

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a serif font, centered between two horizontal blue bars.

**NEW YORK
CITY BAR**

**NEW YORK CITY BAR ASSOCIATION SUBMISSION TO
THE OFFICE OF THE U.N. HIGH COMMISSIONER FOR HUMAN RIGHTS CONCERNING
CONTINUING ATTACKS TARGETING JUDGES, PROSECUTORS, LAWYERS, AND OTHER
LEGAL PROFESSIONALS IN THE PHILIPPINES¹**

The norms, principles, and standards of International law and policy recognize and reflect the unique and vital role that legal professionals and other human rights defenders play in the world, safeguarding the rule of law and protecting the rights of the rest of society. In light of that unique role, a number of key instruments—including the United Nations (U.N.) Basic Principles on the Independence of the Judiciary, the U.N. Guidelines on the Role of Prosecutors, and the U.N. Basic Principles on the Role of Lawyers, as well as the U.N. Declaration on Human Rights Defenders—accord such individuals special protections to help ensure their independence, safety, and security.²

Under the Duterte Administration, however, legal professionals—which include judges, prosecutors, lawyers, and paralegals—have been harassed, assaulted, and assassinated in connection with the Administration’s war on drugs (known as Oplan Tokhang). As set forth below (and in greater detail in the New York City Bar Association’s letter to President Duterte dated August 28, 2019),³ attacks on Philippine lawyers often correlate with, among others, their representation of clients who are charged with being members of dangerous drug cartels, attorneys’ accusations of corruption against the police and army, and for promoting due process rights. Similarly, prosecutors and judges are attacked in connection to their decisions involving prosecutorial discretion and the exercise of due process rights, among other issues.

¹ The New York City Bar Association is a 150-year-old organization of more than 24,000 members in New York City, throughout the United States, and in more than fifty countries around the globe. Our members include judges, prosecutors, defense counsel, government lawyers, and public interest/non-governmental organization practitioners, as well as legal academics and attorneys representing nearly every major law firm and corporation in the United States. The Association has a long and distinguished history of promoting the rule of law and human rights (including the rights of legal professionals to fulfill their professional obligations), chiefly through the Association’s Committee on International Human Rights, together with its Committee on Asian Affairs (and its other regional committees), as well as its Task Force on the Independence of Lawyers and Judges.

² The year 2020 marks the 35th Anniversary of the U.N. Basic Principles on the Independence of the Judiciary and the 30th Anniversary of the U.N. Basic Principles on the Role of Lawyers.

³ This submission is a condensed and updated version of the New York City Bar Association’s letter to President Duterte dated August 28, 2019, available at <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/letter-to-president-duterte-concerning-attacks-on-legal-professionals>. The structure of this submission parallels the structure of the August 28, 2019 letter. However, unlike this submission, the August 28, 2019 letter includes endnotes which provide citations to voluminous authorities supporting the facts set forth here and in the letter. All source materials for information referenced herein which post-dates August 28, 2019 is on file with the City Bar’s Task Force on the Independence of Lawyers and Judges, including with respect to the information contained in the Appendix.

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

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

Launched when he took office as President in 2016, President Duterte's war on drugs is assertedly designed to “neutralize” drug dealers and users, to deliver on his campaign promise to eradicate illegal drugs by whatever means necessary. Over the past three-and-one-half years, the implementation of that initiative has been brutal and inhumane. As a result, the Philippines has now been declared the fourth most dangerous country in the world for civilian-targeted violence. The Administration's most recent official announcement puts the war on drugs' three-year tally at more than 5500 “drug personalities” killed by police, which is, by any measure, a shocking figure. But independent sources—including the Philippines Human Rights Commission—maintain that the death toll is actually more like 27,000 overall. This rapidly-escalating death toll includes a growing number of legal professionals who have been targeted for no reason other than their roles in ensuring that drug suspects and others are afforded the due process protections guaranteed to all by the Philippine Constitution.

