

DAWN OF DIGITAL DICTATORSHIP:
WEAPONISING THE LAW AGAINST ONLINE SPEECH



DEFAMATION

PHILIPPINES



ANTI-TERRORISM ACT
ANTI-FALSE CONTENT BILL

What is the ASEAN Regional Coalition to #StopDigitalDictatorship?

The ASEAN Regional Coalition to #StopDigitalDictatorship was established in 2020, by human rights and digital rights activists from Southeast Asia, on a mission to decolonize digital rights and restore our online democracies.

Together, we stand in solidarity with one another, with people from the Global Majority, resisting and pushing back against authoritarian governments and complicit tech companies.

We tell our realities from the ground, and we develop solutions together.

Our truths. Our Stories. Our Solutions. Our Liberation.

Fighting back online authoritarianism in Southeast Asia is, and shall always be, decolonial, grounded on feminist values, centred on our voices and our collective power.

Listed alphabetically, members of the Coalition include: ALTSEAN-Burma, Cambodian Center for Human Rights, ELSAM, Free Expression Myanmar, Foundation for Media Alternatives, ILGA Asia, Manushya Foundation, The Rohingya Maiyafuñor Collaborative Network, SAFEnet, Viet Tan, and Women's Peace Network.

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Citation:

ASEAN Regional Coalition to #StopDigitalDictatorship, Dawn of Digital Dictatorship: Weaponizing the Law against online speech in Southeast Asia, (March 2024)

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Table of Contents

5	List of Abbreviations
6	Acknowledgements
7	Chapter I. Introduction
10	Chapter II. Methodology
12	Chapter III. Summary of International Human Rights Laws and Standards
16	Chapter IV. Country Analysis
17	4. The Philippines
17	4.1. Legal Framework
22	4.2. Challenges and Cases
37	4.3. Access to Effective Remedy
39	Chapter V. Recommendations
40	Recommendations to Governments
43	Recommendations to Members of Parliament
44	Recommendations to Tech Companies
47	Recommendations to Civil Society
49	Endnote

List of Abbreviations

ABS-CBN	Alto Broadcasting System and Chronicle Broadcasting Network
AFP	Armed Forces of the Philippines
ASEAN	Association of Southeast Asian Nations
CERT-PH	Computer Emergency Response Team Philippines
CNN	Cable News Network
DICT	Department of Information and Communications Technology
DPP	Digital Public Pulse
GV	Gender Violence
HRD	Human rights defender
IP	Indigenous people
KSMBPI	Kapisanann ng Social Media Broadcasters ng Pilipinas Inc
NTF-ELCAC	National Task Force to End Local Communist Armed Conflict
NTC	National Telecommunications Commission
NUJP	National Union of Journalists of the Philippines
OGBV	Online Gender Based Violence
PAO	Public Attorney's Office
RMP	Rural Missionaries of the Philippines
RPC	Revised Penal Code
SLAPP	Strategic lawsuit against public participation
TFGBV	Technologically facilitated gender based violence
UDHR	Universal Declaration of Human Rights
UN	United Nations

Acknowledgements

Manushya Foundation and the ASEAN Regional Coalition to #StopDigitalDictatorship would like to sincerely thank everyone who offered their untiring support and unique insight into the digital rights situation in Southeast Asia, and helped to make this report complete and possible.

For the section on The Philippines, we acknowledge the collaborative efforts and contributions of both Foundation for Media Alternatives (author and reviewer) and Manushya Foundation (co-author).

