Otherwise Known as the “Cybercrime Prevention Act of 2012, and For Other Purposes”.

It is noteworthy that among many instances of harassment and killing of journalists and activists, there were reported accounts of the victims being surveilled or followed by suspicious actors before the attacks. Zara Alvarez, an activist,²⁶ and Dr. Mary Rose Sancelan, a municipal health officer,²⁷ who were both red-tagged as alleged terrorists, both reported being tailed and threatened through SMS before they were slain on separate occasions during the pandemic. In July 2022, a military officer was caught conducting surveillance by taking photos and recording conversations during the wake of a former journalist and activist who was among those killed in a clash with the military.²⁸

These point back to the argument that the right to privacy is inseparable from the freedoms of speech, association, and assembly. Surveillance and other forms of privacy violations are usually a precursor to other human rights violations, especially for targeted groups such as activists and journalists.

The right to privacy is inseparable from the freedoms of speech, association, and assembly. Surveillance and other forms of privacy violations are usually a precursor to other human rights violations, especially for targeted groups such as activists and journalists.

2. Surveillance Actors

Mapping the surveillance infrastructure in the Philippines is an arduous task, mainly because of the opaque and confidential nature of State surveillance. Based on their legal mandates, the following are the intelligence and security agencies that may be engaged in surveillance activities:²⁹

1. National Security Council
2. Office of the National Security Adviser
3. National Intelligence Coordinating Agency
4. National Intelligence Committee
5. National Intelligence Board
6. Philippines
7. Directorate for Intelligence, Philippine National Police
8. Police Intelligence Group, Philippine National Police
9. Anti-Cybercrime Group, Philippine National Police
10. Office of the Deputy Director for Intelligence Services, National Bureau of Investigation
11. Cyber Crime Division, National Bureau of Investigation

26 Lian Buan, "Zara Alvarez asked for protection, but she died before the court could give it," *Rappler*, August 20, 2020, <https://www.rappler.com/nation/zara-alvarez-petition-writ-amparo-habeas-data-court/>

27 Catherine Gonzales, "Murder of Red-tagged doctor, husband could be related to work, NPA – police," *Inquirer.net*, December 21, 2020, <https://newsinfo.inquirer.net/1374430/murder-of-red-tagged-doctor-husband-could-be-related-to-work-npa-police>

28 John Sitchon, "What we know so far: Nikka dela Cruz, the Cebuana killed in Negros Occidental encounter," *Rappler*, July 20, 2022, <https://www.rappler.com/nation/visayas/what-we-know-so-far-nikka-dela-cruz-cebuana-killed-negros-occidental-encounter/>

29 State of Privacy Philippines," Privacy International, January 26, 2019 <https://privacyinternational.org/state-privacy/1009/state-privacy-philippines>

Under the Anti-Terrorism Act of 2020, law enforcement agents or military personnel may, upon a written order of the Court of Appeals, conduct communications surveillance (a) between members of a judicially declared and outlawed terrorist organization; (b) between members of a designated person; or (c) any person charged with or suspected of committing any of the crimes defined and penalized under the same law. Other special laws that allow the conduct of surveillance by law enforcement include the Expanded Anti-Trafficking in Persons Act and the Anti-Child Pornography Act.

3. Use of Technology for State Surveillance

A 2015 report by the Foundation for Media Alternatives outlined some of the surveillance technologies that were reported to have been acquired by the Philippine government. The report shows that over the years, the Philippine government had acquired or, at the very least, expressed an intention to acquire, technologies such as a border control software that may be used to quickly retrieve information on persons who may be trying to leave the country after committing a crime, a social media intelligence solution, an intrusion technology that allows its operator to bypass any encryption technology installed on a device, and radio frequency test equipment.³⁰

Acquisition of surveillance technologies continued during the Duterte administration, where about PhP10 million worth of spyware was reported to have been acquired from the British government. According to reports, the sale included International Mobile Subscriber Identity (IMSI) catchers, which are used to eavesdrop on telephone conversations, as well as tools to monitor internet activity.³¹ This was especially alarming given Duterte's history of using surveillance mechanisms for his drug war even when he was still the mayor of Davao City.³²

Several surveillance technologies were acquired and used during the COVID-19 pandemic, most of which were justified by the government with the need to monitor public places for quarantine monitoring.³³ These include the installation of surveillance camera networks, some equipped with artificial intelligence technology to detect real-time movement of residents,³⁴ and the deployment of camera drones by police to detect quarantine violations.³⁵ Not much is known about when these COVID-specific technologies will cease to be used, making them susceptible to misuse as tools for the unlawful monitoring of vulnerable groups and ordinary citizens.

30 Foundation for Media Alternatives, "TIKTIK: An Overview of the Philippine Surveillance Landscape," September 2015, <https://www.fma.ph/wp-content/uploads/2017/10/Briefing-Paper-1-DRAFT-1.pdf>

31 Hannah Ellis-Petersen, "Britain sold spying gear to Philippines despite Duterte's brutal drugs war," *The Guardian*, February 21, 2018, <https://www.theguardian.com/world/2018/feb/21/britain-sold-spying-gear-to-philippines-despite-dutertes-brutal-drugs-war>

32 George Joseph, "Inside the Video Surveillance Program IBM Built for Philippine Strongman Rodrigo Duterte," *The Intercept*, March 20, 2019, <https://theintercept.com/2019/03/20/rodrigo-duterte-ibm-surveillance/>

33 Foundation for Media Alternatives, "A Pandemic as Vector for State Surveillance and Other Abuses," September 2021, <https://fma.ph/2021/09/13/a-pandemic-as-vector-for-state-surveillance-and-other-abuses/>

34 "Pasig village boosts measures to mitigate spread of Covid-19," *Philippine News Agency*, March 30, 2020, <https://www.pna.gov.ph/articles/1098189>

35 Christia Marie Ramos, "11 drones now in Cebu City to monitor quarantine compliance – Eleazar," *Inquirer.net*, June 28, 2020, <https://newsinfo.inquirer.net/1298698/11-drones-now-in-cebu-city-to-monitor-quarantine-compliance-eleazar>

4. Surveillance through “Smart Cities”

The policing of physical spaces through the use of technology was a recurring theme throughout the Duterte administration. This is most evident in the multitude of “smart city” or “safe city” projects that cropped up during this period. One such initiative is Safe Philippines, a surveillance system project that aims to install high-definition and advanced CCTV cameras in selected cities in Metro Manila to supposedly curb crime and improve emergency response time. Majority of the P20.31Billion project is funded through a soft loan from China Eximbank, and the contractor is the China International Telecommunication Construction Corporation, with some equipment provided by Huawei, another China-based tech giant.³⁶ This, despite allegations of espionage against Huawei that caused it to be banned in several countries, and evidence of the company’s involvement in domestic surveillance activities in China.³⁷ This is not Huawei’s first foray into a safe city initiative in the Philippines. The company previously piloted its Safe City project in Bonifacio Global City. This involved the installation of high-definition surveillance cameras connected to a command center through wi-fi. The technology was supposedly able to “detect crime and criminal intrusions.”³⁸

The branding of “safe cities” fits well within Duterte’s anti-crime rhetoric, which he seemed to have already figured out years before he was elected President. In 2012, IBM announced the establishment of an Intelligent Operations Center (IOC) in partnership with the Davao City government, which was then headed by Rodrigo Duterte’s daughter, Sara who is now vice-president of the country. The IOC became operational in 2013, just in time for the father’s return to the mayoral seat.³⁹ In an interview with *The Intercept*, a former sales officer who worked with the project to improve Davao’s Public Safety and Security Command Center revealed that the technology deployed under the project was “probably the first-ever video analytics surveillance that was done in Asia.”⁴⁰ These multiple projects by Huawei and IBM demonstrate how easy it is for foreign companies to import surveillance technologies into the Philippines, and they don’t even need to call it surveillance. They only need to call it a “smart city” or “safe city” project and it will fly under the radar, lumped with the plethora of other initiatives posing as part of the country’s digital transformation.”

36 Loreben Tuquero, “Año says China-funded Safe Philippines project will be ‘all-Filipino,’” *Rappler*, November 22, 2019, <https://www.rappler.com/nation/245529-ano-china-funded-safe-philippines-project-all-filipino/>

37 Eva Dou, “Documents link Huawei to China’s surveillance programs,” *The Washington Post*, December 14, 2021, <https://www.washingtonpost.com/world/2021/12/14/huawei-surveillance-china/>

38 “Transforming Bonifacio Global City into a Safe City with Huawei,” Huawei, <https://e.huawei.com/topic/leading-new-ict-ua/safe-city-case.html>

39 George Joseph, “Inside the Surveillance Program IBM Built for Rodrigo Duterte,” *The Intercept*, March 20, 2019, <https://theintercept.com/2019/03/20/rodrigo-duterte-ibm-surveillance/>

40 Ibid.

This reflects the creeping global concern over China's exportation of surveillance technology through smart cities.⁴¹ It's worth noting, however, that China is not the only state that exports surveillance technology. Leaked documents show that past administrations were in talks with several surveillance equipment manufacturers for technologies such as border control and monitoring software, social media intelligence, and intrusion technology that can collect data from a device undetected.⁴²

5. Surveillance through Digital Identity and Profiling

A more seemingly innocuous threat than blatant surveillance is profiling through digital identity. As noted in the Funders Initiative for Civil Society (FICS) report on the global counter-terrorism agenda and civic space,⁴³ there is an increasing convergence of digital identity systems, which usually include biometric data, and the push for financial inclusion. This has created an "unprecedented global drive for high-tech national ID systems" that come with massive risks of abuse by oppressive actors to conduct mass or targeted surveillance and harassment of activists and other vulnerable groups. In the Philippines, this comes in the form of PhilSys, or the Philippine Identification System, a national ID system created in 2018 after decades of attempts and failures by both the legislative and executive branches.