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

II. TARGETING OF HUMAN RIGHTS ACTIVISTS, LAWYERS AND JUDGES

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

The report of the Integrated Bar of the Philippines also documented President Duterte's attacks on the independence of judges, including, in particular, his campaign of verbal abuse and bullying of Supreme Court Chief Justice Maria Lourdes Sereno. The U.N. Special Rapporteur

subsequently denounced President Duterte’s “derogatory statements and threats . . . which have been televised, broadcast on radio, and carried by newspapers” as “a vicious attack on the independence of the judiciary,” expressing “grave concern” that the effect of such remarks has been to send “a chilling message” to all members of the judiciary.

In August 2017, President Duterte instructed the police to shoot anyone who resists arrest or is otherwise obstructing justice—including activists seeking to document human rights abuses resulting from his war on drugs. In line with this exhortation, the Philippine National Police, and members of the Armed Forces of the Philippines and paramilitary groups, as well as vigilantes linked to them, have targeted legal professionals, who are apparently deemed to be in league with drug syndicates and drug dealers because they defend those accused of drug-related crimes. Lawyers and others also have been the victims of “red-tagging”—*i.e.*, the “branding” as “left-leaning, subversives, communists or terrorists” of “those perceived to be ‘threats’ or ‘enemies of the State’” by “State agents, particularly law enforcement agencies and the military.” “Red-tagging” puts individuals at great risk, exposing them to threats, harassment, intimidation, physical injury, and even death. The names of legal professionals are also placed on “drug watch lists,” to similar effect.

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

Apart from inclusion on “watch lists,” “red-tagging,” the “matrix,” and other forms of harassment and intimidation, dozens of legal professionals have also been victims of physical violence in connection with President Duterte’s war on drugs; and at least 56 legal professionals—including seven judges (or former judges), a court clerk, 11 prosecutors (or former prosecutors), 35 lawyers, and two paralegals—have been summarily executed; and lawyer Alwyn Mendoza (not included in these figures) was abducted on February 23, 2019 and has not been seen or heard from since.⁴ A recent report documents a pattern that suggests the involvement of both the Philippine National Police and the Armed Forces of the Philippines in the deaths of these legal professionals. The failure of the Duterte Administration to commission a comprehensive, independent, high-level, intensive investigation into the mounting death toll bolsters the conclusion that the murders are, in at least many (if not most) cases, the product of state or state-sanctioned action.

III. EXTRAJUDICIAL KILLINGS OF LEGAL PROFESSIONALS

Section III of the New York City Bar’s August 28, 2019 letter to President Duterte reviews the facts of 14 separate cases involving attacks on lawyers and judges in the Philippines, in an effort to help put a human face on the grim statistics.

⁴ Also excluded from these figures is lawyer Enrico “Erick” Soriano (who was licensed in, and practiced in, the United States), who was murdered in the Philippines on December 21, 2018.

A complete, up-to-date list of both fatal and non-fatal attacks on legal professionals since President Duterte took office is appended hereto. *See* Appendix. The appended list includes several attacks that appear to be missing from the lists that have been compiled by other entities.

Space constraints preclude summarizing the facts of any additional cases here. It bears noting, however, that—in the *five months* since the August 28, 2019 letter—there have been *eight more fatal attacks* on judges and lawyers (*i.e.*, an average of well over one fatal attack per month).⁵ In the same five-month period, another three legal professionals (two lawyers and a prosecutor) survived attempted assassinations.⁶

IV. CONDEMNATION BY DOMESTIC AND INTERNATIONAL RIGHTS ORGANIZATIONS

The cases that are highlighted in section III of the August 28, 2019 letter to President Duterte are merely a sampling of the dozens of attacks on legal professionals that have occurred on his watch over the past three-plus years. Each of those dozens of cases is individually compelling. Each case is a devastating loss to the victim’s family, friends, and colleagues, as well as the legal profession and the law as a whole. But, in addition, each case represents a loss to those who turn to legal professionals for justice.

