



The Philippine's Compliance with the International Covenant on Civil and Political Rights

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996

for the 136th Session of the Human Rights Committee

10 October 2022–04 November 2022

Submitted 12 September 2022

The Advocates for Human Rights (The Advocates) is a volunteer-based non governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact-finding, direct legal representation, education and training, and publications. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing laws on domestic violence.

The **Initiatives for Dialogue and Empowerment through Alternative Legal Services** (IDEALS) is a local non-profit, non-stock legal-focused advocacy and service institution. IDEALS addresses the legal and technical needs of the marginalized, disempowered, and vulnerable groups, particularly farmers, persons and communities affected by disasters, and victims of human rights violations. The Organization envisions an empowered citizenry sustained by participatory and accountable governance, equitable enjoyment of resources and opportunities, and accessible justice. It is dedicated to develop and facilitate partners' initiatives for empowerment and sustainability as well as assisting disadvantaged and marginalized sectors in gaining improved access to justice and equity.

EXECUTIVE SUMMARY

1. A central electoral promise of former president Rodrigo Duterte was to combat illegal drugs in the Philippines. State actors, in the name of this campaign against drugs, have engaged in widespread extrajudicial killings and illegal detentions. State actors are not held responsible for these human rights violations and victims lack access to justice.
2. Following his 2016 presidential win, Duterte implemented *Oplan Tokhang*, which allowed the Philippine National Police (PNP) to round up possible suspects for possession of illegal drugs. An estimated 12,000-30,000 civilian lives¹ have been claimed by the campaign against drugs. Police operations, made legitimate under *Oplan Tokhang*, frequently violate citizens' constitutionally guaranteed rights. Police actions disproportionately affect the poor and working class, particularly in Metro Manila.² Detainees often lack due process and State parties act with impunity.
3. **Methodology:** In 2017, IDEALS, Inc. launched its own program of documenting incidents related to the campaign against illegal drugs to determine the impact it left on the victims and their families. Such information is collected through interviews with the victims and/or their families and witnesses. Through these in-depth interviews, IDEALS, Inc. was able to collect demographic information, as well as information on the conduct of operations of the PNP or vigilantes, and the socio-economic impact left by the incidents. IDEALS, Inc. was able to handle and study cases that involve human rights violations in relation to pandemic policy enforcement.

The Philippines fails to uphold several of its obligations under the International Covenant on Civil and Political Rights

I. The Philippines' Anti-Terrorism Act does not clearly define terrorist acts (List of Issues paragraph 7)

2. The UN Human Rights Committee raised the issue of counter-terrorism legislation and its compatibility with the Covenant. The specific points brought up were the removal of references to human rights, the broadened definition of terrorism and the expanded period for detention. Information on the process of designation as terrorists was also requested.³
3. On 3 July 2020, the Government enacted the Anti-Terrorism Act of 2020, which expanded the definition of terrorism to include the criminalization of "inciting to terrorism."⁴ Inciting to terrorism encompasses speech seen to be geared towards: 1) intimidating the public, government or international organization; 2) creating an atmosphere of fear; 3) seriously destabilizing political economic or social structures; and, 4) creating a public emergency

¹ Rappler.com, *IN NUMBERS: The Philippines' 'war on drugs'*, Rappler.com, 13 September 2016, <https://www.rappler.com/newsbreak/iq/145814-numbers-statistics-philippines-war-drugs>.

² IDEALS, Inc., *Beyond the Numbers: Revealing the Faces of the Victims of the Campaign Against Illegal Drugs*, by Atty. Raphael Carlo Brolagda, Atty. Ivy-ron Quinto, Benjie Allen Aquino, and Juan Paolo de Guzman (Quezon City, 2021), 20.

³ Human Rights Committee, *List of Issues in relation to the fifth period report of the Philippines*, (June 30 2020), U.N. Doc. CCPR/CPHL/Q5, ¶ 7.

