

Inputs to inform the United Nations Special Rapporteur on Freedom of Expression’s visit report to the Philippines, to be presented to the HRC, 59th session

Submitted by the Asian Forum for Human Rights and Development (FORUM-ASIA)

The Asian Forum for Human Rights and Development (FORUM-ASIA) is a network of 85 organisations across 23 countries in Asia. We focus on the protection of civic space, fundamental freedoms, and human rights defenders. This submission conveys our findings and recommendations regarding the state of freedom of expression (FoE) in the Philippines. We hope for our submission to be taken into consideration for the upcoming visit of the United Nations Special Rapporteur on FoE.

The Implementation of Restrictive Laws on Freedom of Expression in the Post-COVID-19 Era

Throughout the COVID-19 pandemic period until the time of this writing, restrictive laws have been used to silence critics in the Philippines. For instance, there is a notable increase in the utilisation of the Cybercrime Prevention Act of 2012. The law was originally designed to prosecute individuals involved in offences such as cybersquatting, cybersex, and child pornography, among others; however, it has also been used to criminalise individuals expressing dissent against the Philippine government. This is done through the law’s vague definition of libel which international legal experts have criticised for being outdated.¹

The cyber libel law has been employed on numerous occasions to target [journalists](#), [activists](#), [government critics](#), and even [social media](#) users. In 2023, the Philippine National Police investigated [16,297 cases](#) of cybercrime, leading to the arrest of 397 individuals. The Department of Justice (DOJ) observed a [400 per cent surge](#) in cyber crime-related incidents in the Philippines in 2023 compared to the corresponding period in 2022. This constituted the majority of cases addressed by the DOJ.

Furthermore, the COVID-19 crisis appeared to accelerate the passage of pending draconian legislations such as the [Anti-Terrorism Act](#) (ATA) of 2020, which replaced the Human Security Act of 2007. The ATA was swiftly signed into law on 3 June 2020, shortly before the expiration of the Bayanihan to Heal as One Act, the COVID-19 emergency declaration legislation.

With the implementation of the ATA, the Duterte administration effectively established a new tool to easily label virtually anyone as a threat to the state. Section 9 of the law criminalises incitement to terrorism, which is broadly defined as ‘any person who, without taking any direct part in the commission of terrorism,’ incites others to commit terrorist acts ‘by means of speeches,

¹ Under the Revised Penal Code, Libel is defined as “A libel is a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead” (Art 353) and “committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means” (Art 355).

proclamations, writings, emblems, banners and other representations.’ Meanwhile, Section 29 allows the arrests of suspected terrorists and their detention for 14 days, which may be extended to a maximum of 24 days, without any charges. Section 25 gives the power of the Anti-Terrorism Council to designate a person or a group as terrorists based on a request by another country and upon determination that it meets the criteria of relevant United Nations Security Council Resolutions. Section 4(e) states ‘that terrorism as defined by the law does not include advocacy, protest, dissent and similar actions which are not intended to cause death or serious physical harm to a person, to endanger a person’s life, or to create a serious risk to public safety.’

[Civil society organisations](#) alongside the [Commission on Human Rights](#) have expressed serious concerns over the ambiguous and overly expansive definition of terrorism, stressing that such a definition is in clear violation of international human rights principles, particularly on freedom of expression.

By October 2020, just three months after its enactment, the ATA faced significant opposition—with 37 petitions challenging its constitutionality, marking it as the most fiercely debated legal issue since the Cybercrime Prevention Act. The Supreme Court of the Philippines initiated oral arguments on these petitions in February 2021, a proceeding that extended until May 2021 due to lockdowns imposed amid the COVID-19 pandemic. In a landmark decision in December 2021, the Supreme Court of the Philippines ruled that certain provisions, specifically Section 4(e) and Section 25, of the controversial anti-terrorism law were unconstitutional.² Despite this ruling, the ATA is still being used to target dissenters as the law in its entirety remains flawed and problematic.