Like most national ID systems all over the world, the PhilSys has been closely backed by the World Bank since its development phase until its implementation at the time of writing.⁴⁴ This support includes both technical and financial assistance, with a \$600 million loan to support the PhilSys' rollout.⁴⁵ And like the smart city projects, this national ID agenda is usually lumped under the broad goal of "digital transformation".

But the Philippine government's obsession with identity systems and massive identity databases does not stop with the PhilSys. Local governments have been establishing their own localized ID systems. These local ID systems became even more popular during the pandemic, as they were meant to facilitate distribution of financial aid and other government services as part of COVID response. Contact tracing systems that were established during the pandemic became sources for massive databases as well, most of which were created and held separately (i.e., not in a unified national database) by local governments or private contractors.

41 James Kyngé, et al., "Exporting Chinese surveillance: the security risks of 'smart cities'," *Financial Times*, June 9, 2021, <https://www.ft.com/content/76fdac7c-7076-47a4-bcb0-7e75af0aadab>

42 Foundation for Media Alternatives, "TIKTIK: An Overview of the Philippine Surveillance Landscape," September 2015, <https://www.fma.ph/wp-content/uploads/2017/10/Briefing-Paper-1-DRAFT-1.pdf>

43 Dr Gavin Sullivan and Chris Jones, "Is the global counter-terrorism agenda shrinking civic space?," Funders Initiative for Civil Society, May 2022, <https://www.fundersinitiativeforcivilsociety.org/wp-content/uploads/2022/05/Is-CT-shrinking-civic-space-FICS-May-2022.pdf>

44 Center for Human Rights & Global Justice, "Paving a Digital Road to Hell? A Primer on the Role of the World Bank and Global Networks in Promoting Digital ID," June 2022, https://chrjg.org/wp-content/uploads/2022/06/Report_Paving-a-Digital-Road-to-Hell.pdf

45 Beatrice Laforga, "World Bank approves \$600-million loan for PHL 4Ps program," *Business World*, September 30, 2020, <https://www.bworldonline.com/economy/2020/09/30/320062/world-bank-approves-600-million-loan-for-phl-4ps-program/>

Having surprisingly eluded both congressional and presidential approval for decades, the SIM card registration law seems to be the last piece of the puzzle, the last tool needed to complete the government's surveillance arsenal. The last version of the bill that almost passed in 2022 just before the end of Duterte's term, was especially reflective of this vision. The bill proposed that apart from requiring the registration of all SIM cards, all social media account providers shall require the real names and phone numbers of users to be registered upon account creation. According to the version of the bill passed by both houses of Congress, this is to "deter the proliferation of SIM card, internet or electronic communication-aided crimes, such as, but not limited to: *terrorism*; text scams; unsolicited, indecent or obscene messages; bank fraud; libel; anonymous online defamation; trolling; hate speech, and *the spread of digital disinformation or fake news as defined under pertinent laws*. (Emphasis supplied)" The inclusion of terrorism and disinformation in the bill demonstrates how surveillance measures – or at least, attempts to expand the surveillance powers of government – are intricately linked with the other threats to civic space described in this paper.

The use of surveillance measures – in this case, a massive database of citizen data – to supposedly address a sweeping list of crimes, is against the principles of necessity and proportionality as envisioned in the International Principles on the Application of Human Rights Law to Communications Surveillance.⁴⁶ Furthermore, the erosion of anonymity offered by mandatory identity registration, especially in social media, is disproportionately dangerous for women and the LGBTQ community, whose self-expression is usually tied to their lived identities rather than their legally recognized ones.

"Function creep" is a major concern in most ID systems, including national ID systems, mandatory SIM card registries, and contact tracing systems. It refers to the phenomenon where information collected for one specified purpose tends to be used for ever-expanding and undisclosed purposes.⁴⁷ The narratives used by proponents in government to defend the PhilSys and SIM card registration point to the risk of function creep. The PhilSys alone is a favorite talking point of government officials when speaking about almost any issue. It has been named as a possible tool for aid distribution during the pandemic by the Department of Social Welfare and Development,⁴⁸ for vaccine distribution by the National Economic Development Authority,⁴⁹ and, unsurprisingly, for law enforcement by the Philippine National Police.⁵⁰

46 Electronic Frontier Foundation and Article 19, "Necessary & Proportionate: International Principles on the Application of Human Rights Law to Communications Surveillance," May 2014, <https://www.ohchr.org/sites/default/files/Documents/Issues/Privacy/ElectronicFrontierFoundation.pdf>

47 Evelina Manukyan and Joseph Guzzetta, "How function creep may cripple app-based contact tracing," International Association of Privacy Professionals, May 27, 2020, <https://iapp.org/news/a/how-function-creep-may-cripple-app-based-contact-tracing/>

48 Christine Cudis, "Nat'l ID system to help ease delivery of social services: DSWD," *Philippine News Agency*, June 11, 2020, <https://www.pna.gov.ph/articles/1105656>

49 Ted Cordero, "NEDA offers use of nat'l ID for COVID-19 vaccine distribution," *GMA News Online*, December 16, 2020, <https://www.gmanetwork.com/news/topstories/nation/768208/neda-offers-use-of-nat-l-id-for-covid-19-vaccine-distribution/story/>

50 Benjamin Pulta, "PNP eyes linking police database to nat'l ID system," *Philippine News Agency*, August 7, 2018, <https://www.pna.gov.ph/articles/1043966>

Source: Photo by Raffy Lerma
Employees, journalists, celebrities, and supporters of media network ABS-CBN show their dissent a week after Congress rejected their franchise renewal with a noise barrage and motorcade outside the ABS-CBN compound in Quezon City on July 18, 2020.



This narrative of the PhilSys as a magic pill for every ill of Philippine society is likely to continue during Marcos Jr.'s presidency. In his first month as president, Marcos Jr. temporarily assumed leadership of the Department of Agriculture. When asked about immediate measures to assist sectors affected by the food crisis, Marcos was quick to point to the issuance of national IDs to facilitate aid distribution, saying that “[it] all really depends on everyone having their national ID. It’s a good database that the government should have.”⁵¹

B. Censorship

1. Censorship through Libel and Attacks on Freedom of the Press

A unique feature of the Philippines’ Cybercrime Prevention Act (CPA) is that it includes the crime of cyberlibel, which is not included in the Budapest Convention, from which the CPA was supposedly patterned. This, despite the fact that Filipino journalists and activists have long been calling for the decriminalization of (traditional) libel under the Revised Penal Code. The cyberlibel provision was a last-minute insertion by Senator Vicente Sotto III following a spate of criticism hurled against him in social media earlier that year. Sotto, of course, vehemently denied this.⁵²

51 “Marcos To Head DA ‘For Now’,” *Page One.PH*, June 21, 2022, <https://pageone.ph/marcos-to-head-da-for-now/>

52 Norman Bordadora, “Sotto admits he proposed online libel provision,” *Inquirer.net*, October 2, 2012, <https://technology.inquirer.net/17718/sotto-admits-he-proposed-online-libel-provision>

Today, cyberlibel has become the weapon of choice by politicians and celebrities against their critics and opponents. It was also a critical weapon of the Duterte regime against a free and independent press, as evidenced by the stack of cyberlibel cases (and convictions) against the news organization Rappler and its reporters, along with other means of regulatory harassment.

The first round of harassment against *Rappler* came in December 2016, just a few months into the Duterte regime, when the Office of the Solicitor General (OSG) requested the Philippines' Securities and Exchange Commission (SEC) to investigate the news platform's issuance of PDRs (Philippine Depositary Receipts) to foreign investors. The OSG alleged that this was in contravention of the constitutional restriction against foreign ownership of Philippine media. The case eventually resulted in the revocation of *Rappler's* license to operate in 2018. After a few more years of litigation, the SEC in June 2022 affirmed its decision to revoke *Rappler's* certificate of incorporation, effectively "confirm[ing] the shutdown of *Rappler*."⁵³

Meanwhile, in October 2017, the first of a long series of cyberlibel cases was filed against *Rappler's* CEO and founder Maria Ressa and Reynaldo Santos, Jr. a former *Rappler* researcher, over an article originally published in May 2012, four months before the enactment of the Cybercrime Prevention Act. While the complaint was initially junked for being past the prescriptive period, the dismissal was eventually reversed and a warrant of arrest was served.⁵⁴ After more than a year of trial and legal proceedings, the Manila Regional Trial Court found Ressa and Santos guilty of cyberlibel. The Court of Appeals upheld this conviction, ruling that the prescriptive period of cyberlibel is 15 years, compared to ordinary libel that prescribes in only one year.⁵⁵ This is a dangerous precedent that makes cyberlibel an even more powerful weapon in the harassment of journalists and even ordinary citizens.

Cyberlibel ... was also a critical weapon of the Duterte regime against a free and independent press, as evidenced by the stack of cyberlibel cases (and convictions) against the news organization Rappler and its reporters, along with other means of regulatory harassment.

53 "TIMELINE: Rappler-SEC case," *CNN Philippines*, June 30, 2022, <https://www.cnnphilippines.com/news/2022/6/30/Rappler-SEC-case-timeline.html>

54 TIMELINE: Rappler's cyberlibel case," *Rappler*, February 14, 2019, <https://www.rappler.com/newsbreak/iq/223460-timeline-cyber-libel-case/>

55 Lian Buan, "When CA upheld Ressa's conviction, it extended cyberlibel shelf to 15 years," *Rappler*, July 12, 2022, <https://www.rappler.com/nation/when-court-appeals-upheld-maria-ressa-conviction-made-cyber-libel-shelf-life-longer/>

The cyberlibel cases against Rappler were just the beginning of a long line of cases against journalists and citizens who expressed their discontent with the Philippine government during the Duterte and early Marcos Jr. administrations. In fact, official figures from the Department of Justice Office of Cybercrime reveal that 30% of cyber cases filed (1,131 of 3,770 cases) have been dismissed. Of the 3,770 cases of cyberlibel filed, there have been 12 convictions and four acquittals. Three of these convictions are of journalists, including Maria Ressa. Meanwhile, data from the Philippine National Police shows that cyberlibel cases make up 20% of all cybercrimes they investigate.⁵⁶

In August 2022, well-known activist and academic Walden Bello was arrested on charges of libel by a former information officer for the then-newly elected Vice President Sara Duterte. The complaint stemmed from a Facebook post by Bello alleging that Duterte's former employee was involved in illegal drugs after a party that he attended was raided by the police for drugs.⁵⁷ As highlighted in the boxed section below, the weaponization of libel and cyberlibel against government critics became more prominent during the COVID-19 crisis under the guise of the government's campaign against COVID-related disinformation.