⁴ Republic Act No. 11479, Sec. 9 (Philippines).

or undermining public safety.⁵ Former Supreme Court Justice Carpio raised concerns that citizens will now second-guess whether their actions constitute terrorism, producing a chilling effect on free speech.⁶

4. Proponents of the law have been known to engage in acts of red-tagging or branding government critics as Communist rebels or subversives. This practice has been made all the more prevalent through the creation of certain government agencies such as the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC).⁷ Given how common this practice is for the Government, the Anti-Terrorism Act could set a dangerous precedent for persons and organizations that merely seek to exercise their freedom of expression for fear of being branded a terrorist. It would legitimize this practice especially since it would create an Anti-Terrorism Council (ATC) which may designate certain groups or persons as suspected terrorists which enables it to subject them to arrest and surveillance.⁸
5. Section 29 of the Act also allows for the arrests of suspected terrorists and their detention for 14 days, which may be extended to a maximum of 24 days, without any charges.⁹ This contravenes the constitutionally-mandated presumption of innocence.¹⁰ Further, given the state of Philippine jail and detention facilities, and several reports of the inhumane treatment of people in detention, such prolonged periods of detention run the risk of abuse by authorities.
6. Law enforcement has reportedly used this law to arrest progressives. For instance, the Department of Justice indicted several organizations, including members of the Rural Missionaries of the Philippines (RMP), for their alleged involvement in terrorist financing. RMP was one of the petitioners in the cases opposing the Anti-Terrorism Act for being unconstitutional.¹¹
7. Under Section 25 of the law, the ATC may designate an individual, groups of persons, organization or association upon a finding of probable cause that such entity commit, or attempt to commit, or conspire in the commission of acts defined as terrorism under the act. The ATC is composed of the Executive Secretary, the National Security Adviser, Secretary of Foreign Affairs, Secretary of National Defense, Secretary of the Interior and Local Government, Secretary of Finance, Secretary of Justice, Secretary of Information

⁵ Republic Act No. 11479, Sec. 9 (Philippines).

⁶ Kristine Joy Patag, *Carpio, Carpio-Morales prod SC: Filipinos 'chilled to silence' by fear of anti-terrorism law*, Philippine Star, Oct. 28, 2020, <https://www.philstar.com/headlines/2020/10/28/2052933/carpio-carpio-morales-prod-sc-filipinos-chilled-silence-fear-anti-terrorism-law>.

⁷ Amnesty International, "*Anti-Terrorism and Human Rights*", accessed August 25, 2022, <https://www.amnesty.org.ph/campaigns/anti-terrorism-and-hr/>.

⁸ Sebastian Strangio, *Philippine Supreme Court Upholds Majority of Controversial Anti-Terror Law*, The Diplomat, Dec. 10, 2021, <https://thediplomat.com/2021/12/philippine-supreme-court-upholds-majority-of-controversial-anti-terror-law>.

⁹ Republic Act No. 11479, Sec. 29 (Philippines).

¹⁰ 1987 Constitution, Art. II, Section 14 (2).

¹¹ Kristine Joy Patag, *DOJ indicts members of church-based org for allegedly financing terrorism*, Philippine Star, Aug. 15, 2022, <https://www.philstar.com/headlines/2022/08/15/2202821/doj-indicts-members-church-based-org-allegedly-financing-terrorism>.

and Communications Technology, and the Executive Director of the Money Laundering Council.

8. **Suggested recommendations** relating to counter-terrorism:

- Abolish or defund NTF-ELCAC due to its dangerous practices of red-tagging dissidents and activists;
- Monitor the ATC and its actions especially the listing of designated terrorists, their processes of designating entities as terrorists, and the authorizations they may issue to detain persons without warrant based only on suspicion of violations of the Anti-Terror Law;
- Create amendments to the law to include a system for checks and balance in the ATC such as inclusion of a non-government organization in its composition and incorporate human rights provisions as part of the guiding principles in the implementation; and
- Strengthen third-party institutions such as media and CSOs to keep track and publicize any violations to the Covenant and/or domestic laws in the implementation of the Anti-Terror Law.

II. The campaign against drugs deprives individuals of their right to life (List of Issues paragraphs 10, 11, and 12)

9. In the List of Issues, the Committee requested “additional information about the prevalence of extrajudicial killings in the State party,”¹² likely given reports of the substantial increase in extrajudicial killings since 2016. Further, the committee asked for information that would include “a) efforts to implement the previous recommendation of the Committee, including providing the precise numbers of investigations, prosecutions and convictions for all extrajudicial killings that have taken place in the current reporting period and information about efforts to disband and disarm all private armies, vigilante groups and ‘force multipliers;’ (b) reports that law enforcement agencies have killed persons suspected of drug-related offences, and persons who have been ‘red-tagged’ as radical political activists; (c) reports that children have been killed during anti-drug operations targeting their family members and/or have witnessed killings; (d) reports that senior government officials have publicly encouraged the extrajudicial killing of persons suspected of using or selling illegal drugs; and (e) reports that families of victims face obstacles in filing cases against perpetrators, that include reprisals against them for seeking redress.”¹³ The Committee further requested information on legislative efforts to reinstate the death penalty and on efforts to prevent and mitigate the effects of climate change and environmental degradation.¹⁴

¹² Human Rights Committee, *List of Issues in relation to the fifth period report of the Philippines*, (June 30 2020), U.N. Doc. CCPR/CPHL/Q5, ¶ 10.