The United Nations have also provided criticisms against the ATA. For instance, in its concluding observations on the [Philippines' fifth periodic report](#) in October 2022, the Human Rights Committee expressed concerns about the ongoing violation of freedom of expression within the country. The committee specifically linked this concern to the enforcement of the 2020 Anti-Terrorism Act. As a recommendation, they urged the Philippines to abstain from using counter-terrorism laws to restrict or stifle the freedoms of expression, assembly, and association of government critics, human rights defenders, and journalists. In November 2023, UN Special Rapporteur Ian Fry [called](#) on the Philippine Government to repeal the ATA and to disband its anticommunist task force. Fry emphasised that both measures were contributing to human rights violations and the intimidation of environmental defenders.

The Criminalisation, Harassment, and Killings of Journalists

The situation is not better for journalists as they are still targeted under the current administration despite President Ferdinand ‘Bongbong’ Marcos Jr’s pledge to support and protect media rights.

As documented by Reporters Sans Frontières, while the change in government has somewhat eased restrictions on the media, the Philippines remains one of the world’s most perilous countries for

² The Supreme Court, citing concerns that the part “which are not intended to cause death or serious physical harm to a person, to endanger a person’s life, or to create a serious risk to public safety” of being excessively broad and infringing on freedom of expression . Therefore, they deemed Section 4(e) unconstitutional. Consequently, this segment is now reformulated to state: “Provided that terrorism as defined in this section shall not include advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights.”

journalists. In the [World Press Freedom Index 2023](#), the Philippines ranked 132nd out of 180 countries, showing a slight improvement from its 147th ranking in 2022. Nevertheless, the trend of media killings

persists under the current administration. Similar to the Duterte administration, the list of journalists murdered for their work—such as [Percival Mabasa](#), [Renato Blanco](#), and [Federico Gempesaw](#)—is continuously growing during the Marcos administration. The latest incident happened in November 2023: [Juan Jumalon](#) was shot by unidentified assailants while performing a live broadcast. The incident marks the fourth murder of a journalist under the presidency of Marcos Jr. The reprehensibility of the attack is compounded by the fact that it occurred at Jumalon's own residence, which also functioned as a radio station. These killings have generated a chilling effect among all media workers in the Philippines. In response, the [Commission on Human Rights](#) launched its 'Quick Response Operation,' which aims to conduct independent *motu proprio* investigations of violent attacks experienced by journalists.

In the Philippines, the pursuit of justice and accountability proves challenging as perpetrators often get away with crimes with impunity. In the [2023 Global Impunity Index](#) by the Committee to Protect Journalists, the Philippines ranked as the eighth country in the world with the poorest record in prosecuting those responsible for the killing of journalists. In 2023, the country documented 20 unresolved cases, ranking second to Mexico which reported 23 unsolved incidents.

During Marcos Jr.'s first year of presidency—from 30 June 2022 to 22 July 2023—the [National Union of Journalists of the Philippines](#) (NUJP) documented 84 incidents of media attacks. This figure represents a 42 per cent increase compared to the reported cases during Duterte's initial 13 months in office.

Libel laws continue to be wielded as a form of harassment against journalists. A [study](#), published in June 2023, conducted by the NUJP revealed that local politicians are the primary instigators of criminal libel and cyber libel cases against journalists in the Philippines. The study involved at least 50 Filipino journalists facing such charges between June 2016 and March 2023. It found that local politicians were responsible for 61 per cent of all examined cases. Among the most prominent cases were that of Maria Ressa and her former colleague Rey Santos Jr., who were [convicted of cyber libel](#) by the Manila Regional Trial Court in 2020. Their conviction was upheld by the Philippine Court of Appeals in 2022. At present, they are appealing this cyber libel conviction. If not overturned, this could result in an almost seven-year jail sentence. The appeal is currently pending at the Supreme Court.

The Decline of Internet Freedom and the Intensification of Surveillance

In 2023, internet freedom witnessed a decline, as indicated by Freedom House's most recent '[Freedom of the Net](#)' report. The Philippines scored 61 out of 100, dropping from 65 in the previous year. The country was classified as 'partly free.'³ This four-point decrease marked the second most significant decline among countries included in the report, following Iran which saw a five-point drop from 16 to 11.

