



## 44th SESSION OF THE HUMAN RIGHTS COUNCIL

### Item 2: Enhanced interactive dialogue on the report of the High Commissioner on the situation of human rights in the Philippines (HRC res. 41/2)

30 June 2020

Presentation of report of the UN High Commissioner for Human Rights [A/HRC/44/22](#) – Human rights situation in the Philippines. The report has been prepared pursuant to Resolution [A/HRC/RES/41/2](#) – Promotion and protection of human rights in the Philippines, adopted on 17 July 2019<sup>1</sup>.

#### In this summary:

- Key takeaways from the oral presentation of the report by Ms Michelle Bachelet
- Key takeaways from the live video-message by H.E. Mr Menardo I. Guevarra
- Key takeaways from the live video-message by Ms Karen Lucia Gomez-Dumpit
- Key takeaways from the live video-message by Mr Ray Paolo Santiago
- Enhanced Interactive Dialogue
- Questions to the High Commissioner
- Responses and final remarks

#### Ms Michelle Bachelet, United Nations High Commissioner for Human Rights

- Ms Bachelet thanked the Government of Philippines for its **cooperation**, including written submissions and several meetings with her office in Bangkok and Geneva. However, OHCHR team was **not granted access** to the country in relation to this mandate.
- The report finds that more than **248** human rights defenders, lawyers, journalists and trade unionists were **killed** between 2015 and 2019. This includes a large number of environmental and indigenous peoples' rights defenders.
- Ms Bachelet urges the President to refrain from signing the new **Anti-Terrorism Act**, which heightens concerns about the blurring of distinctions between criticism, criminality and terrorism.
- The report finds that serious human rights violations, including extrajudicial killings, have resulted from key policies driving the so-called "**war on drugs**," and incitement to violence from the highest levels of Government. The killings are widespread, systematic and ongoing.
- The report found **near-total impunity**, indicating an unwillingness by the State to hold to account perpetrators of extrajudicial killings.
- Despite progressive legislation, the rights of **indigenous peoples**, the right to education and to other basic economic and social rights remain elusive for many remote communities.
- OHCHR has identified several areas for **further cooperation** with the Government, including strengthening domestic accountability mechanisms; improving data gathering on alleged police violations; review of legislation and policies on drug control and terrorism; and help to bridge gaps between civil society and State authorities.
- The State has an obligation to conduct independent investigations into the grave violations OHCHR has documented. In the absence of clear and measurable outcomes from domestic mechanisms, the Council should consider options for **international accountability measures**.

<sup>1</sup> Resolution was adopted with 18 votes in favour.

In favour (18)	Against (14)	Abstained (15)
Argentina, Australia, Austria, Bahamas, Bulgaria, Croatia, Czech Republic, Denmark, Fiji, Iceland, Italy, Mexico, Peru, Slovakia, Spain, Ukraine, UK, Uruguay	Angola, Bahrain, Cameroon, China, Cuba, Egypt, Eritrea, Hungary, India, Iraq, Philippines, Qatar, Saudi Arabia, Somalia	Afghanistan, Bangladesh, Brazil, Burkina Faso, Chile, DRC, Japan, Nepal, Nigeria, Pakistan, Rwanda, Senegal, South Africa, Togo, Tunisia



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H.E. Mr Menardo Guevarra, Secretary Minister of Justice of the Republic of the Philippines

- Transparency and **constructive cooperation** characterize the Philippine engagement with the UN and the international community.
- **Human rights** is a fundamental national interest. This commitment has been firm and unwavering; more so now as the nation faces the challenge of the COVID-19 pandemic.
- **National problems** include drugs, corruption, criminality and terrorism.
- Philippines' **President** ran and won on a campaign promise of a drug-free Philippines. After four years, the President and his anti-drug campaign enjoy the strong and widespread support of people.
- A monitoring mechanism "**RealNumbersPH**" ensures public transparency and full accountability in this campaign. It publishes evidence-based outcomes of the campaign across 42,046 villages across the country, and figures on law enforcement actions and drug-related cases in the courts.
- The Government has established an **inter-agency panel** that is conducting a judicious review of the 5,655 anti-illegal drugs operations where deaths occurred.
- The **Philippine National Police** is obliged by its internal mechanisms to conduct motu proprio investigations on all law enforcement operations that result in deaths, and take action on this basis.
- This **review panel**, external to the Philippine National Police, re-evaluates these cases and examines the propriety of re-investigating them or filing appropriate charges against erring law enforcement officers. It will **present a report** on its work by the end of November 2020.
- The Commission on Human Rights will be involved in its capacity as an independent monitoring body.
- The continued, unhampered functioning of the Philippine CHR underpins its strong position **against calls for an independent investigative mechanism**.
- Claims that there is impunity or near-impunity in the country are **not substantial**.
- The **independence of courts** is affirmed.
- The government has been sincere in **fully engaging all stakeholders**, the international community and the UN, including the OHCHR, on human rights issues, and intends to broaden positive engagement with the UN system, including through the UN Resident Coordinator in the Philippines.