Parallel to this barrage of libel cases, a key tactic in censorship during Duterte's term was the targeted harassment of established news outfits and the erosion of trust in the media as a whole. From a legal and regulatory standpoint, there isn't much room for prior restraint in the Philippines. But with what limited toolbox was available, government forces were able to wield political power against the free press. In a government-mandated shutdown, as publicly admitted by Duterte himself right before his term ended,⁵⁸ what used to be one of the longest running and major broadcast networks in the country went permanently off-the-air in 2020 for the technical reason that its congressional franchise had expired and was not renewed.

The removal of ABS-CBN and its regional channels from public television was a huge setback to the dissemination of critical information during the COVID-19 pandemic, especially for those living in far-flung areas and low-income households whose main source of information and entertainment were traditional radio and television channels like ABS-CBN.⁵⁹ This points to another fundamental right that is often overlooked in definitions and discussions of civic space – the right to access information. The ABS-CBN closure removed one of the biggest spaces for discursive practices in the country. The Center for Media Freedom and Responsibility (CMFR) highlighted that, especially during the pandemic, a giant nationwide network like ABS-CBN is valuable to “air timely warnings of imminent public danger, to disseminate crucial information in times of emergency, saving lives and mitigating the impact of calamity and disaster with appropriate assistance,” as well as providing political information that fuels civic engagement and political participation.⁶⁰ This, along with the targeted harassment of *Rappler*, demonstrates the Duterte government's intention of dissolving platforms and quashing opportunities for critical discourse.

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

57 Carlos H. Conde, “Philippine Activist Arrested for Cyber-libel,” *Human Rights Watch*, August 9, 2022, <https://www.hrw.org/news/2022/08/09/philippine-activist-arrested-cyber-libel>

58 Mark Ernest Amratian, “Duterte admits using presidential powers to target ABS-CBN,” *Yahoo News*, June 28, 2022, <https://ph.news.yahoo.com/duterte-admits-using-presidential-powers-to-target-abs-cbn-032708317.html>

59 Jason Gutierrez, “Duterte's Shutdown of TV Network Leaves Void Amid Coronavirus Crisis,” *The New York Times*, May 14, 2020, <https://www.nytimes.com/2020/05/14/world/asia/duterte-philippines-tv-network-ABS-CBN.html>

60 Center for Media Freedom and Responsibility, “Closing down ABS-CBN and its impact on free speech in the Philippines,” *IFEX*, May 7, 2020, <https://ifex.org/closing-down-abs-cbn-and-its-impact-on-free-speech-in-the-philippines/>

2. Censorship through Cyberattacks

As red-tagging from both government and non-government actors ramped up, distributed denial of service (DDoS) became a common attack tactic on progressive groups, particularly on alternative and independent media groups. DDoS attacks are not an uncommon form of cyber-attack, but what made them notable during the Duterte administration was their sheer frequency and scope, and the specific network of media organizations targeted across several instances. The first major attack happened in December 2018,⁶¹ and another three-month long series of attacks was observed in December 2021.⁶² A Facebook page called “Pinoy Vendetta” claimed that one of its members conducted the December 2021 attacks. Pinoy Vendetta had earlier been vocal in its support for the NTF-ELCAC and its “mission to bring down and end the CPP-NPA-NDF.” The group was subsequently publicly endorsed by the NTF-ELCAC, with its spokesperson calling its members “computer geniuses.”⁶³ Both attacks were investigated by the Swedish digital forensics non-profit Qurium Media Foundation, who assessed that although three separate media organizations were targeted in December 2021, similar attack signatures suggest that they were done by the same perpetrator.⁶⁴ Further, upon investigation of a series of DDoS attacks in 2021, some of the attacks were found to have originated from IP addresses that are linked to the Department of Science and Technology and the Philippine military.⁶⁵

Qurium’s investigation of the DDoS attacks on *Bulatlat*, an independent media outlet, in November 2021 showed that the attacks were coming from thousands of Facebook accounts. Further investigation showed that this was done through an elaborate operation where a Vietnamese troll farm used malicious links disguised as links to pornography to capture the credentials of Facebook users and redirect the traffic to *Bulatlat*. Qurium also found that this operation went largely undetected as the operators used a “bouncing domain” and “residential proxies” to circumvent Meta’s mechanisms to detect phishing scams and malicious links.⁶⁶

61 “Alternative media groups file civil case amid cyberattacks,” *Rappler*, March 29, 2019, <https://www.rappler.com/technology/226968-alternative-media-groups-file-civil-case-cyberattacks-march-2019/>

62 Alyssa Mae Clarins, “Cyberattacks traced to PH hackers hailed by gov’t as ‘computer geniuses,’ probe shows,” *Altermidya*, March 15, 2022, <https://www.altermidya.net/cyberattacks-traced-to-ph-hackers-hailed-by-govt-as-computer-geniuses-probe-shows/>

63 Galo Gonzales, “Hacker group mounts DDoS attacks vs PH news outlets, hailed by gov’t,” *Rappler*, February 24, 2022, <https://www.rappler.com/technology/ntf-elcac-ddos-attacks-endorsement/>

64 Alyssa Mae Clarine, “Cyberattacks traced to PH hackers hailed by gov’t as ‘computer geniuses,’ probe shows,” *Altermidya*, March 15, 2022, <https://www.altermidya.net/cyberattacks-traced-to-ph-hackers-hailed-by-govt-as-computer-geniuses-probe-shows/>

65 Gelu Gonzales, “Military, DOST links found in DDoS attacks on media – report,” *Rappler*, June 23, 2021, <https://www.rappler.com/technology/qurium-links-dost-military-found-ddos-attacks-altermidya-bulatlat/>

66 Vittoria Elliott, “A Sprawling Bot Network Used Fake Porn to Fool Facebook,” *Wired*, September 26, 2022, <https://www.wired.com/story/facebook-bots-ddos-attack/>



Source: Cottonbro studio, Pexels
Hands on a Laptop Keyboard.

Red-tagging and attacks on journalists – especially those from independent media groups – have continued through the Marcos Jr. administration. In June 2022, the National Telecommunications Commission ordered the blocking of 26 websites, alleging that the websites are “affiliated to and are supporting terrorists and terrorist organizations” designated as such by several resolutions of the Anti-Terrorism Council. The blocked websites included those of independent media groups, such as *Bulatlat* and *Pinoy Weekly*, as well as those of the Save Our Schools Network of NGOs advocating for the right to education, and the Rural Missionaries of the Philippines, a group of priests, nuns, and laypeople.⁶⁷

3. Censorship through Content Moderation

Social media platforms, each with their own legal terms and policies, are another battleground when it comes to regulation of speech, which comes in the form of content moderation. Over the years, social media content moderation has been the subject of too many controversies – from the use of machine learning to make takedown decisions,⁶⁸ to labor issues involving third-party content moderators mostly from countries like the Philippines.⁶⁹ But for this paper, it is crucial that we look at the content policies of social media platforms – particularly Facebook – as it will give us a good idea of how the concepts of “safety” and “security” are operationalized in the digital spaces that host a significant chunk of Filipinos’ lives.

67 Raymond Carl Dela Cruz, “NTC orders ISPs to block terror group-related sites,” *Philippine News Agency*, June 22, 2022, <https://www.pna.gov.ph/articles/1177276>

68 Span dāna Singh, “Everything in Moderation: An Analysis of How Internet Platforms Are Using Artificial Intelligence to Moderate User-Generated Content,” *New America*, July 22, 2019, <https://www.newamerica.org/oti/reports/everything-moderation-analysis-how-internet-platforms-are-using-artificial-intelligence-moderate-user-generated-content/case-study-facebook/>

69 Vittoria Elliott and Devendra Pamar, “The despair and darkness of people will get to you,” *Rest of World*, July 22, 2020, <https://restofworld.org/2020/facebook-international-content-moderators/>

In the general section of Facebook’s Community Standards, it defines safety as “[removing] content that could contribute to a risk of harm to the physical security of persons” as well as content that “threatens people [and] has the potential to intimidate, exclude or silence others.”⁷⁰ Its specific definitions of terms such as hate speech and terrorism, however, leave much to be desired.⁷¹ Despite these policies, Facebook remains a breeding ground for all forms of harassment, including gender-based harassment and violence, that have been shown to have a chilling effect on the online speech of women and other vulnerable groups, and democratic discourse as a whole.⁷² Figures about online gender-based violence in the Philippines show Facebook as the top platform where various forms of online gender-based violence were perpetrated during the pandemic.⁷³ The fact is that although Meta supposedly has local policy offices, the directives and key decisions still come from its American headquarters, and therefore reflect the largely white, male, and libertarian corporate ethos of the company.⁷⁴

Given Facebook’s massive user base in the Philippines, the lack of involvement of Filipino stakeholders in its decision making deserves to be questioned. It is also important to investigate and question the involvement of Facebook and other foreign technology companies in providing internet access to Filipinos. Ultimately, the issue of net neutrality – which is the principle that internet service providers (ISPs) should treat all data that travels over their networks fairly and without discrimination in favor of particular apps, websites, or services⁷⁵ – is an issue of censorship and the right of people to access information necessary to participate in civic space freely and meaningfully.