As Human Rights Watch has aptly put it: “The killing of lawyers who represent members of the poorest, most marginalized parts of Philippine society, including many of the victims of the ‘drug war’ and their families, has a devastating impact on access to justice in the Philippines. By silencing a lawyer, many victims are also silenced. But then perhaps that is the purpose.” It is no secret: Autocrats and strongmen the world over know that silencing lawyers and other legal professionals is one of the most effective and efficient means of silencing opposition voices and forces. The ongoing attacks are thinning the ranks of lawyers who handle drug cases and other politically-sensitive matters; and the attacks have a chilling effect on some (if not many) legal professionals who might otherwise step into the shoes of their fallen colleagues.

As U.N. human rights officials pointed out in early June 2019, there have been “[v]ery few independent and effective investigations” of the extrajudicial killings during President Duterte’s term in office. That is even more true *vis-à-vis* the executions of legal professionals. As recently as March 2019, the Chairman of the National Union of People’s Lawyers expressed frustration with the Duterte Administration’s lack of interest in investigating such murders. Moreover, absent successful investigations, there can be no prosecutions. An international delegation’s March 2019 report on the assassination of legal professionals found that “only a few identified perpetrators

⁵ The eight fatal attacks since August 28, 2019 include the assassinations of lawyer Irineo Michael Cabugoy (September 5, 2019), lawyer Khadaffy Dilangalen Blao (September 6, 2019), lawyer Jesus Acpal (September 21, 2019), former Judge Exequiel Dagala (November 1, 2019), Judge Mario Anacleto Bañez (November 5, 2019), lawyer Ray Moncada (attacked January 3, 2020, and died January 13, 2020), lawyer/former Congressman/former Judge Edgar Mendoza (January 9, 2020), and lawyer Anselmo “Sato” Carlos (January 28, 2020).

⁶ The three legal professionals who survived attacks in the five-month period since August 28, 2019 are Inocencio dela Cerna Jr. (attacked September 2, 2019), prosecutor Elmer Susano (attacked September 10, 2019), and lawyer Criselda Azarcon-Heredia (attacked September 23, 2019).

have been prosecuted,” which contributes to the culture of impunity toward the legal profession. To date, none of those perpetrators has been brought to justice.

V. THE WAR ON DRUGS AND THE PHILIPPINES SUPREME COURT

In stark contrast to the hostility exhibited by the Duterte Administration, the decisions of the Philippines’ Supreme Court have marked a single avenue of relief for embattled legal professionals and rights defenders more generally. Notably, in 2017, the Center for International Law filed a petition for a writ of amparo—a remedy available to enforce constitutional rights against the actions of public officials, among others—on behalf of victims of police operations in Payatas. The Supreme Court granted the writ and issued restraining orders against the police.

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

Following public hearings on the two petitions, the Supreme Court ordered Solicitor General Jose Calida to submit all records related to police anti-drug operations for the period from July 1, 2016 through November 30, 2017. While the Solicitor General initially agreed to provide the documents, he later appealed citing national security concerns. The Solicitor General’s Office subsequently classified the documents into two categories: category (1) includes the list of individuals and operations recorded during the relevant period, and category (2) covers information on cases which the two petitions have cited. The Solicitor General agreed to submit both categories of documents to the Supreme Court but refused to share the category (1) documents with the petitioners.

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

The head of the Free Legal Assistance Group hailed the Supreme Court’s decision as “a big step forward for transparency and accountability” which will help human rights defenders better scrutinize police operations in connection with President Duterte’s war on drugs and the

resulting human carnage. The President of the Center for International Law similarly praised the decision as sending a clear message that the Supreme Court will not permit the Duterte Administration's war on drugs to triumph over the rule of law.