Additionally, Manushya Foundation would like to express its deep appreciation to all ASEAN Regional Coalition members for their invaluable support and inputs throughout the phases of the research, from identifying the human rights issues to documenting, collecting, and analysing data for various cases, and developing this report, over the past four years. Our heartfelt gratitude extends to members, who have played critical roles in resisting digital dictatorship and advancing democratic values. Listed alphabetically, they include: **ALTSEAN-Burma, Cambodian Center for Human Rights, ELSAM, Free Expression Myanmar, Foundation for Media Alternatives, ILGA Asia, Jean Linis-Dinco, Ph.D, Manushya Foundation, The Rohingya Maïyafuïnor Collaborative Network, SAFEnet, Viet Tan, and Women's Peace Network.**

Manushya Foundation and the members of the ASEAN Regional Coalition to #StopDigitalDictatorship expresses particular gratitude to Manushya's Digital Rights Team for their coordination, review, editing, and finalisation of the report. Overseen by Emilie Palamy Pradichit (Founder & Executive Director, Manushya Foundation), and Ni Putu Candra Dewi (Advocacy and Campaign Associate on Democracy and Digital Rights, Manushya Foundation), the team includes: Tricia Ho Sze Mei, Ploypitcha Uerfuer, Luna Marciano, Fitri Lestari, Delasari Krisda Putri, Deena Bhanarai, and Arianne Joy Fabregas.

The visual aids within this report, including data visualisations, trend summaries, case study profiles, and theme overviews, were developed by Luna Marciano and Deena Bhanarai. Additionally, the graphics and illustrations you see would not have been possible without the patience and artistry of our designers. We extend our gratitude to Putu Deoris and Yansanjaya, who were responsible for the layout, case study design, and the creation of all the data visualisation graphics, as well as to Ivana Kurniawati, who illustrated our report and chapter cover pages.

Special gratitude is extended to the former team researchers, volunteers, and interns of Manushya Foundation, who played significant roles through their engagement in conducting desk research and monitoring cases of human rights violations over the past four years. This appreciation is particularly directed to Letitia Visan, Preeyanun Thamrongthanakij, Felicity Salina, Amalia Tihon, and Margaux Bonnard.

We also extend our deep appreciation to Ma Thida from PEN Myanmar, who made significant contributions to the work of the coalition before the illegitimate military coup in Myanmar.

We extend thanks and appreciation to the numerous activists and human rights defenders across the region who have mobilised to defend fundamental human rights with immense courage, often risking their lives in the face of authoritarianism. The debt we owe them has never been greater. Their altruism and courage have been an inspiration for us and a reason more to document the gross human rights violations in the digital space.

This project would not have been possible without the help of the authors below, as well as reviewers who asked to remain anonymous, in validating our desk-research and in some cases, contributing content that informed this report.

Chapter I.

Introduction

The digital space is quickly emerging as one of the key spaces in which human rights are threatened. In Southeast Asia, the internet is no longer a free, safe, and secure space for expression. Restrictive legislation, intimidation, and even the murder of human rights defenders, activists, and journalists tarnishes the commitment to freedom of expression of the countries in the region. In this light, the need for our rights to be respected, including online, becomes greater.

This report is the outcome of the collaborative work of the ASEAN Regional Coalition to #StopDigitalDictatorship (“the Coalition”). After its establishment in 2020, with the coordination of Manushya Foundation, virtual discussions were initiated to discuss challenges faced, while determining collaborative and inclusive efforts to assess, amend, and monitor implementation of legislations affecting digital rights. The Coalition has established itself as a leading regional expert voice on digital rights in the region and is now a key player, powering local and regional voices to speak their truth to power and to resist digital dictatorship.

A core group of members of the Coalition has collectively developed the research and analysis framework of a regional ASEAN Study, which is divided into three thematic reports. This report is part of the series of three thematic reports and focuses on the right to freedom of speech and expression in the digital space.

The aim of this report goes far beyond merely analysing the legal framework related to freedom of expression online and documenting rights violations in the nine Southeast Asian countries covered. The main goal is to increase public understanding of how important digital rights are to everyone’s lives and to strengthen netizens’ knowledge of those rights. But there is more to consider. As intersectional feminists, we recognise the internet is not equal for everyone. While the digital realm offers immense opportunities, it is far from being neutral or egalitarian, and it remains susceptible to persistent backlash against the rights of women and LGBTIQ+ people. Like other social spaces, it reflects and reproduces power relations and inequalities, including those related to gender.