C. Disinformation and Securitized Responses

Rodrigo Duterte became the 16th President of the Philippines on June 30, 2016. Duterte’s campaign and eventual success was a turning point in Philippine history due to his team’s use of digital tactics on social media platforms. Trolls and volunteers were hired to bolster support for his election in which they would spread information to promote and defend him against critics.⁷⁶

70 “Facebook Community Standards,” Meta Transparency Center, <https://transparency.fb.com/policies/community-standards>

71 Article 19, “Facebook Community Standards: Analysis against international standards on freedom of expression,” July 30, 2018, <https://www.article19.org/resources/facebook-community-standards-analysis-against-international-standards-on-freedom-of-expression/>

72 Duna Mijatović, “No space for violence against women and girls in the digital world,” Council of Europe Commissioner for Human Rights, March 15, 2022, <https://www.coe.int/en/web/commissioner/-/no-space-for-violence-against-women-and-girls-in-the-digital-world>

73 Foundation for Media Alternatives, “Submission on domestic violence in the context of COVID 19 to the United Nations Special Rapporteur on violence against women, its causes and consequences,” June 30, 2020,

74 Ysabel Gerard, “Social media content moderation: six opportunities for feminist intervention,” *Feminist Media Studies* 20, no. 5 (June 2020): 748–751, <https://doi.org/10.1080/14680777.2020.1783807>

75 “Net Neutrality,” Electronic Frontier Foundation, <https://www.eff.org/issues/net-neutrality>

76 Pia Ranada, “Duterte says online defenders, trolls hired only during campaign,” *Rappler*, July 25, 2017, <https://www.rappler.com/nation/176615-duterte-online-defenders-trolls-hired-campaign/>

The disinformation-marred campaign and election period made the Philippines known as “Patient Zero,” the first nation where an election is shown to be heavily influenced by disinformation on online platforms.⁷⁷ Coordinated disinformation and online propaganda continued throughout Duterte’s six-year term, which was also marked by human rights violations. Various digital tactics were used to attack critics of Duterte and his administration. Independent media, opposition politicians, and fact-checking organizations were targeted while disinformation and misinformation that espoused Duterte’s authoritarian rhetoric were allowed and even encouraged to spread in online and offline channels.⁷⁸ Troll armies were also employed during the COVID pandemic to defend the Philippine government’s COVID response and drown out criticism.⁷⁹

The meteoric rise of disinformation and propaganda online was further bolstered by the erosion of public trust in traditional media as the fourth estate. In fact, according to research by the Reuters Institute for the Study of Journalism, social media is now the biggest source of news by Filipinos (72%), overshadowing traditional platforms like television (61%) and print (16%). Among social media and messaging platforms, Facebook, YouTube, and Facebook Messenger rank as the biggest sources of news.⁸⁰

A study on digital disinformation during the 2019 midterm elections noted that micro-media manipulation, which refers to micro-targeting seeded specific political propaganda at discrete groups, had become a new insidious strategy to disseminate propaganda while evading fact checkers and content moderators.⁸¹ This means that disinformation now thrives at the level of small communities and private groups. This trend is noteworthy because while Facebook can penalize accounts and pages for hate speech or inauthentic coordinated behavior, it is unable to do the same for closed groups and communities because of privacy protections. The only actors who can take down or control the content in a closed group are its administrators or moderators. As the report notes, closed groups often operate as echo chambers or filter bubbles that communities of the same inclinations, whether political or otherwise, go to in order to affirm each other’s beliefs.

Indeed, the rise of disinformation in social media also highlights the closing of digital spaces for discourse through the fragmentation of the internet and platforms that encourage the creation and sustenance of echo chambers. The 2022 Freedom on the Net report speaks of a global trend of authoritarian governments pushing to “divide the open internet into a patchwork of repressive enclaves” by blocking foreign websites, hoarding personal data, and centralizing their technical infrastructures under an internet governance model that promotes “cyber sovereignty.”⁸²

77 Ronald Mendoza, Imelda Danila, and Jurel Yap, “Philippines: diagnosing the infodemic,” *The Interpreter*, December 1, 2021, <https://www.lowyinstitute.org/the-interpreter/philippines-diagnosing-infodemic>

78 Samantha Bradshaw and Philip Howard, “Troops, Trolls and Troublemakers: A Global Inventory of Organized Social Media Manipulation,” *Oxford Internet Institute*, July 17, 2017, <https://demotech.oii.ox.ac.uk/research/posts/troops-trolls-and-troublemakers-a-global-inventory-of-organized-social-media-manipulation/>

79 Lynzy Billing, “Duterte’s troll armies drown out Covid-19 dissent in the Philippines,” *Coda Story*, July 21, 2020, <https://www.codastory.com/disinformation/philippines-troll-armies/>

80 Yvonne Chua, “Digital News Report: Philippines,” *Reuters Institute for the Study of Journalism*, June 23, 2021, <https://reutersinstitute.politics.ox.ac.uk/digital-news-report/2021/philippines>

81 Jonathan Corpus Ong, Ross Tapsell, and Nicole Curato, “Tracking Digital Disinformation in the 2019 Philippine Midterm Election,” *New Mandala*, August 2019, <https://www.newmandala.org/wp-content/uploads/2019/08/Digital-Disinformation-2019-Midterms.pdf>

82 Adrian Shahbaz, Allie Funk, and Kian Vesteinsson, “Freedom on the Net 2022: Countering an Authoritarian Overhaul of the Internet,” *Freedom House*, <https://freedomhouse.org/report/freedom-net/2022/countering-authoritarian-overhaul-internet>

The Philippines is believed to be Patient Zero in the global disinformation crisis, but equally or perhaps even more alarming are the solutions proposed to address it. Just within Duterte's term, several bills were filed to counter "fake news" with the proposed measures ranging from mere fact-checking to the regulation of and imposition of penalties on social media companies, to mandatory registration of social media accounts in a government-held database.

Securitized responses look at disinformation, hate speech, targeted harassment, and even gender-based violence as one massive, homogenous security threat – which they're not – and the proposed solutions are not at all nuanced.

The perfect illustration of this is the country's cybercrime law, which looks at all offenses done through the use of ICTs on the same level. Apart from cyberlibel, Section 6 of the cybercrime law, which categorizes as cybercrime all crimes covered by the Revised Penal Code and by special laws when committed with the use of ICTs, has also been used to increase penalties for online speech purported to be disinformation.

This tendency of the government to impose a securitized response to disinformation is not unique to the Philippines. The Freedom Online Coalition, in its submission to the Office of the United Nations High Commissioner for Human Rights regarding the practical application of the UN Guiding Principles on Business and Human Rights in the global technology sector, warns against the tendency of governments to "unduly restrict, moderate, or manipulate online content or disrupt networks to deny users access to information, contrary to their international obligations and often under vague justifications of 'security', 'public order', or the false pretention of combating 'fake news'."⁸³

It is highly ironic that the Philippines appears to foreign actors as a fertile testing ground for disinformation tactics because of its "relatively underdeveloped regulatory infrastructure,"⁸⁴ because technically speaking, there *are* regulatory structures in place that are supposed to counter such activities. Unlike most of its Asian neighbors, the Philippines has had both data protection and competition laws in place since 2012 and 2014, respectively. It has a functioning National Privacy Commission and a Philippine Competition Commission that each have the power to hold social media companies accountable to the Filipino people. Yet neither of these government agencies has made a significant effort to penalize or even investigate mammoth platforms such as Facebook for the harms their technologies have facilitated and their undue influence on Philippine democracy.

83 The Freedom Online Coalition's submission to the OHCHR regarding the practical application of the UNGPs in the global technology sector (A/HRC/RES/47/23)," Office of the United Nations High Commissioner for Human Rights, March 11, 2022, <https://www.ohchr.org/sites/default/files/2022-03/Freedom-Online-Coalition.pdf>

84 Paige Occeñola, "Exclusive: PH was Cambridge Analytica's 'petri dish' – whistle-blower Christopher Wylie," *Rappler*, September 10, 2019, <https://www.rappler.com/technology/social-media/239606-cambridge-analytica-philippines-online-propaganda-christopher-wylie/>

VI. In Focus: Securitized COVID-19 Response with the use of ICTs

With most transactions and everyday activities including school and work moving online, so have most efforts to restrict civic space and human rights. In the case of the Philippines, the threats and attacks on civic space that we identified earlier (i.e., surveillance, censorship, and securitized disinformation response), were amplified during the COVID-19 pandemic.

As highlighted by another report in this series (See *'Not Safe: Securitization of the COVID-19 Crisis and its Impact on Civic Space in the Philippines'* by Mary Jane N. Real), the Duterte government's approach to the COVID-19 response was highly securitized and militarized, and key to this strategy was the implementation of various levels of "community quarantine" or lockdowns. Several technologies were employed for quarantine enforcement, including the installation of surveillance cameras, the use of artificial intelligence to monitor the movements of residents in high-risk areas in real time,⁸⁵ and the use of camera drones by the police to detect quarantine violations.⁸⁶ In September 2020, the government task force charged with implementing community quarantine protocols⁸⁷ directed the national police to monitor social media for accounts of quarantine violations.⁸⁸

Complementing these surveillance measures were attempts of the government to control online speech, particularly social media content that are critical of the Philippine government's COVID-19 response.

The Bayanihan to Heal as One Act, the law that declared a national emergency arising from the COVID-19 pandemic, included a provision that penalizes COVID-related disinformation. The penalized acts were defined as follows:

(f) Individuals or groups creating, perpetrating, 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 use or take advantage of the current crisis situation to prey on the public through scams, phishing, fraudulent emails, or other similar acts;

Rights advocates vehemently opposed this particular provision, asserting that the language is vague enough to allow possible abuse and misuse by State actors and suppress free speech.⁸⁹

Case study continued on next page >>>

85 Pasig village boosts measures to mitigate spread of Covid-19," *Philippine News Agency*, March 30, 2020, <https://www.pna.gov.ph/articles/1098189>

86 Christia Marie Ramos, "11 drones now in Cebu City to monitor quarantine compliance - Eleazar," *Inquirer.net*, June 28, 2020, <https://newsinfo.inquirer.net/1298698/11-drones-now-in-cebu-city-to-monitor-quarantine-compliance-eleazar>

87 The Joint Task Force COVID-19 Shield is composed of the Philippine National Police, the Armed Forces of the Philippines, the Philippine Coast Guard, and the Bureau of Fire Protection. It serves as the enforcement arm of the national government in implementing quarantine rules and protocols during the COVID-19 pandemic.