³ The status of Free, Partly Free, or Not Free is determined by equally weighting and combining the overall scores awarded for political rights and civil liberties. Countries categorised as Partly Free may meet the criteria for being electoral democracies but may not necessarily qualify as liberal democracies.

In the Philippines, [blocking orders](#) against the websites of media outlets are frequently used. For instance, near the end of Duterte's presidency in June 2022, National Security Adviser Hermogenes Esperon Jr. urged the National Telecommunications Commission to restrict the public's access to 27 websites—including independent media outlets Bulatlat and Pinoy Weekly—citing the media outlets'

alleged affiliations with the Communist Party of the Philippines, the New People's Army, and the National Democratic Front of the Philippines.

In June 2023, staff of the VERA Files—an internationally accredited organisation known for fact-checking, combating disinformation, and rating the accuracy of news—faced [death threats](#) following their diligent work in reviewing news stories shared on social media platforms, notably Facebook.

In October 2022, President Marcos Jr. enacted the SIM card registration law, mandating the registration of SIM cards for all mobile phone users and foreign visitors. The aim was to combat phone-related crimes such as text spamming and phone scams. Despite authorities asserting that the registration would address security issues, civil society organisations—including [FORUM-ASIA](#)—voiced apprehensions on how the SIM Card Registration Act could pose threats to privacy rights, freedom of expression, right to information, freedom of association, and non-discrimination in the Philippines.

In fact, the existing law seems ineffective in stopping scammers from carrying out illegal operations. A press conference conducted by the Presidential Anti-Organized Crime Commission featured an Information Technology expert who [demonstrated](#) how scammers could register SIM cards using the identities of cartoon and anime characters.

Furthermore, based on the SIM card registration law, the registration process mandates individuals to provide a selfie (facial recognition) and disclose personal information to service providers, sparking concerns about security and data privacy. These requirements heighten worries about surveillance by Philippine authorities, potentially stifling free expression. Human rights defenders and government critics are often targeted and red-tagged, facing increased risks under these conditions.

Marginalised Groups's Freedom of Expression Freedom of expression remains a significant challenge for Filipino minority groups.

In June 2023, the National Intelligence Coordinating Agency (NICA) linked various organisations to communist insurgents. Among the accused was [Mujer LGBTQ+](#), a group that provides relief assistance as well as medical and legal support for communities impacted by armed conflict, gender-based violence, and natural disasters. NICA also tagged youth groups—such as the Akbayan Youth Zamboanga and the Crimson Youth Network—as affiliates of the outlawed Communist Party of the Philippines.

Marcos Jr. has shown no effort to rectify the human rights abuses committed by the Duterte administration. The state of freedom of expression in the Philippines remains largely unchanged. The

president's inaction contributes to the continuous decay of the Filipino people's rights to information, free speech, and freedom of expression.

Recommendations

For the upcoming visit, FORUM-ASIA urges the UN Special Rapporteur on FoE to urge the Government of the Philippines, taking into consideration the core international human rights treaties that it ratified and/or acceded, to follow these recommendations:

- Conduct a thorough examination and revision of laws and regulations that unreasonably limit or impede free speech, freedom of expression, right to information, and press freedom, such as Penal Code Articles 353 and 355, the Cybercrime Prevention Act of 2012, and the Anti-Terrorism Act of 2020.
- Ensure accountability from those who commit violations against journalists, human rights defenders, and citizens peacefully exercising their freedom of expression. Enhance legal measures safeguarding the public from such attacks, threats, and violence.
- Implement the recommendations received from the Universal Periodic Review and other relevant treaty bodies, including the ICCPR Concluding Observation 2022. Ensure the participation of civil society organisations in decision-making processes.
- Enact the Human Rights Defenders Protection Law in order to put an end to judicial harassment and retaliatory lawsuits against human rights defenders.