¹³ Human Rights Committee, *List of Issues in relation to the fifth period report of the Philippines*, (June 30, 2020), U.N. Doc. CCPR/CPHL/Q5, ¶ 10.

¹⁴ Human Rights Committee, *List of Issues in relation to the fifth period report of the Philippines*, (June 30 2020), U.N. Doc. CCPR/CPHL/Q5, ¶ 11-2.

10. The Philippines in its Reply to the List of Issues failed to give substantial information about the situation of extrajudicial killings in the country. The Philippine government cited the dismissal of the Petition of Writ of Amparo or Habeas Data filed by Karapatan Alliance Philippines, Inc.; Rural Missionaries of the Philippines, Inc. (RMP); and General Assembly of Women for Reforms, Integrity, Equality, Leadership and Action (Gabriela), Inc. on 18 June 2019.¹⁵ According to the Government, this dismissal meant that there “has been no evidence beyond newspaper clippings/articles to allow the Courts to conclude, as alleged, that there is an alleged ‘extremely high number of cases of extrajudicial killings committed during the anti-drug operations as well as the reported acquiescence of the State party to such acts.’”¹⁶
11. It is important to note that this petition was granted by the Supreme Court on 30 May 2019. The Supreme Court directed the Court of Appeals (CA) to make a verified return of the Writ of Amparo and Habeas Data and to further hear the petition.¹⁷ However, the CA dismissed the petition stating that there is no substantial evidence to merit the issuance of the writs.¹⁸ It is important to note that during the hearing, the CA justices prohibited the petitioners from presenting witnesses for lack of judicial affidavits. Also noteworthy is the wording of the Philippine government reply to this specific issue in the LOI mentioning that The Supreme Court of the Philippines already made a ruling dismissing allegations of “extrajudicial killings committed during the anti-drug operations, “red-tagging” as well as the reported acquiescence of the State party to such acts”. This statement is misleading as the Supreme Court granted the petitions and it is the CA which dismissed them.
12. On 15 September 2021, the International Criminal Court (ICC) Pre-trial Chamber authorized the Prosecutor to commence an investigation on the crime against humanity of murder and other potential crimes. The ICC found that there was reasonable basis to allow such investigation on incidents of extrajudicial killings, torture, unlawful arrests and other human rights violations that were happening in the country.¹⁹
13. The intervention of the ICC²⁰ is pertinent in this regard as it has been observed that there is a lack of meaningful investigation in the killings, illegal arrests, unlawful detentions and other human rights violations committed in the campaign against illegal drugs. In 2022, a

¹⁵ Ted Cordero, *CA denies writ of amparo motion of Karapatan, Gabriela, RMP*, GMA News, Jun. 29, 2019, <https://www.gmanetwork.com/news/topstories/nation/699324/ca-denies-writ-of-amparo-motion-of-karapatan-gabriela-rmp/story/>.

¹⁶ Human Rights Committee, *Replies of the Philippines to the list of issues in relation to its fifth period report*, (Mach 18, 2022), U.N. Doc. CCPR/C/PHL/RQ/5, ¶ 65.

¹⁷ Rappler.com, *Supreme Court issues writ of amparo in favor of rights groups*, Rappler.com, May 30, 2019, <https://www.rappler.com/nation/231847-supreme-court-issues-writ-amparo-habeas-data-rights-group>.