88 JC Gotinga, "Police to 'regularly monitor' social media for quarantine violations," *Rappler*, September 5, 2020, <https://www.rappler.com/nation/police-regularly-monitor-social-media-quarantine-violations>

89 Lian Buan, "Bayanihan Act's sanction vs 'false' info the 'most dangerous,'" *Rappler*, March 29, 2020, <https://www.rappler.com/nation/256256-sanctions-fake-news-bayanihan-act-most-dangerous/>

A few days after the law was signed, there were 32 arrests related to “fake news”⁹⁰ proving that the fear of the fake news provision being used to suppress free speech was not unfounded. Interestingly, many of these arrests did not make use of the Bayanihan law but were still based on violations of the Revised Penal Code (i.e., “Unlawful Use of Means of Publication and Unlawful Utterances”). The provision on false information was omitted in the subsequent versions of the Bayanihan law.

Most of these arrests were those of ordinary citizens airing their complaints on social media. These citizens were arrested either for charges of cyberlibel or under the justification of spreading “fake news.” For instance, a public school teacher from General Santos City was arrested without a warrant after venting that people from her city were going hungry and encouraging people with nothing to eat to raid the local gym, where undistributed food packs meant for them were stocked. Her son was also arrested for trying to stop the police from taking his mother without a warrant. The teacher was charged with inciting to sedition in relation to the cybercrime law, as she posted her rant on social media.⁹¹ Human rights groups immediately opposed this arrest, calling it an overkill as the teacher was simply airing her

legitimate grievances over her local government’s unsatisfactory COVID response that led to mass hunger.⁹² In another instance, a private individual was subpoenaed for a post made about the misuse of local government funds for COVID relief.⁹³ A salesman was arrested in Agusan del Norte for calling then-President Duterte “stupid” and “crazy” in his local language in his Facebook comments. In the same week, at least four arrests were made against social media users who posted comments critical of Duterte.⁹⁴ The then-Secretary of Interior and Local Government filed charges against an administrator of a Facebook page for attributing a false quote to him regarding physical distancing measures.⁹⁵

Even campus journalists were not spared from intimidation. An editor of a college publication was red-tagged and threatened by the police after publishing critical opinions on the Duterte administration’s COVID-19 response. The campus journalist’s Facebook account was also probed by the police.⁹⁶ Another campus publication in Cebu was publicly called out – via Facebook – by the Cebu governor after it criticized her creation of a special unit specifically tasked to trace individuals who post negative criticisms about the government’s COVID-19 response.⁹⁷

90 32 arrested over ‘fake’ COVID-19 news,” *CNN Philippines*, April 6, 2020,

<https://www.cnnphilippines.com/news/2020/4/6/arrests-over-coronavirus-fake-news.html>

91 “Teacher, son arrested without warrant in GenSan over Facebook post,” *Rappler*, March 28, 2020, <https://www.rappler.com/nation/256157-teacher-son-arrested-without-warrant-general-santos-city-facebook-post-coronavirus/>

92 “Human rights group calls for release of teacher arrested over ‘seditious’ Facebook post,” *CNN Philippines*, March 29, 2020, <https://www.cnnphilippines.com/news/2020/3/29/karapatan-teacher-arrest-sedition-charges-coronavirus.html>

93 “Chilling effect: NBI going after netizens for social media posts on COVID response – Diokno” *ABS-CBN News*, April 2, 2020, <https://news.abs-cbn.com/news/04/02/20/chilling-effect-nbi-going-after-netizens-for-social-media-posts-on-covid-response-diokno>

94 “Salesman arrested for social media post against Bong Go, Duterte,” *CNN Philippines*, May 14, 2020, <https://www.cnnphilippines.com/news/2020/5/14/Duterte-cyberlibel-arrest-Agusan-del-Norte.html>

95 “Palace defends socmed monitoring,” *Manila Standard*, September 8, 2020, <https://www.manilastandard.net/news/top-stories/333555/palace-defends-socmed-monitoring.html>

96 Consuelo Marquez, “CEGP condemns alleged ‘red-tagging’ of campus journalist,” *Inquirer.net*, April 5, 2020, <https://newsinfo.inquirer.net/1254285/cegp-condemns-alleged-red-tagging-of-campus-journalist>

97 Delta Dyrecka Letigio, “CEGP cries foul over Gwens’ reply to school pub’s statement,” *Cebu Daily News*, March 25, 2020, <https://cebudailynews.inquirer.net/296967/cegp-cries-foul-over-gwens-reply-to-school-pubs-statement>

VII. Analysis

A. The Right to Privacy and Right to Information are Essential to a Comprehensive Definition of Civic Space

CIVICUS defines civic space as “the place, physical, virtual, and legal, where people exercise their rights to freedom of association, expression, and peaceful assembly.”⁹⁸

In this initiative, we propose a more comprehensive definition of civic space that includes not just the freedom of association, expression, and assembly, but also the right to privacy and access to information. Apart from being fundamental rights recognized by the International Covenant on Civil and Political Rights, the rights to privacy and information are essential for people to participate in civic space fully and meaningfully. The right to privacy gives people the autonomy and agency over their bodies, their possessions, and their data, and therefore gives them the freedom to speak out on issues of public concern and participate in public decision making.

Discussions on shrinking civic spaces must also address the fact that many cases of state violence against journalists and activists are preceded by privacy violations such as stalking, monitoring, and unauthorized use of personal information. Thus, attacks on privacy and anonymity must be interrogated for more than just their virtual harms but must be seen as attempts to stifle civic freedoms in physical spaces.



Source: Jurgen Jester, Pexels
Surveillance Cameras on a Metal Post.

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98 “Guide to Reporting on Civic Space: Media Toolkit,” CIVICUS, <https://www.civicus.org/index.php/media-resources/resources/toolkits/2746-guide-to-reporting-civic-space>

B. Modern Surveillance is Exercised through the Erosion of Anonymity

Traditionally, the notion of surveillance pertains to the activity of active monitoring. However, another aspect of surveillance is the chilling effect that is caused by its mere presence. In explaining Panopticism, Foucault discusses how the constant monitoring and examination of activities becomes a means by which power is exercised and self-censorship is encouraged. In a Panopticon, it doesn't matter whether the actual exercise of surveillance is a continuous one; it only matters that the surveillance apparatus is in place. Hence, "a state of conscious and permanent visibility that assures the automatic functioning of power."⁹⁹ In the modern age, this is manifested in the mere establishment of surveillance measures and legislation, notwithstanding the implementation or the effectiveness of such measures, as their mere existence pushes people to self-regulate for fear of being apprehended. This includes measures that place citizens' identities on such close view by the State, such as real-name policies, SIM card and social media registration, and the continuous collection of personal data and creation of databases through ID systems like the PhilSys.

In online spaces, the most common manifestation of this panopticon-esque model of surveillance is the erosion of anonymity, which forces people to self-regulate as their identities are always on display. Certain sectors of civil society such as queer activists are in higher danger of being disenfranchised by these surveillance measures due to their reliance on anonymous platforms to express their lived identities, as opposed to the legal identities that real-name policies force on internet users.

C. The Propensity of Social Media Algorithms towards Creating and Maintaining Echo Chambers and Filter Bubbles are Shrinking Spaces for Deliberative Discourse Online

Disinformation research has shown that the niche communities and filter bubbles encouraged by the way social media platforms like Facebook are designed, contribute to the rapid spread of disinformation and even hate speech in the same platforms. The closed and private nature of these groups also often make it close to impossible for those outside them to report violations, and for the platforms to monitor and regulate activity within the groups. This raises the need to question whether companies like Meta are genuinely expanding spaces for discourse and increasing people's means of political participation through products such as Free Facebook. We make the case that contrary to their claims, platforms like Facebook are, in fact, shrinking the spaces for deliberation and discourse because of how their algorithms are designed to encourage polarization and maintain the existence of filter bubbles and echo chambers. This is especially critical in the case of the Philippines due to the increasing reliance of Filipinos on social media, particularly on Facebook, for news and knowledge that inform their political participation.

99 Michel Foucault, "Panopticism" from *Discipline & Punish: The Birth of the Prison*, "Race/Ethnicity: Multidisciplinary Global Contexts 2, no. 1 (Autumn 2008): 1-12, <https://muse.jhu.edu/article/252435>

D. Digital Technologies Blur the Line between Public and Private, thus bringing to Question Traditional Notions of Safety and Security

One of the oldest debates about online platforms, especially social media networks, is whether social media platforms are public or private spaces. Existing Philippine jurisprudence leans towards the former. In the landmark case of *Vivares vs. St. Theresa's College*, the Philippine Supreme Court ruled that a reasonable expectation of privacy cannot be automatically assumed in online social networking platforms such as Facebook. The decision states that for one to have an expectation of privacy when using social networking platforms, “it is first necessary that said user [...] manifest the intention to keep certain posts private, through the employment of measures to prevent access thereto or to limit its visibility.”¹⁰⁰ Simply put, prevailing local jurisprudence says that social media platforms are public platforms by default, and it is only by utilizing the platform’s privacy settings that users can assert a reasonable expectation of privacy over their activity and the content that they upload in the platform. However, vulnerable groups such as victims of domestic violence and the LGBTQ community often take to online spaces to find refuge and safety.

This blurring of lines became even more evident during the COVID-19 pandemic, when restrictions to mobility forced everyone to shift into online modes of public participation. This also meant that physical spaces and communities that used to be safe spaces for women to speak out against abuse were dissolved and shifted to digital channels of communication.

E. In the Philippines, Threats to Civic Space are Reinforced by Poor Quality of Internet and Weak Internet Governance

Disinformation and the lack of access to diverse and factual information are exacerbated by the fact that internet quality remains dismal in many parts of the country.