Ms Karen Lucia Gomez-Dumpit, Representative of the Commission on Human Rights (CRC) of the Republic of the Philippines

The over-reliance on a 'strong-arm' approach has largely contributed to the pervading **culture of impunity**. To improve the human rights situation, the Philippines must change course guided by the human rights-based approach to democratic governance. The CHR **recommends** the following:

- Immediately **halt the harmful rhetoric** from the highest levels of authority.
- Allow **full cooperation** of the Philippine National Police, the Internal Affairs Service, and other government agencies with the CHR to enable investigations into human rights violations including the killings that have plagued the anti-drug campaign.
- Enable **accountability mechanisms** to fulfill the rights to truth, access to justice and effective remedies for all victims:
  - o Account and locate each and every killing and other human rights violations;
  - o Provide effective protection for victims, whistleblowers, and witnesses; and
  - o Prosecute all perpetrators.



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- Provide direct and adequate **assistance to all victims** of the anti-drug campaign and their families.
- Accelerate the **decongestion program** to alleviate the condition of Persons Deprived of Liberty.
- Guarantee transparency and report to CHR all incidents of **deaths in custody**.
- Revise the current **Legislative Agenda** to:
  - o Remove the reintroduction of the Death Penalty and the proposal to lower the Minimum Age of Criminal Responsibility;
  - o Establish the National Preventive Mechanism as the Commission is ready to accept the designation, with civil society representative; and
  - o Reconsider the enactment of the Anti-Terrorism Bill to include stronger human rights safeguards.
- The CRC **asks the Human Rights Council** and the international community to consider options for other international accountability measures in the absence of timely and measurable outcomes.

**Mr Ray Paolo Santiago**, Executive Director of the Human Rights Center of Ateneo de Manila University

- There have been **positive developments** in terms of law-making and policy-setting.
- The Philippines has a number of **institutional challenges**: structural inequality, weak institutions, political dynasties, unequal distribution of wealth and power and poor implementation of the law.
- An **independent and transparent fact-finding mission** will help the Philippine Governments to build accountability and address impunity. The international community can assist the Philippine Government rebuild its trust with the people: one not merely based on popular support, but on its adherence to international human rights standards.
- The Philippine Government should **cooperate more closely** with international human rights mechanisms.
- The Philippine Government must **provide for reparation** and psycho-social intervention for victims.
- If there is political will to push for an Anti-Terrorism Law, there should be the political will to pass a **Human Rights Defenders Law**.

### Enhanced Interactive Dialogue

During the Enhanced Interactive Dialogue, a number of states deplored the allegations of widespread and systematic extrajudicial killings and arbitrary detentions in the context of the campaign against illegal drugs in the Philippines. States called on the Philippines to ensure prompt, independent and credible investigations. A number of speakers expressed their deep concern about the increasing criticism and intimidation of the press and the deliberate targeting of human rights defenders as well as journalists in the Philippines, including conviction of Maria Ressa and Reynaldo Santos by a Manila Regional Trial Court on 15 June, and the shutdown of ABS-CBN. The phenomenon of red-tagging, and the intimidating impact on civic space and human rights defenders was said to be of great concern.

Other states commended that the Philippines have taken important steps on universal access to tertiary education, access to health and protection of children in situations of armed conflict and sexual harassment. At the same time, a number of states insisted that selective adoption of country-specific resolutions is counter-productive and undermines principles of cooperation and genuine dialogue.

*Provided below is a non-exhaustive overview of the oral statements made by states and observers. For the full list of speakers refer to the table on Page 5 or to the [video-recording](#) of the session.*



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**Azerbaijan** took positive note of the documents circulated by the Permanent Mission of the Philippines, which provided a comprehensive account of the human rights situation in the country.