Coalition members dedicate their work to make Asia a safe and peaceful place for all. While they have different goals and perspectives, the cultivation of an open, safe, and inclusive digital space for all is a key priority for them. At **Manushya Foundation**, we place “equality” at the core of our activities, apply a gender lens to all of our work, and focus on powering women activists and human rights defenders, youth, and LGBTIQ+ individuals to tell their very own stories in a powerful manner for their advocacy. Likewise, **ILGA**

Asia, a regional federation of more than 204 member organisations, works for the equality of all people regardless of sexual orientation, gender identity, and sex characteristic, as well as liberation from all forms of discrimination and stigmatisation. **Women’s Peace Network** has “equality” as one of its core visions and works to protect the rights and increase the inclusion of marginalised women, youth, and communities in the Rakhine state and across Myanmar. **The Foundation for Media Alternatives** focuses on the intersection between information and communication technology (ICT) and gender rights, including tech-related gender-based violence.

We also recognise that gender inequality intersects with other forms of oppression, such as race, class, sexuality, and disability, and women exposed to intersecting forms of discrimination are particularly vulnerable to violence in the digital world. Understanding the intricate ways in which power operates, we apply an intersectional feminist lens to explore and tackle the multifaceted dynamics within the digital realm. With this report, we shed light on this and the patriarchal power dynamics that hold our world back from fulfilling a society where everyone is treated with fairness and dignity.

However, that is not where our work ends. The ultimate objective is to call, as a strong and unified voice, on governments, policy-makers, and tech companies to move the needle forward from commitments on paper to concrete measures to respect their international human rights obligations—in order to restore our only democracy. Recommendations are also extended to civil society, which provides a critical foundation for holding governments and businesses accountable, and promoting human rights and democracy.

Following **Chapter II: Methodology**, which will clarify our research and compilation process, **Chapter III: Summary of International Human Rights Laws and Standards** will provide important context for the rest of the report with a table addressing the right to freedom of expression; the rights of human rights defenders; the right to privacy; and the right to effective remedy, and indicates the ratification status by country of each convention, where appropriate. Following, **Chapter IV: Country Overviews (Analysis)** is originally split into

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nine sections, each one focused on a specific country: **Cambodia, Indonesia, Lao PDR (Laos), Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam**. Each section explains how laws and legal frameworks are being used to target free expression and information online, censor or regulate content, and monitor online activities. Each section includes cases of individuals arrested and charged for their online activities, as well as instances of online censorship, monitoring, and surveillance.

However, in this booklet, the focus is solely on the Philippines.

In this booklet, a section is dedicated to the impact of COVID-19 and democracy in the Philippines. Although the pandemic has brought the world grinding to a halt, Southeast Asian governments took it as an opportunity to tighten their grip over civic space and implemented self-serving laws and policies. Under the banner of safeguarding public health, governments exploited

emergency powers and other legal tools, including “fake news” laws, in restrictive and repressive ways, to advance their authoritarian agendas, suppress freedoms and critical speech, silence political opponents, control the flow of information, and attack media freedoms. While national circumstances differed in how the pandemic was governed, the states covered in this report had extensive repressive powers and used COVID-19 as a pretext to limit democratic space both offline and online.

Further, another section draws particular attention to cases of online gender-based violence and harassment experienced by women, including those who are more susceptible to online violence because of their jobs, race, ethnicity, religion, or identity, such as women activists and human rights defenders, women journalists, women belonging to religious or ethnic minorities, young women, women with intersecting identities (Indigenous, ethnic and minority, migrant women; lesbian, bisexual, transgender and intersex women; women with disabilities).

The report concludes with a number of **recommendations** for the primary actors identified as holding key functions in enhancing the state of digital freedoms in the Philippines, specifically that of online expression. Governments, members of Parliament, tech companies, and civil society have—each one to a different extent—a crucial role to play to uphold human rights and fundamental freedoms in the digital space. Since civil society civil groups are front and centre in representing the factual needs of the people and they can empower citizens by providing civic education on human rights, a series of recommendations is likewise made to them. People are more likely to resist attempts to suppress their rights if they are aware of them.