Lack of quality internet access pushes people in far-flung areas and low-income communities to rely on affordable platforms such as free television for news and for the exercise of their civil and political rights. However, the attacks on traditional media have decreased both trust and access to a major provider such as ABS-CBN, thus leaving some demographic groups with little to no sources of credible and accurate information. The longstanding market capture of two major telecommunications and internet service providers in the country has hampered improvement on the quality, speed, and affordability of Philippine internet, thus leaving some users with no other choice than to rely on affordable “mobile internet bundles” that limit their access to one or a few social media sites such as Facebook and YouTube.

100 G.R. No. 202666, *Vivares vs. St. Theresa's College*, September 29, 2014, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/57754>

The systems-first approach to cybersecurity (i.e., one that prioritizes the security of systems over the security of persons) is a threat to civic space as it can be used by governments to justify measures that violate civic freedoms under the guise of securing critical information infrastructures.

This is complemented by the fact that discussions on ICT-related policies in the Philippines remain mostly exclusive to government and private sector voices, leaving marginalized sectors and communities unheard and disempowered by treating them as passive consumers.

The problem with cybersecurity, as with other forms of security, is that it is often regarded as a panacea to every problem in cyberspace. But not all cyber threats are cybersecurity threats. Information disorders are not necessarily security threats (although they can eventually be so). What is therefore crucial for both policymakers and civil society is to build a more nuanced understanding of digital issues and their links to offline ones. Moreover, to counter securitization as a knee-jerk response to disinformation, information disorders must be viewed not as mere cybercrimes, but as a systemic disease that goes beyond the online realm and plagues many, if not all, facets of democracy. This should involve a holistic approach and more inclusive policy making processes, even in areas that are usually deemed too technical for open public consultations.

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VIII. Strategies of Resistance and Levers of Change

Online platforms have been powerful tools for resistance against repressive laws and policies. When the Anti-Terrorism Bill of 2020 was approved on final reading despite numerous concerns about both its content and the way it was railroaded in the House of Representatives, Filipinos took to the streets and to social media to call on lawmakers to scrap the bill using the hashtags #junkterrorbill and #junkterrorbillnow. Online signature campaigns were launched, and online users were urged to send emails to their respective representatives for the same purpose. The calls soon garnered international attention, with then-United Nations High Commissioner for Human Rights Michelle Bachelet issuing a warning against the dangers of the legislation, and international pop star Taylor Swift sharing a link to the online petition against the proposed law.¹⁰¹ The public clamor against the bill was so loud that some lawmakers eventually withdrew their authorship of the bill, while some who were originally named as co-authors denied their involvement.¹⁰²

Philippine civil society has utilized various strategies to push back against the digital threats to civic space, as identified earlier in this paper. Most importantly, alternative visions and definitions of safety and security are cropping up in several pockets of civil society, both globally and in the Philippines. This last section looks at these alternative strategies and counter-narratives that could be considered as new pathways for the preservation of a free civic space.

A. Global Movement for People-centric Cyber Policy

In the international arena, civil society has been pushing back against the creation of oppressive and exploitative global norms by building alliances and making concerted efforts to increase civil society participation in spaces that are traditionally exclusive to State and corporate actors. One such space is the UN Open Ended Working Group on security of and the use of information and communications technologies. Through active participation by digital rights groups and networks such as the Association for Progressive Communications, the global human rights movement has repeatedly raised the need for the inclusion of human rights and marginalized voices in cyber norms.¹⁰³ There is also a growing global movement for digital constitutionalism, which is comprised of “constitutional counteractions against the challenges produced by digital technology,” described as “the ideology that adapts the values of contemporary constitutionalism to the digital society.”¹⁰⁴

101 Barnaby Lo, “Protest against ‘urgent’ anti-terror bill in Philippines gets a boost from Taylor Swift,” *CBS News*, June 4, 2020, <https://www.cbsnews.com/news/protest-against-urgent-anti-terror-bill-in-philippines-gets-a-boost-from-taylor-swift/>

102 Catalina Ricci S. Madarang, “These lawmakers withdrew support for Anti-Terror Bill after initially backing it,” *Interaksyon*, June 4, 2020, <https://interaksyon.philstar.com/politics-issues/2020/06/04/169972/these-lawmakers-withdrew-support-for-anti-terror-bill-after-initially-backing-it/>

103 Verónica Ferrari and Sheetal Kumar, “A human centric approach to international cybernorms: Civil society feedback on the UN Open-Ended Working Group on ICTs proposals,” Association for Progressive Communications, December 1, 2020, <https://www.apc.org/en/news/human-centric-approach-international-cybernorms-civil-society-feedback-un-open-ended-working>

104 Edoardo Celeste, “Digital constitutionalism,” *International Review of Law, Computers & Technology* 33, no. 1 (2019): 76–99, <https://doi.org/10.1080/13600869.2019.1562604>

B. Local Initiatives for Inclusive and Civil Society-led Internet Governance

The global call for a multistakeholder approach to internet governance is reflected in local initiatives like the Philippine Declaration on Internet Rights and Principles and the Magna Carta for Philippine Internet Freedom, which both stem from the dissatisfaction of Philippine civil society with the Cybercrime Prevention Act of 2012.

Recognizing the growing threats to digital rights and the lack of civil society voices in internet governance, various stakeholders created the Philippine Declaration on Internet Rights and Principles in 2015. It presents an alternative vision of the internet – one that puts the rights and needs of the Filipino people at the center.¹⁰⁵ The Declaration was a product of collective drafting and consultations with civil society internet rights groups and the ICT policy community and was largely inspired by similar initiatives such as the Marco Civil da Internet in Brazil (Brazilian Civil Rights Framework for the Internet). Apart from its progressive approach to internet governance in that it lays down as bases the rights of users instead of focusing on the interests of internet companies or law enforcement, the Marco Civil is known to have gone through a thorough public consultation process, including online forms of consultation.¹⁰⁶

Similarly, the Magna Carta for Philippine Internet Freedom (MCPIF), which was first filed as a Senate Bill during the 15th Congress in 2012, was designed as a rights-based replacement to the Cybercrime Prevention Act. Like the Marco Civil da Internet, the MCPIF bill was “crowdsourced” in that the drafting process was made accessible to the public through official online platforms.¹⁰⁷ Unlike the existing cybercrime law, the MCPIF treats libel as a civil liability rather than a criminal act and guarantees the right against illegal searches and seizures by providing strict guidelines for any collection of data.¹⁰⁸

C. Rights-based Strategic litigation

When the cybercrime law was first passed in 2012, it caused a massive uproar among the Filipino public because of its controversial provisions that restrict free speech and infringe on the constitutional right to privacy. A partial victory was achieved by the movement when in the case of *Disini v. The Secretary of Justice*, the Supreme Court declared as unconstitutional some of the provisions that were questioned by human rights advocates, namely:

- a. *Section 4(c)(3) of Republic Act 10175 that penalizes the posting of unsolicited commercial communications;*
- b. *Section 12 that authorizes the collection or recording of traffic data in real-time; and*
- c. *Section 19 that authorizes the Department of Justice to restrict or block access to suspected Computer Data.*

105 “The Philippine Declaration on Internet Rights and Principles,” Foundation for Media Alternatives, <https://fma.ph/ph-declaration-internet-rights-principles/>

106 Mariana Valiente, Dennys Antonialli, and Francisco Brito Cruz, “Marco Civil 5 Years Special: Why should we celebrate?,” *Internet Lab*, April 3, 2019, <https://internetlab.org.br/en/news/marco-civil-5-years-special-why-should-we-celebrate/>

107 Jonathan De Santos, “The Wisdom of Crowds: Crowdsourcing Net Freedom,” *Vera Files*, January 21, 2013, <https://ph.news.yahoo.com/blogs/the-inbox/wisdom-crowds-crowdsourcing-net-freedom-042242158.html>

108 “Magna Carta for Internet Freedom to Replace Anti-Cybercrime Law – Miriam,” Senate of the Philippines, November 30, 2012, https://legacy.senate.gov.ph/press_release/2012/1130_santiago1.asp

Although contentious provisions such as the criminalization of cybersex and cyberlibel were upheld, the decision is key to ensuring that the surveillance powers of law enforcement are kept within the bounds of the Philippine Constitution.

The recent case filed by independent media organizations over the DDoS attacks on their websites was a powerful statement against the excessiveness of the cybercrime law. Instead of filing a criminal case based on the Cybercrime Prevention Act, the parties opted to file a civil complaint against the IT companies named in the digital forensics report. The complaint was based on Article 32(3) of the Civil Code, which protects the freedom of Filipinos to write for the press or to maintain a periodical publication.¹⁰⁹ In the succeeding year, *Altermidya* network members filed another complaint, this time against the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC) for multiple instances of red-tagging.¹¹⁰ These legal actions are valuable because they demonstrate that cyberlibel is extremely redundant and unnecessary, especially at a time when libel (online or otherwise) has become a political weapon more than anything else.

This case is also an exemplary demonstration of the value of global solidarity among civil society in countering oppressive governments. The alternative media organizations were able to mitigate the cyber-attacks and produce a digital forensics report that became the basis of their civil complaint through the assistance of Qurium Media Foundation, the non-profit organization based in Sweden.

When the National Telecommunications Commission ordered the blocking of several websites that, according to them, were linked to terrorist groups, the order was immediately assailed in court by the independent media groups unduly included in the block list. Independent media outlets *Bulatlat* and *Pinoy Weekly* were not notified in advance that their websites would be blocked. *Bulatlat's* petition for the issuance of a temporary restraining order against the NTC memorandum was originally denied by the Regional Trial Court on the basis that *Bulatlat* could still publish online and that the inconvenience caused by the blocking is “of no moment” and “irrelevant.”¹¹¹ However, *Bulatlat's* petition for a preliminary injunction against the blocking order was eventually granted by the court upon finding that a 44% drop in monthly site traffic meant that readers, writers, and contributors were denied access to information which amounted to a restriction of the constitutionally protected right to freedom of speech.¹¹² When, despite the issuance of a writ of preliminary injunction that ordered the unblocking of *Bulatlat's* sites, NTC still continued to block the website, *Bulatlat* asked the court to hold the NTC in contempt. Throughout this lengthy process, *Bulatlat* was represented by lawyers from the National Union of People's Lawyers, a voluntary association of human rights lawyers in the Philippines.¹¹³

109 “Alternative media groups file civil case amid cyberattacks,” *Rappler*, March 29, 2019, <https://www.rappler.com/technology/226968-alternative-media-groups-file-civil-case-cyberattacks-march-2019/>

110 Kristine Joy Patag, “Alternative media groups sue NTF-ELCAC over continued red-tagging,” *Philstar.com*, December 18, 2020.