**Cambodia** said that the best approach to address human rights issues is engagement, not estrangement.

**Canada** supported the report's call for prompt, impartial, thorough, and transparent investigations into all cases of death and alleged violations of human rights.

**China** provided a positive assessment of Philippines efforts in promoting economic development, eliminating poverty and ensuring people's human rights.

The **European Union** called on the government to continue to keep the Philippines a country without death penalty in line with the Philippines' obligation under the Second Optional Protocol to the ICCPR. The EU is already engaged with the Philippines in institutional support and capacity building within the area of justice reform and human rights, and was keen on enhancing the bilateral cooperation.

**Finland, on behalf of Nordic states**, encouraged the Government to deepen its cooperation with OHCHR to implement the recommendations outlined in the report.

**France** called on preventing any further extra-judicial executions and on combatting impunity for the perpetrators.

**Kuwait** called on further strengthening of national human rights institutions.

**Iran**, as a country that has long been facing the scourge of illicit drug-trafficking, said it understands very well the difficulties the Philippines has to deal with. The International community should shoulder their responsibility and assist all countries that are fighting illicit drug-trafficking, they said.

**Iraq** underlined the importance of consulting with the countries concerned, when considering human rights issues in the world.

To bring about a true improvement on the ground, **Japan** provided assistance to the Philippines such as construction of rehabilitation facilities and formulation of drug addiction remedies.

The **Lao PDR** emphasized the importance of the principles of universality, impartiality, objectivity, non-selectivity, constructive international dialogue and cooperation.

**Lichtenstein** appreciated the appeal of 23 UN Special Mandate Holders calling on the Human Rights Council to establish an international investigation into the human rights situation in the Philippines. They expressed regret that the Philippines have left the Rome Statute while having been investigated.

**Luxembourg** said that the decongestion of detention centres as part of the fight against the COVID-19 pandemic is a commendable initiative and encouraged the government to continue working in this direction.

**Russian Federation** said that there were no states in the world that were free of violations of human rights and that consideration of Philippines was a clear example of the politization of the Council.

**Saudi Arabia** expressed hope that the prepared report derive its information from reliable, objective and impartial sources.

**Syria** called on the Council to review the unprecedented expansion of special mechanisms in light of the financial liquidity crisis facing the UN. The UPR was the appropriate mechanism to address the human rights situation of all countries in a uniform, objective and constructive engagement, they said.

**Thailand** said that the consideration to establish any new international accountability mechanism must only come after the exhaustion of domestic mechanisms and remedies.

**Venezuela** said that the Government of the Philippines did not agree with the adopted resolution, which was an important signal for Venezuela and an indicator that the resolution is unpromising and useless.



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**Viet Nam (on behalf of ASEAN)** underscored that the work of the Council must uphold and assist the role of States as primary human rights duty-bearers. Efforts must be exerted to encourage all parties to avail of and exhaust domestic accountability processes.

**Viet Nam** recognized the Philippines' engagements with the UN human rights mechanisms, and the country's active advocacies at the international level on youth, migrants, anti-trafficking in persons, and climate change, and encourage the country to continue this constructive dialogue and cooperation in the future.

The **United Kingdom** welcomed the steps taken by the Government of the Philippines to address impunity for killings of journalists in the Ampatuan Massacre case.

### **The United Nations International Children's Fund (UNICEF)**

- During the lockdown, the National Center for Missing and Exploited Children indicated an **increase in online sexual exploitation** and abuse reports by around 260 per cent compared to the previous year.
- The Philippines has one of the **lowest age to determine statutory rape** globally, at 12 years old. There have been recurrent attempts to **lower the minimum age of criminal responsibility** from 15 to 12 or 9.
- Despite the promulgation of Republic Act 11188, on the "Special Protection of Children in Situations of Armed Conflict" in 2019, reports on **grave violations against children**, including recruitment, killing, maiming and attacks on schools remain frequent.
- The anticipated promulgation of the **Anti-Terrorism Act of 2020** risks to jeopardize children's rights and make children more vulnerable to warrantless arrests and detention.
- In line with UNICEF's **global call to release detained children amid the COVID-19** pandemic, UNICEF asks the Government to facilitate the safe release of detained children, refrain from resorting to pre-trial detention and expand the provision of restorative alternatives.

**World Organisation Against Torture:** a new [report](#) "How could they do this to my child?" published on 29 June 2019, documents 122 killings of children, 1 to 17 years old, in Philippines, from July 2016 to December 2019. The report shows that the majority of the killings were carried out by police forces or affiliates.