In another recent lawsuit filed by the National Union of People's Lawyers seeking a writ of amparo on behalf of Philippines human rights lawyers generally, the Duterte Administration has continued to insist that there have been "no extralegal killing[s] and [no] enforced disappearances" in the ranks of the country's legal professionals. Suffice it to say that all evidence is to the contrary. The Supreme Court granted the requested writ and referred the matter to the Court of Appeals for further proceedings. In August 2019, the NUPL sought Supreme Court review of the appellate court's July 26, 2019 ruling denying additional relief.

VI. THE 2019 ELECTION DID NOT CONSTITUTE AN ENDORSEMENT OF THE DUTERTE ADMINISTRATION'S TACTICS

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

a. Standing of the Philippines in the Global Community

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

In addition, in February 2018, Prosecutor Fatou Bensouda of the International Criminal Court (ICC) announced that her office was opening a preliminary examination into deaths linked to President Duterte's war on drugs, to determine whether there is a reasonable basis for charges that the Government is complicit in crimes against humanity. In protest, President Duterte issued a declaration withdrawing from the Rome Statute (which governs the ICC), accusing the Court of "baseless, unprecedented and outrageous attacks" on his Administration. Notwithstanding that withdrawal, however, the ICC retains the authority to probe actions taken by the Duterte Administration in conjunction with the war on drugs through March 17, 2019, when the withdrawal became effective. Most recently, in early December 2019, the ICC Prosecutor announced that, in 2020, her office plans to finalize the ICC's ongoing preliminary examination "in order to enable the Prosecutor to reach a decision on whether to seek authorisation to open an investigation into the situation in the Philippines."⁷

⁷ See International Criminal Court: Report on Preliminary Examination Activities 2019 at 60-65 (Office of the ICC Prosecutor, Dec. 5, 2019), <https://www.icc-cpi.int/itemsDocuments/191205-rep-otp-PE.pdf>.

More broadly, other governments, international institutions, and human rights organizations worldwide have roundly condemned the Duterte Administration's murderous policies and practices, including the many attacks on legal professionals and on human rights defenders more generally.

b. Domestic Public Opinion and Legislative Action

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

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

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

c. Continuing Condemnation by the United Nations

Significantly, June 19, 2019 marked the first anniversary of the removal of Chief Justice Maria Lourdes Sereno from the Supreme Court of the Philippines. Chief Justice Sereno was removed from office by a controversial 8-6 decision of the Supreme Court, ruling on a quo warranto petition filed by Solicitor General Calida. As noted by the U.N. Special Rapporteur on the Independence of Judges and Lawyers, the Chief Justice was removed a mere two days after President Duterte publicly declared her to be his “enemy” and threatened that “she should be removed from her job or resign.” Moreover, the ouster came amidst a series of politically-motivated allegations of corruption leveled after the Chief Justice publicly criticized President Duterte's attacks on the legal profession and the judiciary, describing “[t]he current state of the nation” as “one where perceived enemies of the dominant order are considered fair game for harassment, intimidation and persecution.”

In the year-and-a-half since Chief Justice Sereno's removal, there have been continued attacks on legal professionals involving lawyers' representation of defendants in drug-related cases, prosecutors investigating and charging defendants in drug-related crimes, and judges' rulings in drug-related cases, as well as other politically-sensitive (but non-drug-related)

matters. In the words of the President of the Integrated Bar of the Philippines, the growing number of unsolved crimes against legal professionals has created “a dark halo of fear that has paralyzed the most important pillars of the justice system.”

The virtually unprecedented June 7, 2019 statement issued jointly by 11 of the U.N.’s top international human rights officials speaks volumes to the gravity of the situation. Citing “a staggering number of unlawful deaths and police killings in the context of the so-called war on drugs, as well as killings of human rights defenders,” the U.N. experts called on the U.N. Human Rights Council “to establish an independent investigation into the human rights violations in the Philippines.” The experts specifically noted the many “attacks against the independence of judges and lawyers” and the “ongoing intimidation and attacks against voices who are critical of the Government, including . . . human rights defenders[] [and] lawyers.” The experts further observed that “in many incidents the alleged perpetrators of killings are members of the armed forces, paramilitary groups or individuals linked to them.” Decrying the “apparent climate of official, institutional impunity,” the experts emphasized that “[v]ery few independent and effective investigations have taken place” and that “[t]he Government has shown no indication that they will step up to fulfill their obligation to conduct prompt and full investigations . . . , and . . . hold perpetrators accountable.” Noting that—to no avail—“[i]ndependent human rights experts appointed by the Human Rights Council have raised their concerns with the Government of the Philippines on 33 occasions” since President Duterte took office, the 11 experts concluded that, as a last resort, “[i]t is time for the Human Rights Council to take action.”