111 “After denying TRO, what's next in the fight to #UnblockBulatlat?,” *Bulatlat*, July 14, 2022, <https://www.bulatlat.com/2022/07/14/after-denying-tro-whats-next-in-the-fight-to-unblockbulatlat/>

112 “Philippines: Court orders NTC to unblock Bulatlat website,” *International Federation of Journalists*, August 16, 2022, <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/philippines-court-orders-ntc-to-unblock-bulatlat-website.html>

113 Jairo Bolledo, “Bulatlat asks QC court: Hold NTC in contempt for delaying unblocking of site,” *Rappler*, August 25, 2022, <https://www.rappler.com/nation/bulatlat-asks-court-hold-ntc-contempt-not-immediately-unblocking-website/>

D. Civil Society-led Cyber Incident Response

The experience of Philippine alternative media groups in responding to cyberattacks on their websites is demonstrative of the lack of local capacity for cyber incident response. In most, if not all of the cyberattacks described in this paper, local groups have had to rely on foreign entities such as the Qurium Media Foundation to conduct digital forensics and emergency response to secure their websites and systems. While global non-profits such as Qurium and Access Now provide digital security resources for activists, it is critical to build the internal capacity of local organizations and strengthen their first line of defense against attacks on their digital assets.

E. Feminist and Queer Approaches to Safety and Security

As frequent targets of harassment, abuse, misogynistic remarks and other forms of gender-based violence, women and queer persons are often disenfranchised by lacking or disproportionate responses to online threats. But feminist movements are replete with alternative visions of a safe and free internet. In the Philippines, the Safe Spaces Act, passed in 2018, aims to prevent and penalize gender-based harassment in both physical and online spaces.

As frequent targets of harassment, abuse, misogynistic remarks and other forms of gender-based violence, women and queer persons are often disenfranchised by lacking or disproportionate responses to online threats. But feminist movements are replete with alternative visions of a safe and free internet.



Source: Photo by Raffy Lerma

Employees, journalists, celebrities, and supporters of media network ABS-CBN show their dissent a week after Congress rejected their franchise renewal with a noise barrage and motorcade outside the ABS-CBN compound in Quezon City on July 18, 2020.

It defines gender-based online sexual harassment as:

acts that use information and communications technology in terrorizing and intimidating victims through physical, psychological, and emotional threats, unwanted sexual, misogynistic, transphobic, homophobic, and sexist remarks and comments online whether publicly or through direct and private messages, invasion of victim's privacy through cyberstalking and incessant messaging, uploading and sharing without the consent of the victim, any form of media that contains photos, voice, or video with sexual content, any unauthorized recording and sharing of any of the victim's photos, videos, or any information online, impersonating identities of victims online or posting lies about victims to harm their reputation, or filing false abuse reports to online platforms to silence victims.¹¹⁴

By specifically naming misogynistic, transphobic, homophobic, and sexist remarks as forms of online harassment, the law becomes inclusive not just of the experiences of women, but also those who identify as part of LGBTQ.

Filipino feminist and queer organizations also operationalize their own narratives and visions of safety through initiatives such as the Lunas Collective, a Facebook-based chat service providing support for those who experience gender-based violence.¹¹⁵ By carving out safe spaces for themselves and for women, these organizations are able to turn the community features of platforms such as Facebook into spaces of solidarity and support rather than breeding grounds of disinformation and misogyny.

114 Republic Act No. 11313, Safe Spaces Act, <https://pcw.gov.ph/republic-act-11313/>

115 Cody Cepeda, "Lunas Collective: Keeping the distance that COVID-19 social distancing removes between abuser, abused," Inquirer.net, April 3, 2020, <https://newsinfo.inquirer.net/1253503/lunas-collective-keeping-the-distance-that-covid-19-social-distancing-removes-between-abuser-abused>

Women journalists who, as the case of Maria Ressa demonstrates, are particularly vulnerable to online violence – are also coming together to create their own virtual safe spaces. A few days after the Supreme Court upheld the constitutionality of the Anti-Terrorism Law, the International Association of Women in Radio and Television launched Digital Safe House, an online platform where women journalists can report cases of attacks, harassment, abuses, and other gender-based violence, and access resources and services such as legal and medical assistance.¹¹⁶

Women and girls in the Philippines have been reclaiming online spaces as safe spaces for telling their stories and demanding accountability from abusers and sexual predators, mostly through hashtag campaigns.

At the height of the pandemic in 2020, the hashtag #HijaAko (“I am *hija*”) became a trending topic after a young female celebrity spoke out against TV host Ben Tulfo for saying that the way women dress invites sexual offenders to commit crime.¹¹⁷ Shortly after this, students and alumni of Miriam College took to social media to share their personal accounts of sexual harassment by faculty members of the said school, using the hashtag #MCHSdobetter.¹¹⁸ This triggered a chain of similar hashtags by students and alumni from other schools exposing patterns of sexual misconduct by teachers and holding perpetrators of sexual assault to account.

Other strategies that could be explored to resist the Philippine government’s digital security playbook are breaking the monopoly of Facebook by migrating into other secure online platforms; investigating surveillance trade and the use of surveillance technologies by the Philippine government; and pushing for oversight and accountability both by state actors and global tech companies that wield so much unregulated power over cyberspace.

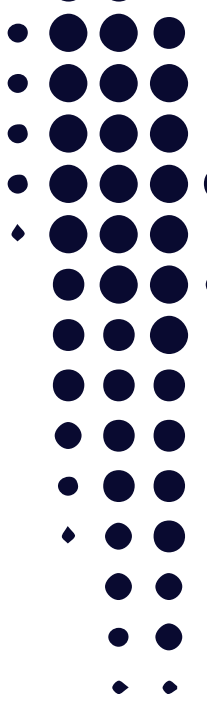
Finally, there is a need to debunk the image of the Philippines as being a suitable “petri dish” for the abuse of technology by businesses and governments. While the Duterte administration attempted to build an arsenal of repressive laws, practices, and technologies, democracy also has its own toolbox in the form of regulations and mechanisms, as well as emergent innovative strategies by civil society that are designed to protect citizens in their use of digital technologies. The challenge is now in wielding these tools to uphold a free civic space.

Women and girls in the Philippines have been reclaiming online spaces as safe spaces for telling their stories and demanding accountability from abusers and sexual predators, mostly through hashtag campaigns.

116 Group launches ‘Digital Safe House’ for Filipino women journalists,” *Bulatlat*, December 13, 2021, <https://www.bulatlat.com/2021/12/13/digital-safe-house-for-filipino-women-journalists-launched/>

117 Pilar Manuel, “#HijaAko trends after Frankie Pangilinan hits back at Ben Tulfo for victim-blaming women,” *CNN Philippines*, June 14, 2020, <https://www.cnnphilippines.com/entertainment/2020/6/14/Frankie-Pangilinan-Ben-Tulfo-victim-blaming-women.html>

118 “#MCHSdobetter: Groups condemn sexual misconduct of teachers, call for justice,” *Rappler*, June 26, 2020, <https://www.rappler.com/moveph/264962-groups-condemn-sexual-misconduct-teachers-call-justice/>



Conclusions: Redefining Civic Space and Building New Pathways of Resistance

*by Jessamine Pacis and
Mary Jane N. Real*



Source: Photo by Raffy Lerma
 Various groups commemorate the 36th anniversary of People Power, an uprising that toppled the late dictator Ferdinand Marcos at the People Power Monument on February 25, 2022.

These conclusions draw from the research and its four chapters that look into the current state of civic space in the Philippines, the landscape of actors working at the intersection of national security and civic space, and the harmful impacts of securitization on civic space. Based on the findings of the research, these conclusions summarize an updated concept of civic space drawn from a nuanced understanding of civic engagement. These conclusions also highlight promising approaches to broaden constituencies for human rights activism, and pathways to reconfigure forms of resistance carried out by civil society actors that have become life-threatening in the context of authoritarian rule. Lastly, these conclusions offer areas for further study.

Each of the four chapters describe different aspects of the security playbook deployed by the government of President Rodrigo Duterte, comprised of laws and policies, narratives, and practices used to justify repressive acts that led to the closing of civic space under the broad mantle of “national security.” This research documents the contiguous wars waged by the government: the “war against terror”, the “war against illegal drugs” and the “war against COVID-19” that severely constricted democratic space and hastened the country’s descent into authoritarian rule.

As illustrated in all the chapters of this research, this shrinking civil space in the country is characterized by: the government's harsh curtailment of the citizens' fundamental freedoms, particularly those essential to sustaining a vibrant and discursive civic space; the crackdown by the State and its apparatus especially on human rights defenders through killings, including extrajudicial executions, and other serious human rights violations, to stifle their activism; the suppression of dissent as evident in the mass arrests and vilification of those who have been critical of the government, regardless of whether they self-identify or are identified by state actors as activists.

Although the freedoms aspired for by activists are timeless and unchanging, the platforms and means by which such freedoms are fought for and articulated are constantly evolving. Particularly in recent years, global events such as the COVID-19 pandemic and the emergence of new technologies have transformed the way people interact with civic space and their freedoms. The concept of civic space, thus, is one that demands occasional revisiting.

Throughout the chapters and in these conclusions, this research pieces together a concept of civic space that takes into account a broader vision of what enables public participation. The notion of civic engagement includes several levels of engagement of the public in democratic governance. The first level is political participation which, among others, includes exercising the right to vote. The second level consists of demanding state accountability through resistance and dissent by citizens and civil society. The last and fullest level of civic engagement is deliberative and discursive participation in public decision-making.