### **Questions to the High Commissioner:**

- How can the international community support the Government of Philippines to ensure that these vulnerable groups have effective access to effective legal remedies? (**Canada**)
- The report recommends taking confidence-building measures to foster trust with civil society organizations and facilitate their engagement with State institutions mandated to respond to human rights concerns, without reprisals. The report also recommends engagement with respect to possible reprisals against human rights defenders. How can the Human Rights Council and States support this critical work? The report recommends the international community to consider options for international accountability measures in the absence of clear and measurable outcomes from domestic mechanisms. What would be the sources of information for assessing the outcomes from domestic mechanisms? (**European Union**)
- What role do you see for the OHCHR in fostering the implementation of the report's recommendations? (**Netherlands**)
- The UK is concerned about the continuing cases against Rappler, and its CEO Maria Ressa and notes the recent closure of ABS-CBN; what is your view on how to best protect freedom of expression in the Philippines? (**United Kingdom**)



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- There is a recommendation for the Filipino authorities to establish investigation mechanisms to tackle impunity – how can they ensure their independence and impartiality? (**France**)
- Which data are still needed to establish the particular cases of the extrajudicial killings? (**Switzerland**)
- How would you advise the international community to advocate for the merits and effectiveness of human rights approach given the deep bi-polarized views we have seen? (**Ireland**)

### **Took the floor during the Enhanced Interactive Dialogue:**

**States:** Finland (on behalf of the Nordic countries: Denmark, Iceland Norway, Sweden, Finland), European Union, Vietnam (on behalf of Association of Southeast Asian Nations – ASEAN), Lichtenstein, Canada, Belgium, China, Russian Federation, Thailand, Venezuela, Saudi Arabia, France, Kuwait, Sri Lanka, Syrian Arab Republic, Australia, Iran, Jordan, Luxembourg, Belarus, Indonesia, Laos People’s Democratic Republic, Japan, Cambodia, Bahrain, Iraq, New Zealand, Netherlands, Lebanon, Austria, Azerbaijan, Vietnam, Switzerland, Iceland, United Kingdom of Great Britain and Northern Ireland, Ireland, Myanmar, Cuba, Nicaragua.

### **Also took the floor:** UNICEF

**Civil Society:** World Organisation Against Torture, Asian Forum for Human Rights and Development, Human Rights Watch, Franciscans International (joint statement), Amnesty International, CIVICUS - World Alliance for Citizen Participation, International Commission of Jurists, Federatie van Nederlandse Verenigingen tot Integratie Van Homoseksualiteit, Nederland Lawyers' Rights Watch, Canada International Federation for Human Rights Leagues, Swiss Catholic Lenten Fund.

### **Concluding Remarks:**

**Ms Michelle Bachelet** spoke about the need to better protect human rights defenders, journalists, lawyers. It is particularly dangerous to label people as “terrorists”. Rights of freedom of expression, peaceful association and assembly should be respected. There is a need to ensure that there are no reprisals against those who engaged with the OHCHR. OHCHR is ready to assist the CRC to bridge the gap with the civil society. While dealing with the drug users, public health approach should be included, not just law enforcement. The importance of independent, impartial investigations, and the close cooperation of law-enforcement bodies with the CRC. States should consider the defamation, and consider the appeal of Maria Ressa favorably.

**Ms Karen Lucia Gomez-Dumpit** said CRC is ready to cooperate, especially within the technical cooperation framework. The need to exclude other victims of “war-on-drugs” campaign. The government should demonstrate full cooperation and transparency. The state has an obligation in upholding the right to life. The CRC will monitor the developments arising from this interactive dialogue. The CRC will continue the report on the progress, and on the dialogue with the UN Treaty Bodies. The Commission stands firm and is empowered by the solidarity witnessed today.

**Mr Ray Paolo Santiago** cited the words “It is good if you find that you are listened to”. We are here today not to point fingers, but to find solutions. The Human Rights Council should agree on concrete measures beyond this report. Independent and transparent fact-finding mission would help the government of the Philippines to investigate and ensure accountability. Look forward to the work of the Philippines authorities with the civil society.

**H.E. Mr Menardo I. Guevarra** the government exhaustively addressed the issues in the report under discussion and encourages everyone to consult the prepared document. Need for facts and diligent assessment of each case. Certain situations are systemic and cases are emblematic. Terrorism index shows that Philippines is one of the states most affected.