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

Heeding the concerns voiced by the U.N. High Commissioner and the 11 U.N. international human rights experts, the U.N. Human Rights Council’s July 11, 2019 resolution requests that the High Commissioner “prepare a comprehensive written report on the situation of human rights in the Philippines,” to be reviewed, “followed by an enhanced interactive dialog,” at the Council’s 44th session in June 2020. As to the Duterte Administration, the resolution urges the Government “to take all necessary measures to prevent extrajudicial killings and enforced disappearances, to carry out impartial investigations and to hold perpetrators accountable, in accordance with international norms and standards, including on due process and the rule of law.” In addition, the resolution “[c]alls upon [the Duterte] Government . . . to cooperate with the Office of the . . . High Commissioner . . . and the mechanisms of the Human Rights Council,” by, *inter alia*, “facilitating country visits and preventing and refraining from all acts of intimidation or retaliation.” Under both domestic law and international law, the Philippines is obligated to do no less.

VII. THE ADMINISTRATION'S ACTIONS ARE IN VIOLATION OF DOMESTIC AND INTERNATIONAL LAW

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

Article III of the Constitution sets out the Bill of Rights. As a threshold matter, pursuant to Article III, Section 19(1), the Philippines has abolished the death penalty. Thus, even as to an accused who has been properly tried and convicted of the most heinous crime imaginable, execution is constitutionally prohibited. Sections 19(1) and (2) similarly proscribe the infliction of “cruel, degrading or inhuman punishment,” as well as “physical, psychological, or degrading punishment.”

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

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

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

Moreover, the Philippines belongs to the United Nations, which provides in its Charter that all members “affirm, *inter alia*, their determination to establish conditions under which justice can

be maintained to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms.” Further, as a State Party to the International Covenant on Civil and Political Rights (ICCPR), the Philippines is bound to comply with that instrument, including the Optional Protocol.

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

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

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

The authorities discussed above apply directly to the Philippines, barring the actions discussed herein, including the “red-tagging” of, and attacks on and summary executions of, legal

professionals as well as human rights defenders in general. These same authorities impose upon the Philippines a legal obligation to investigate and prosecute all extra-judicial killings and other such attacks.

The Supreme Court of the Philippines has itself invoked the International Covenant on Civil and Political Rights (ICCPR) and has held that treaties to which the Philippines is a party have the force and effect of law. In addition, as a member of the U.N. Human Rights Council, the Philippines has explicitly undertaken a special, heightened duty to “uphold the highest standards in the promotion and protection of human rights” and to “fully cooperate with the Council.”

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

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

Section VIII of the New York City Bar Association’s August 28, 2019 letter to President Duterte details a series of specific measures to be undertaken by the Duterte Administration to bring to an end the Administration’s sustained campaign of violence, harassment, and intimidation targeting judges, prosecutors, lawyers, and paralegals, as well as human rights activists more generally. The need for such measures has only grown more urgent in the months since August 2019, and grows even more urgent with each passing day. President Duterte and his Administration must be held to account.

Three-and-a-half years ago, when he took the Presidential oath of office, President Duterte stated that “[his] adherence to due process and the rule of law is uncompromising.” He unequivocally affirmed that the Republic of the Philippines would “honour treaties and international obligations.” The world calls on him now to respect his solemn vows to the people of the Philippines and to the global community of nations.