Employing these different levels of engagement by the public as the basis of imagining what is free "civic space", the essential rights that must be upheld to protect civic space must be expanded as well. Apart from the rights to freedom of expression and freedom of peaceful assembly and association, which are the rights most commonly included in existing definitions of civic space, the authors propose the inclusion of the following rights: the right to vote; the right to freedom of movement; the right to dissent; the right to privacy; and the right to access accurate and truthful information.

The phenomenon of red-tagging, described in all the chapters but with most detail in the chapter on counter-terrorism, is one of the most pervasive new forms of curtailment of the freedom of expression and freedom of peaceful assembly and association carried out by the Duterte administration.

The chapter (See '*Counterinsurgency, Red-Tagging, and the War Against Terror: A War against Deliberation and Dissent, a War with No End*' by Marc Batac) describes how red-tagging, which refers to the practice of spuriously linking various civic actors to the Communist Party of the Philippines and the New Peoples' Army, ultimately harms civic space as it "feeds the irrational belief that all forms of dissent and resistance are part of the communist conspiracy". With dissenters tagged as terrorists, the government is able to deploy the pursuit of national security as the rationale for the infringement of their rights as human rights defenders.

The right to vote is necessary for the first level of civic engagement. The chapter on COVID-19 (See *'Not Safe: Securitization of the COVID-19 Crisis and its Impact on Civic Spaces in the Philippines'* by Mary Jane Real) describes how the Duterte government's highly militarized and securitized approach to pandemic response derailed the right to vote of Filipinos in the national elections held on 9 May 2022. As the chapter also demonstrates, the right to freedom of movement is necessary for the second level of civic engagement, which aims to exact state accountability for human rights violations. The imposition of extended lockdowns in the country, some of the longest in the world, curtailed the freedom of movement. Consequently, this infringed upon the defenders' right to peaceful assembly as travel bans and restrictions on gatherings in public places were enforced, and violators were arrested.

The chapters on information technology and the media (See *'Big Brother's Grand Plan: A Look at the Digital Security Playbook in the Philippines'* by Jessamine Pacis) and the war against COVID-19 (See *'Not Safe: Securitization of the COVID-19 Crisis and its Impact on Civic Spaces in the Philippines'* by Mary Jane Real) elaborate on the right to privacy as an essential right to a free civic space. The chapters reiterate that the concept of privacy goes beyond simply the freedom to safeguard personal information but extends to freedom from active monitoring by State actors through established systems of surveillance that encourage self-regulation and self-censorship. By institutionalizing surveillance measures (e.g., contact tracing systems, ID systems, CCTV networks), the government builds a modern Panopticon, "a state of conscious and permanent visibility that assures the automatic functioning of power."¹ Privacy therefore becomes a critical tool for surveillance subjects to resist this form of control, and assert their autonomy and agency over their assets and their own personhood.

If the element of deliberation and discursiveness necessary for the highest level of civic engagement is taken into consideration, the right to access to truthful information becomes an indispensable right. The role of access to truthful and timely information in upholding a free civic space was clearly demonstrated by the impact of the closure of ABS-CBN, one of the biggest media networks in the Philippines during the COVID-19 pandemic. This politically motivated move by Congress not to renew the broadcast franchise of ABS-CBN had harmful effects not only on the general population that needed crucial information during the COVID-19 pandemic, but also on civic space, which necessitates timely and wide-reaching dissemination of political information that fuels civic engagement and political participation.

Another element that crosscuts these levels of civic engagement and is necessary for the sustainability of any social movement is the practice of collective care. In *Toward A Feminist Theory of Caring*, Fisher and Tronto argue that caring "crosscuts the antitheses between public and private".² According to the authors, it covers all aspect of human life, from the private confines of the household to social institutions and structures of the bureaucracy. Although not often seen as central to activism, caring for the welfare of human rights defenders is increasingly being seen as a priority area. This is most often practiced in feminist movements, as seen in the care work of the Lunas Collective among activists and victims of gender-based violence, which is described in chapters of this research. In other case studies such as the grassroots movements against Duterte's bloody drug war, there is the same emphasis on care for both victims of State violence and activists that continuously voice opposition to it.

1 Michel Foucault, "Panopticism" from *Discipline & Punish: The Birth of the Prison*, *Race/Ethnicity: Multidisciplinary Global Contexts* 2, no. 1 (Autumn 2008): 1-12, <https://muse.jhu.edu/article/252435>

2 Bernice Fisher and Joan Tronto, "Towards a Feminist Theory of Caring," *Circles of care: Work and identity in Women's Lives*: 35-62 (1990).

The four chapters of the research also highlight movements and initiatives in the Philippines that present alternative and transformative visions of safety and security. These alternatives present pathways to reshape activism for human rights and offer possible levers of change that donors and other stakeholders can pay attention and direct resources to in the next few years. These case studies are also meant to provide lessons on resistance and movement-building and inspire new initiatives to regenerate the closing civic space in the Philippines.

In the face of misogynistic and sexist narratives based on the pronouncements of President Duterte himself as part of the populist rhetoric of his administration, the chapter on information technology and the media presents (See *'Big Brother's Grand Plan: A Look at the Digital Security Playbook in the Philippines'* by *Jessamine Pacis*) several hashtag campaigns innovated by Filipino women and girls. These campaigns strategically reclaim online platforms as a safe space to tell their narratives of abuse and sexual harassment and demand accountability from powerful personalities and institutions complicit in such violations. These online movements are a perfect example of some issues traditionally relegated as a "private matter" being brought into public and civic space. However, this shift from private to public also exposes the owners of the narratives to the plethora of safety risks and threats present in mostly unregulated online platforms that have become part of civic space.

The pivotal role that communities played as the first line of defense during the outbreak of the COVID-19 pandemic discussed in that chapter (See *'Not Safe: Securitization of the COVID-19 Crisis and its Impact on Civic Spaces in the Philippines'* by *Mary Jane Real*) point to the possibilities that organizing community pantries provide a reliable safety net to meet basic needs and could serve as a platform to expand the base for human rights activism. These community pantries have proven to be sites for spreading awareness, deepening connections, and cultivating creative and transformative initiatives among citizens that may not be directly or formally involved in civic action, but nonetheless have stakes in the issues debated in civic space. The exposition on the phenomenon of community pantries under the COVID-19 chapter also brings to fore lessons on consciousness-raising through mutual aid; co-responsibility for human rights to complement demands for state accountability; new solidarities through political contestation in discursive civic space; and the centrality of care in sustaining activism for human rights.

Like the other chapters, the chapter on the "war on drugs" (See *'The Effect of the "War on Drugs" on Civic Space'* by *the Ateneo Human Rights Center*) pinpoints the central role of care in social movements and draws attention to dehumanization, as one of the government's tactics against activists and human rights advocates. The chapter draws a parallel between this, and the removal of autonomy from people who use drugs to decide on treatment approaches that respond to their felt needs. Instead, as the chapter emphasizes, the government's approach has been predominantly punitive and violative of human rights. The chapter further describes how serious gaps in access to justice have fed penal populism and are therefore among the root concerns that must be addressed to counter the shrinking of civic space in relation to addressing the drug problem in the country.

The chapter on the war against terrorism (See 'Counterinsurgency, Red-Tagging, and the War Against Terror: A War against Deliberation and Dissent, a War with No End' by Marc Batac) highlights the initiative of *Lumad Husay*, an inter-tribal convergence among indigenous peoples in Mindanao "to carve out a space to dialogue among themselves, build a common agenda with regard to the peace process, and develop and assert their own peacemaking and peace-building practices." The initiative constitutes a political assertion among indigenous peoples that affected communities are not merely subject to notions of security and safety defined and negotiated by the government; rather, they are catalysts able to shape meanings and lead in crafting solutions for peace. It brings home the point that peace activists are legitimate defenders of human rights critically engaged in deliberative and discursive political participation, the fullest level of civic engagement.

Given the scope and limitations of this research, there are many avenues to explore for further study. The concept of civic space itself merits further clarification as it still appears nebulous to many, and is difficult to translate, especially in local languages and dialects. Does "space" refer to a definite area or expanse, a platform, or a plethora of processes? If the definition of civic space is expanded as proposed above, other key players and new or unexplored terrains in the activism for human rights must be identified and included as subjects of further study. For example, participatory action research into local initiatives such as the *Lumad Husay* could reveal insights into transformative strategies to mobilize grassroots support that could help counter the global backlash on human rights. And while the research features many courageous acts of resistance initiated by activists to push back the closing civic space, there is room to consider other new and innovative forms of resistance not documented in this report.

Hopefully, this research and its four chapters will be instructive to activists in the Philippines who are thinking of new and innovative strategies to sustain their movements amid the shrinking civic space in the country, and to other stakeholders, including donors wishing to support such endeavors. In sum, the research challenges these stakeholders to consider a more nuanced understanding of civic engagement and a broader definition of civic space to cover other fundamental freedoms not commonly included in existing definitions of the concept.

Further, this research advocates for expanding the circle of human rights defenders to include peace activists, and as the phenomenon of community pantries demonstrates, also citizens that may not be directly involved in civic action but participate actively in deliberative and discursive processes of civic engagement for the advancement of human rights. Civil society actors can build on the painstaking work they have already done, as illustrated in the chapters of this research, and challenge themselves and the State to develop a concept of civic space that is more robust, more inclusive, and lowers barriers for broad participation in the efforts to strengthen democracy, peace, and human rights in the Philippines.

About Civic Futures

Civic Futures is a philanthropic initiative conceptualised and launched by the Funders Initiative for Civil Society (FICS) which acts as its secretariat and the Fund for Global Human Rights (FGHR) which is a founding member. Civic Futures exists to mobilize the funding community working across multiple issue areas to equip civil society to push back against the overreach of national security and counter-terrorism powers, increasingly used by governments around the world to harm civic space.

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