

The Philippines: concerns on safety of lawyers and effective access to independent legal services

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Summary

The adequate protection of human rights and fundamental freedoms requires that every citizen has effective access to justice and legal assistance. Legal assistance can only be provided effectively in a judicial system where lawyers are free to carry out their professional duties independently of the government and political pressure.

Since the third UPR cycle, the situation of lawyers in the Philippines has not improved. The Philippines does not uphold the necessary guarantees for the proper functioning of the legal profession as set out in the United Nations Basic Principles on the Role of Lawyers. Consequently, lawyers encounter serious difficulties in carrying out their professional duties independently. This also undermines the proper functioning of the judicial system, including the right to fair trial and effective access to justice.

Attacks on Lawyers

The position of lawyers in the Philippines has been problematic for a long time. The extrajudicial killings of lawyers have reached a record high since the start of Duterte's administration. A total of 66 lawyers were killed between 30 June 2016 and 31 December 2021. At least 38 of them were practicing lawyers. Many other lawyers were attacked, but survived assassination attempts. ([L4L submission, § 9-12](#))

Red-tagging

Individuals, organisations and institutions are publicly branded as enemies of the government. Terms such as 'communist' or 'terrorist' are used loosely and regardless of actual beliefs or affiliations of the targeted persons. This practice is supported or at the very least condoned by government agents. Lawyers who are identified with their clients or their clients' causes may appear on so-called 'drugs lists' or military 'hit lists' drawn up by local officials or members of the police or military. There is no opportunity to be removed from those lists. Many of the lawyers who were physically attacked, had been red tagged before. As a consequence, lawyers are afraid of taking on the prosecution of human rights violations and the defense of alleged drugs offenders. Lawyers and law students decline to join certain lawyers' groups or keep a low profile. This shows that red-tagging is a powerful threat to freedom of expression and the rule of law. ([L4L submission, § 13-15](#))

The Anti-Terrorism Act

The practice of red-tagging is institutionalised by the Anti-Terrorism Act 2020. The act passed through the Philippine Senate in February 2020. It contains a very broad definition of terrorist crimes, limits the rights of those who are considered terrorists and provides government agents with broad surveillance powers. The act provides the government

with unbridled power to determine who are suspected terrorists. ([L4L submission, § 16-17](#)).

Culture of impunity

The Philippine authorities do not conduct full and thorough investigations into the attacks on and killings of practicing lawyers. Many cases remain unresolved. Perpetrators of red-tagging are not held accountable. Instead, senior Philippine government officials amplify the effects of red-tagging by expressing their support for violence against lawyers. Lawyers have become increasingly wary to work on sensitive cases. This undermines the rule of law and the adequate protection of human rights. ([L4L submission, §18-23](#))

Recommendations

- Take immediate measures to ensure sufficient safeguards are in place, both in law and in practice, to guarantee the full independence and safety of lawyers and their effective protection against any form of retaliation in connection with their professional activity, including the red-tagging of practising lawyers.
- Immediately take measures that effectively guarantee all practicing lawyers' physical and psychological integrity, their personal security and right to adequate protection measures, privacy and freedom of expression and protection against unlawful attacks on persons' honour and reputation.
- Immediately start legislative efforts to amend the Anti-Terrorism Act of 2020 to conform with international human rights law and standards such as the United Nations Basic Principles on the Role of Lawyers.
- Immediately take measures to ensure the prompt, effective, thorough, and independent investigation of all extrajudicial killings and attacks against practicing lawyers, with the aim of identifying those responsible and bringing them to justice in proceedings that respect the international fair trial standards and to condemn all threats and attacks against lawyers publicly and in the strongest terms.
- Comply with and create awareness for the core values underlying the legal profession, amongst others by bringing the UN Basic Principles on the Role of Lawyers to the attention of lawyers as well as other stakeholders, especially members of the executive and the military.

Lawyers for Lawyers (L4L is an independent, non-political and not-for-profit lawyers' organization established in 1986. Our mission is to promote the independent functioning of lawyers and the legal profession across the world in accordance with internationally recognized norms and standards, including the Basic Principles on the Role of Lawyers. Our work to support lawyers who are at risk as a result of discharging their professional duties, seeks to protect them from threats, risks and reprisals, strengthens their international recognition and protection in laws, policies and practices, and empower them to fulfil their role as essential agents of the administration of Justice. Lawyers for Lawyers was granted special consultative status with the UN Economic and Social Council in July 2013.