Dated: January 31, 2020

Task Force on the Independence of Lawyers and Judges

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Appendix
Fatal and Non-Fatal Attacks on Legal Professionals in the Philippines
July 1, 2016-January 31, 2020

I. STATUS UNKNOWN

Alwyn Mendoza – Lawyer – Abducted/Current Status Unknown

Abducted February 22, 2019;

II. FATAL ATTACKS

Murdered Judges (and Former Judges):

Mario Anacleto Bañez – Judge – Fatal Attack

Murdered November 5, 2019;

Exequil Dagala – Former Judge – Fatal Attack

Murdered November 1, 2019;

Reymar Lacaya – Judge – Fatal Attack

Murdered May 9, 2019;

Edmundo Pintac – Judge – Fatal Attack

Murdered October 8, 2018;

Ricky Begino – Judge – Fatal Attack

Murdered June 12, 2018;

Godofredo Abul Jr. – Judge – Fatal Attack

Murdered August 5, 2017;

Victor Amalia Canoy – Former Judge – Fatal Attack

Murdered February 2, 2017;

Murdered Court Official:

Randel Villaruz – Clerk of Court – Fatal Attack

Murdered October 1, 2018;

Murdered Prosecutors (and Former Prosecutors):

Mary Ann Castro – Prosecutor/Former Prosecutor – Fatal Attack

Murdered January 17, 2019;

Madonna Joy Ednaco Tanyag – Prosecutor – Fatal Attack

Murdered June 4, 2018;

Geronimo S. Marabe Jr. – Former Prosecutor – Fatal Attack

Murdered May 22, 2018;

Rogelio Velasco – Prosecutor – Fatal Attack

Murdered May 11, 2018;

Ramy Tagnong – Prosecutor – Fatal Attack

Murdered May 4, 2018;

Reymond F. Luna – Prosecutor – Fatal Attack

Murdered September 29, 2017;

Pablito Gahol – Former Prosecutor – Fatal Attack

Murdered September 3, 2017;

Maria S. “Kit” Ronatay – Prosecutor – Fatal Attack

Murdered July 18, 2017;

Diosdado Azarcon – Prosecutor – Fatal Attack

Murdered May 22, 2017;

Johanne Noel Mingoa – Prosecutor – Fatal Attack

Murdered January 11, 2017;

Rolando Acido – Prosecutor – Fatal Attack

Murdered October 26, 2016;

Murdered Lawyers:

Anselmo “Sato” Carlos – Lawyer – Fatal Attack

Murdered January 28, 2020;

Edgar Mendoza – Lawyer/Former Congressman/Former Judge – Fatal Attack

Declared dead January 9, 2020;
(after his charred remains were found inside burned vehicle)

Ray Moncada – Lawyer – Fatal Attack

Attacked January 3, 2020;

Died January 13, 2020;

Jesus Acpal – Lawyer/Retired Police Officer – Fatal Attack

Murdered September 21, 2019;

Khadaffy Dilangalen Blao – Lawyer – Fatal Attack

Murdered September 6, 2019;

Irineo Michael Cabugoy – Lawyer – Fatal Attack

Murdered September 5, 2019;

Nicolas Gomez Jr. – Lawyer – Fatal Attack

Murdered July 28, 2019;

Anthony Trinidad – Lawyer – Fatal Attack

Murdered July 23, 2019;

Val Crisostomo – Lawyer – Fatal Attack

Murdered May 17, 2019;

Adilberto Golla Jr. – Lawyer – Fatal Attack

Murdered May 17, 2019;

Charmaine Pelayo Mejia – Lawyer – Fatal Attack

Murdered March 26, 2019;

Rex Jasper Lopez – Lawyer – Fatal Attack

Murdered March 13, 2019;

Rodel M. Batocabe – Lawyer – Fatal Attack

Murdered December 22, 2018;

Enrico “Erick” Soriano – Lawyer (licensed and practiced in the US.) – Fatal Attack