¹⁸ Ted Cordero, *CA denies writ of amparo motion of Karapatan, Gabriela, RMP*, GMA News, June 29, 2019, <https://www.gmanetwork.com/news/topstories/nation/699324/ca-denies-writ-of-amparo-motion-of-karapatan-gabriela-rmp/story/>

¹⁹ International Criminal Court, “Situation in the Philippines: ICC Pre-Trial Chamber I authorises the opening of an investigation,” accessed September 1, 2022, <http://www.icc-cpi.int/news/situation-philippines-icc-pre-trial-chamber-i-authorises-opening-investigation>

²⁰ International Criminal Court, “Situation in the Philippines: ICC Pre-Trial Chamber I authorises the opening of an investigation,” accessed September 1, 2022, <http://www.icc-cpi.int/news/situation-philippines-icc-pre-trial-chamber-i-authorises-opening-investigation>

survey was conducted with 96 respondents comprised of families of victims of extrajudicial killings. Half of the respondents shared that no government agency conducted any sort of investigation or questioning on the incidents. In 39 cases, there was some form of investigation by the PNP or associated agency but these were not substantial investigations. These inquiries were mostly limited to on-the-spot questioning of the families of the victims with the objective to merely identify if they witnessed the killing or saw any perpetrators. These investigations failed to produce any convincing evidence which could lead to criminal prosecution of perpetrators or policy-directing senior government officials.²¹

14. The Philippine Government also did not provide any information on the reports of extrajudicial killings and other human rights violations apart from their statement on the dismissed petition filed by Karapatan, RMP, and Gabriela. The Philippine government continues to strongly deny the presence of extrajudicial killings in the country despite numerous reports. This claim by the government is a stark contrast to IDEALS, Inc. record of documented 392 killings between 2016 and August 2022. Most of the victims are from poor, urban communities. Families of victims identify the killers as either State actors, such as members of the Philippine National Police and other uniformed personnel, or as unidentified vigilante killers. Witnesses report that perpetrators often wear civilian clothing. The police are known to the witnesses as the former are members of the same community.²²
15. IDEALS, Inc. has found that, from 2016 to 2019, the documented victims of drug-related human rights violations were more likely to be aged 30-49, with 289, or 47 percent, of the victims falling in this age group. Twenty-nine, or 4.7 percent, were minors; 180, or 29.3 percent, were aged 18-29; and 74, or 12 percent, were aged 50 and above. Overwhelmingly, men are the focus of the administration's campaign against drugs. Males comprise 545, or 88.6 percent, of victims of human rights abuses, while only 63, or 10.2 percent, were female. The data also shows that men are more likely to be killed than women.
16. Former President Duterte previously announced publicly a "shoot-to-kill" order against people using or selling illegal drugs,²³ armed communist rebels,²⁴ and even violators of quarantine guidelines during the height of the COVID-19 Pandemic.²⁵ Other branches of the Philippine government, such as the legislative branch, fail to recognize and condemn the prevalence of the extrajudicial killings, unlawful arrests, torture, and other drug-related human rights violations by State actors. During the Duterte administration, majority of the legislators in the House of Representatives and the Senate have expressed support and

²¹ Interviews with Families of Victims of Extrajudicial Killings, Quezon City, March 2022.

²² Interviews with Families of Victims of Extrajudicial Killings, National Capital Region, February 2017-July 2022.

²³ Ted Regencia, *Free to kill': Duterte to newly appointed senior police officer*, Aljazeera, Oct. 18, 2019, <https://www.aljazeera.com/news/2019/10/18/free-to-kill-duterte-to-newly-appointed-senior-police-officer>.

²⁴ Daphne Galvez, *Soldiers follow Duterte's 'shoot-to-kill' order vs Reds 'in a way'* – Lorenzana, Philippine Daily Inquirer, Mar. 11, 2021, <https://newsinfo.inquirer.net/1405615/soldiers-dutertes-shoot-to-kill-order-vs-reds-in-a-way-lorenzana>.

²⁵ Reuters Staff, *'Shoot them dead' - Philippine leader says won't tolerate lockdown violators*, Reuters, Apr. 2, 2020. <https://www.reuters.com/article/us-health-coronavirus-philippines-dutert-idUSKBN21K0AY>

agreement with the hardline policy of the Philippine Government regarding the campaign against drugs.²⁶