Creating a safe internet space for everyone is crucial for promoting inclusivity, respect, and equal opportunities.

Only together can we foster a more inclusive and respectful internet culture where everyone can engage, express themselves, and participate without fear of discrimination or harassment. None of us are free until we are all free.

Chapter II.

Methodology

This Thematic Report is a culmination of four years of monitoring, research, writing, reviewing, and examining the digital rights space in nine ASEAN countries: Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, The Philippines, Singapore, Thailand, and Vietnam. Our research does not cover Brunei Darussalam and Timor-Leste due to the lack of coalition members in these countries. As mentioned previously, this booklet will, however, focus solely on the Philippines.

The methodology used in this report encompasses both primary and secondary sources. Primary data was gathered by Manushya Foundation, together with organisation members of the ASEAN Regional Coalition to #StopDigitalDictatorship. We have entrusted our coalition members to write thorough country-specific analyses, based on their expertise in the digital rights landscapes of their respective countries. It must thus also be noted that as these coalition members are specialists in their own rights, with a wealth of information obtained through lived experiences and field research, not every source will be cited, as a lot of information was first-handedly provided by the author and not obtained from elsewhere. We included voices from the ground and experts' insight from panel discussions, including sessions we held as part of RightsCon, such as the 2022 "Thailand: Digital Authoritarianism Rising" session, the 2021 "Online Freedom Under Attack: Weaponising Misinformation, Disinformation, and 'Fake News' for Censorship in Southeast Asia" session, as well as a series of other webinars hosted by the Coalition. Participants of the webinars and discussions consisted of citizens, experts, representatives of academia, and civil society groups. For some countries, our Coalition members also conducted independent investigations and compiled data from open sources published by the relevant authorities, government agencies and the judiciary. The report's coverage spans the years 2020 through 2023, except for the chapter on Laos (**Chapter IV, 3. Lao PDR**), where egregious human rights breaches instances prior to 2020 are

also included. Similarly, for Myanmar (**Chapter IV, 5. Myanmar**) and Cambodia (**Chapter IV, 1. Cambodia**), countries for which we are also incorporating elements from 2024 due to the rapidly evolving events. We focused our inquiries on different target areas, which were ultimately synthesised into primary themes featured in the reports in this series: criminalisation of defamation and lack of human-centred cyber laws and policies; online monitoring and content moderation; threats to privacy and data protection; harassment of activists and human rights defenders (HRDs); and internet shutdowns.

This report is also composed on the basis of desk research, including a systematic literature review of relevant legislation and regulations; reports, studies, and recommendations by UN human rights mechanisms and NGOs; online news articles; policy and white papers; and independent publications. Data was also obtained from studies and external civil society organisations. We carried out interviews with a wide range of stakeholders to receive the most accurate insight on the state of digital rights on the ground relating to the target areas specified above. The study's ultimate objective is to provide a comprehensive analysis on the state of digital rights in the Southeast Asia region, including during the COVID-19 pandemic, by looking at existing national laws, policies and measures; recorded cases of violation; as well as previous recommendations or proposals made in line with international human rights laws and standards.

Chapter III.

Summary of International Human Rights Laws and Standards

Fig. G: Summary table of international human rights laws and standards.

FREEDOMS OF EXPRESSION AND TO HOLD OPINION		
International Human Rights Instruments	Relevant Provisions and Interpretations	Ratification/Voting/Adoption Date and Status
UDHR	Article 19: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”	NOT Binding but serves as a cornerstone for the development and evolution of international human rights law. as a matter of customary international law
ICCPR	Article 19: Upholds the right of every individual to freedom of expression, including the freedom to “seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media” without interference.	Ratified Cambodia (May 26, 1992) Indonesia (Feb. 23, 2006) Lao PDR (Sept. 25, 2009) Philippines (Oct. 23, 1986) Thailand (Oct. 29, 1996)
	Article 19(3): Articulates a three-part test, stipulating that any restrictions on expression must be “provided by law”, proportionate, and necessary for “respect of the rights and reputations of others,” “for the protection of national security or of public order, or of public health and morals.”	General comment no. 34: Article 19 (freedoms of opinion and expression): States that criminalize defamation must decriminalize it given that “imprisonment is never an appropriate penalty” for, and is neither necessary nor proportionate to the aim of protecting others. ²
UDHR	Article 12: “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”	NOT Binding but serves as a cornerstone for the development and evolution of international human rights law. Binding as a matter of customary international law