Murdered December 21, 2018;

Nasser M. Laban – Lawyer – Fatal Attack

Murdered December 5, 2018;

Benjamin Ramos Jr. – Lawyer – Fatal Attack

Murdered November 6, 2018;

Edeljulio Romero – Lawyer – Fatal Attack

Murdered September 28, 2018;

Connie del Rio Villamor – Lawyer – Fatal Attack

Murdered September 24, 2018;

Rafael Atutubo – Lawyer – Fatal Attack

Murdered August 23, 2018;

Salvador Solima – Lawyer – Fatal Attack

Murdered July 2, 2018;

Joey Galit – Lawyer – Fatal Attack

Murdered June 21, 2018;

Henry Joseph Herrera – Lawyer – Fatal Attack

Murdered April 22, 2018;

Jonah John Ungab – Lawyer – Fatal Attack

Murdered February 19, 2018;

Expectacion Baldeo – Lawyer – Fatal Attack

Murdered December 3, 2017;

Hermie Aban – Lawyer – Fatal Attack

Murdered August 15, 2017;

Dolores Yumol – Lawyer – Fatal Attack

Murdered June 6, 2017;

Elmer Mitra Jr. – Lawyer – Fatal Attack

Murdered June 1, 2017;

Mia Manuelita Mascarinas-Green – Lawyer – Fatal Attack

Murdered February 15, 2017;

Goering Paderanga Sr. – Lawyer – Fatal Attack

Murdered December 22, 2016;

Gerik Caesare Paderanga – Lawyer – Fatal Attack

Attacked December 22, 2016;

Died December 25, 2016;

Arlan Castaneda – Lawyer – Fatal Attack

Murdered December 20, 2016;

Jemar Apada – Lawyer – Fatal Attack

Murdered December 1, 2016;

Honorato Mazo – Lawyer – Fatal Attack

Murdered October 8, 2016;

Melver Tolentino – Lawyer – Fatal Attack

Murdered September 15, 2016;

Allen Evasan – Lawyer – Fatal Attack

Murdered August 23, 2016;

Rogelio Bato Jr. – Lawyer – Fatal Attack

Murdered August 23, 2016;

Murdered Paralegals:

Mariam Uy Acob – Paralegal – Fatal Attack

Murdered September 23, 2018;

Edwin Pura – Paralegal – Fatal Attack

Murdered October 25, 2017;
 (“past midnight Oct. 25”)

III. SURVIVORS

Surviving Judges:

Angelito Rasalan – Judge – Survived Attack

Attacked January 20, 2019;

Hector B. Salise Jr. – Judge – Survived Attack

Attacked September 23, 2016;

Surviving Prosecutors:

Elmer Susano – Prosecutor – Survived Attack

Attacked September 10, 2019;

Josephine C. Olivar – Prosecutor – Survived Attack

Attacked June 10, 2019;

Manuel Navarro Tesiorna Jr. – Prosecutor – Survived Attack

Attacked February 6, 2017;

Surviving Lawyers:

Criselda Azarcon-Heredia – Lawyer – Survived Attack

Attacked September 23, 2019;

Inocencio dela Cerna Jr. – Lawyer – Survived Attack

Attacked September 2, 2019;

Erfe Del Castillo – Lawyer – Survived Attack

Attacked December 21, 2018;

Jason Bader Perera – Lawyer – Survived Attack

Attacked September 29, 2018;

Wilmer Q. Donasco – Lawyer – Survived Attack

Attacked September 26, 2018;

Argel J. Cabatbat – Lawyer – Survived Attack

Attacked February 13, 2018;

Ron Ely Espinosa – Lawyer – Survived Attack

Attacked August ____, 2017;
(the last week of August 2017)

(another incident on April 3, 2016)

Nasser Abinal – Lawyer – Survived Attack

Attacked May 6, 2017;

Surviving Paralegal:

Brandon Lee – Paralegal – Survived Attack

Attacked August 6, 2019;