17. Despite statements by government officials that the drug watch list which contains the names and aliases of alleged drug users in the community does not operate as a hit list for the police, families believe that once one is on the drug list, it is likely for them to be targeted by the police. Former president Duterte himself has alluded to the possibility of the police killing individuals on the watch list.²⁷
18. Since 2016, several bills have been filed with the Senate and House of Representatives seeking to reimpose the death penalty. In the 17th Congress, 11 bills on the reimposition of the death penalty were filed in the House of Representatives. In the 18th Congress, 13 bills were filed seeking to restore death penalty in the country.²⁸
19. There are currently five bills under review by the 19th Congress at different stages of the legislative process. In the Senate, Senate Bill No. 198 has been filed by Senator Ronaldo “Bato” Dela Rosa. In the House of Representatives, House Bills (HB) Nos. 501, 1453, 2459, and 4121 all seek to reimpose the death penalty for various crimes. HB 501 and 1453 seek to repeal the current law that prohibits the imposition of the death penalty for heinous crimes. HB 2459, on the other hand, seeks to impose the death penalty on aliens guilty of trafficking dangerous drugs and other substances. HB 4121 is the latest bill filed in the 19th Congress.²⁹
20. If any of these bills are passed, it is unclear whether the new death penalty will only be applied to the “most serious crimes,” as specified in Article 6 of the ICCPR. For example, HB 2459 would allow courts to sentence someone to death for drug trafficking, which does not meet the requirement of “most serious crimes.”
21. **Suggested recommendations** relating to the right to life:
 - Resume, support, and fully cooperate with the investigation of the International Criminal Court;
 - Promptly, independently, and thoroughly conduct legitimate investigations into cases of human rights violations and genuinely prosecute the perpetrators;
 - Retrain the PNP and other uniformed personnel with a greater emphasis on minimizing and de-escalating violence in the campaign against illegal drugs, respecting the due process of all potential suspects, and generally respecting and upholding human rights;
 - Continue monitoring the house bills filed regarding the reinstatement of the death penalty; and

²⁶ Hanna Keila Halog Garcia and Kathleen Rose Gatchalian Kho, “Protecting Human Rights amidst the Philippine War on Drugs” *NUS Repository*, Mar. 15, 2019, 1-7.

²⁷ Gabriel Pabico Lala, *Tell those in drugs watchlist to stop or they might get killed, Duterte tells rights advocates*, Philippine Daily Inquirer, Nov. 24, 2020, <https://newsinfo.inquirer.net/1364055/duterte-condemns-rights-sector-anew-tell-those-in-drugs-watchlist-to-stop-or-theyll-be-killed>.

²⁸ House of Representatives, “House Bills and Resolutions,” August 30, 2022, <https://www.congress.gov.ph/legisdocs/?v=billsresults>.

²⁹ House of Representatives, “House Bills and Resolutions,” August 30, 2022, <https://www.congress.gov.ph/legisdocs/?v=billsresults>.

- Reframing the implementation of the campaign against illegal drugs from a public order to a public health perspective, with a focus on preventive and rehabilitative measures.

III. The Government uses the campaign against drugs and the COVID-19 pandemic to violate the right to not be deprived of liberty (List of Issues paragraphs 15, 16, and 17)

22. The Committee requested information on the Philippine government's efforts to uphold the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.³⁰ Information was also requested on the efforts to reduce overcrowding and poor conditions within the prison system. The Committee further sought response on the reports that due process and procedural safeguards are not consistently upheld in the Philippines.³¹
23. IDEALS, Inc. has documented 306 instances of State actors arbitrarily arresting individuals suspected of drug crimes between 2016 and August 2022. State actors allegedly file false or incorrect charges related to the possession and distribution of illegal drugs to justify individuals' prolonged detention. Law enforcement often unlawfully arrest victims without a warrant and keep individuals in detention for more than the period of time allowed under Philippine law – twelve (12) hours, for crimes or offenses punishable by light penalties; eighteen (18) hours, for crimes or offenses punishable by correctional penalties; and thirty-six (36) hours, for crimes or offenses punishable by afflictive or capital penalties.³² Additionally, 29 clients of IDEALS, Inc., reported experiencing intimidation and threats, rape, torture, and other violations of their human rights while in detention.³³ Intimidation is likely committed against families of victims who are killed or arrested to prevent them from filing grievances.
24. State forces also utilize the *palit-ulo* scheme. Under this scheme, the police threaten to imprison or kill individuals who often have been arrested illegally or without a warrant unless the arrestees name others who may take their place.³⁴ These replacements are usually members of their family or the community who are suspected drug users or pushers and are often on the drug list. The *palit-ulo* scheme is in violation of the rights to due process and protection from unreasonable seizures. It places persons in precarious situations where they must give another person up to the authorities to escape incarceration or even death.
25. Since the onset of the COVID-19 pandemic, the Philippine Government has continued to focus on public order by employing aggressive and disproportionate measures to address the public health crisis. IDEALS, Inc. documented significant violations of the right to due

³⁰ Human Rights Committee, *Replies of the Philippines to the list of issues in relation to its fifth period report*, (Mach 18, 2022), U.N. Doc. CCPR/C/PHL/RQ/5, ¶ 13-4.

³¹ Human Rights Committee, *Replies of the Philippines to the list of issues in relation to its fifth period report*, (Mach 18, 2022), U.N. Doc. CCPR/C/PHL/RQ/5, ¶ 15-7.

³² Revised Penal Code, Art. 125 (Philippines)

³³ Interviews with Families of Victims of Extrajudicial Killings, National Capital Region, February 2017-July 2022.

³⁴ IDEALS, *Unsilencing the Voices of EJK Surviving Families: A Closer Look at their Healing, Recovery, and the Restoration of Justice* by Charmen Balana, KZ Briana, Aloe Pagtiilan, Christine De Leon, and Raevene Morillo (Quezon City, 2021), 12.

process during the pandemic, including arbitrary and/or illegal arrests, prolonged detention due to lockdown measures, and unsanctioned penalties.

26. Under Philippine law, criminal due process requires that the procedure established by law or the rules must be followed to assure that the State makes no mistake in taking the life or liberty of any person except that of the guilty.³⁵ Any arrest should be made in connection to a crime or offense which is prohibited and punishable by law.³⁶ Further, no punishment may be executed in any other form than that prescribed by law, nor with any other circumstances or incidents than those expressly authorized.³⁷
27. IDEALS, Inc. has also recorded violations of the right to access to justice wherein the individuals were unable to access legal remedies due to State agents' unwillingness or delay in performing their duties and the insufficiency of State resources.³⁸
28. IDEALS has recorded and assisted in 17 incidents involving the right to due process of 23 individuals. The identified perpetrators include local government officials down to the *barangay* (village) officials. Several of these incidents begin with the arrest of individuals for no legal or justifiable reason. Two of these incidents involve the unlawful arrest of individuals for allegedly for leaving their homes without a quarantine pass. They were detained for three months, which is well beyond one-month penalty legally permitted for their alleged crime. Among these incidents involve the arrest of two minors who were made to choose their own sanction: detention or "physical exercise" for violating lockdown guidelines. It is to be noted that such sanctions do not find any basis in law.³⁹
29. IDEALS has also recorded five incidents involving the right to access to justice. During the height of the COVID-19 pandemic, frontline workers experienced discrimination and harassment due to the fear of contagiousness. IDEALS assisted three individuals who were detained in their own homes or in *barangay* detention centers and physically assaulted. They all sought assistance to file possible criminal or administrative charges against their perpetrators who are often *barangay* officials or local government officials. There has been no action regarding their cases.
30. Under Section 11 of the Bill of Rights, free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.⁴⁰ This provision is a State guarantee that adequate legal assistance is available to the people that is both free of charge and unhindered. However, ordinary citizens choose to turn to non-governmental organizations such as IDEALS for legal assistance. It is especially difficult to find legal assistance offered by the State when the suit will be filed against a State agent or public official.

³⁵ *Labay v. Sandiganbayan*, G.R. Nos. 235937-40 (2018).

³⁶ Revised Penal Code, Art. 3 (Philippines)

³⁷ Revised Penal Code, Art. 78 (Philippines)

³⁸ Catherine Nicole Lopez, "Prioritizing Public Order Over Public Health: Human Rights Violations in the Context of the Philippine Government Pandemic Policies," IDEALS, Inc., November 2021.

³⁹ Catherine Nicole Lopez, "Prioritizing Public Order Over Public Health: Human Rights Violations in the Context of the Philippine Government Pandemic Policies," IDEALS, Inc., November 2021.

⁴⁰ 1987 Constitution of the Republic of the Philippines, Art. III Sec. 11 (Philippines)

31. **Suggested recommendations** relating to the right to not be deprived of liberty:

- Raise the quantum of evidence for filing information in court as the current requirement is merely probable cause. The required quantum of evidence to justify a conviction is proof beyond reasonable doubt. If the evidential requirement to file a case in court could be raised to one that is higher than probable cause, the number of detainees could be reduced as fewer criminal cases would be filed for lack of preliminary evidence;
- Hold law enforcers accountable for abuses of power by filing of appropriate criminal, administrative, and civil cases; and
- Implement alternative non-custodial measures for small-time offenders (i.e. community service, rehabilitation, fines, etc.)

IV. The Government has made no progress on compensating internally displaced people (List of Issues paragraph 19)

32. In the aftermath of the 2019 Marawi siege, the armed conflict in Marawi City between the military and militant groups affiliated with the Islamic State, the Government has announced efforts to recover. The Government passed and signed the Marawi Siege Compensation Law in 2022, with the intention to compensate those whose properties were destroyed and whose loved ones died due to the siege.⁴¹ At present, however, the Government has not yet passed the Implementing Rules and Regulations of the law, which is necessary to establish the law's implementing agency, the Marawi Compensation Board.

33. The need for compensation is pressing given the displacement of many residents due to Government classifications and sequestration of their lands without consultation.⁴² The siege displaced over 350,000 Marawi residents and many still live in temporary shelters not built for permanent settlement. Economic conditions have also become dire in the city. While over 60 billion Philippine pesos were allocated for rebuilding and rehabilitation of Marawi, these are mostly dedicated towards the construction of infrastructure, yet this is without public consultation, resulting in the further alienation of its residents.⁴³

34. **Suggested recommendations** relating to compensation:

- The immediate establishment of the Marawi Compensation Board and the appointment of its members;
- The passage of the Implementing Rules and Regulations of the law that adheres to the cultural and religious context of the area; and

⁴¹ Catherine S. Valente, *Duterte signs Marawi compensation law*, The Manila Times, Apr. 28, 2022.

<https://www.manilatimes.net/2022/04/28/news/regions/duterte-signs-marawi-compensation-law/1841482>

⁴² Gabriel Pabico Lalu, *Compensation board needed to ensure Marawi rehab – solon*, Philippine Daily Inquirer, Aug. 16, 2022, <https://newsinfo.inquirer.net/1647159/solon-appeals-to-marcos-craft-marawi-compensation-board-asap-to-ensure-rehab-of-war-torn-city>.

⁴³ IDEALS, Inc., *IDEALS stands with IDPs calling for the overdue rehabilitation of the city and ample government assistance to victims of Marawi siege*, IDEALS, Inc., May 27, 2021, <https://ideals.org.ph/index.php/2021/05/27/ideals-stands-with-idps-calling-for-the-overdue-rehabilitation-of-the-city-and-ample-government-assistance-to-victims-of-marawi-siege>.

- Public consultations as regards practical concerns of implementation with the communities of internally displaced persons due to the Marawi siege.

V. The Government has used the COVID-19 pandemic violate individuals' rights to freedom of expression and assembly (List of Issues paragraphs 22, 23, and 24)

35. The Committee requested information on the Philippine government's efforts to protect and promote information about the right to freedom of expression and freedom of assembly, including issues about rallies and the use of excessive force by security forces to disperse peaceful assemblies.⁴⁴
36. According to IDEALS, Inc, the Government has also used the pandemic as a reason to violate individuals' rights to freedom of expression and assembly, including the right to freedom of speech, State interference in the lawful exercise of the right to free expression, and to free assembly. State interference is understood to range from intimidation tactics employed by public authorities and disruption of public assemblies which could dissuade the public from free expression.
37. IDEALS has also recorded seven instances where the right to freedom of expression or speech had been violated. The victims are often identified as participants in demonstrations, rallies, or community pantry organizers. They are often approached by the police and interrogated about their affiliations, if any. They are subjected to questioning often by individuals in civilian clothing who claim to be police officers. IDEALS, Inc. clients report that this harassment has threatened their rights to freedom of expression or speech.
38. **Suggested recommendations** relating to the rights to freedom of expression and assembly:
- Retrain the PNP and other uniformed personnel with a greater emphasis on minimizing and de-escalating violence in events involving the exercise of the right to freedom of expression and assembly (protests, rallies, etc.)
 - Strengthen protection for activists and advocates through policy reform such as creation of local and national legislation
 - Reform public assembly laws and regulations to align with the liberties provided by the Constitution on free expression

⁴⁴ Human Rights Committee, *Replies of the Philippines to the list of issues in relation to its fifth period report*, (Mach 18, 2022), U.N. Doc. CCPR/C/PHL/RQ/5, ¶ 22-4.