Fig. G: Summary table of international human rights laws and standards.(continuous)

<p>ICCPR</p>	<p>Article 17: “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.” It also upholds the right of persons to receive legal protection from such interference or attacks.</p> <hr/> <p>General comment no. 16: Article 17 (right to privacy): This Article is intended to protect against said infringements, both by states and private individuals. Further, “interference authorized by States can only take place on the basis of law, which itself must comply with the provisions, aims and objectives of the Covenant.” The principles of legality, necessity and proportionality also apply to privacy limitations.³</p>	<p>Ratified Cambodia (May 26, 1992)</p> <p>Indonesia (Feb. 23, 2006)</p> <p>Lao PDR (Sept. 25, 2009)</p> <p>Philippines (Oct. 23, 1986)</p> <p>Thailand (Oct. 29, 1996)</p> <p>Vietnam (Sept. 24, 1982)</p> <p>Not signed or ratified Malaysia, Myanmar, Singapore</p>
<p>Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (2016) juncto Report of the OHCHR on the right to privacy in the digital age (2014)</p>	<p>Legitimate surveillance, where intended to limit the freedom of expression, requires states to demonstrate the risk that the expression “poses to a definite interest in national security or public order.”⁴ All interference with the right to privacy must also be authorised by an independent oversight body through careful review, and be accompanied with an assurance of effective remedy in case of a breach.⁵</p>	<p>Non-binding (interpretive)</p>
<p>RIGHTS OF HRDS</p>		
<p>International Human Rights Instruments</p>	<p>Relevant Provisions and Interpretations</p>	<p>Ratification/Voting/Adoption Date and Status</p>
<p>UN Declaration on Human Rights Defenders</p>	<p>Article 6: Provides for the right of persons to seek, obtain, receive and hold information about all human rights and fundamental freedoms; freely publish or impart or disseminate information and knowledge on all human rights and fundamental freedoms; and to study, discuss and hold opinions on the observance of these rights.</p> <p>Article 7: “Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.”</p> <p>Article 9: Everyone whose rights or freedoms pursuant to the Declaration are allegedly violated must be able to access an effective remedy and have their complaint heard by an independent, impartial and competent authority.</p>	<p>NOT Binding but serves as a cornerstone for the development and evolution of international human rights law</p>

Fig. G: Summary table of international human rights laws and standards. (continuous)

RIGHT TO AN EFFECTIVE REMEDY		
International Human Rights Instruments	Relevant Provisions and Interpretations	Ratification/Voting/Adoption Date and Status
UDHR	Article 8: “Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.	NOT Binding but serves as a cornerstone for the development and evolution of international human rights law
ICCPR	Article 2(3): Provides for the obligation of states to ensure that those individuals whose rights have been violated have access to an effective remedy whether the violation(s) were committed by a person acting in their official capacity. Further, the effective remedy is to be determined by a competent judicial, administrative, legislative or other authority as mandated by the national legal system. The bottomline is that, regardless of the authority in charge, remedy must actually be granted.	<p>Ratified</p> <p>Cambodia (May 26, 1992)</p> <p>Indonesia (Feb. 23, 2006)</p> <p>Lao PDR (Sept. 25, 2009)</p>
	General comment no. 31 (the nature of the general legal obligation imposed on States Parties to the Covenant): Judicial and administrative mechanisms must be set in place to “investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies.” Reparation to individuals can take the forms of “restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations.” ⁷	<p>Philippines (Oct. 23, 1986)</p> <p>Thailand (Oct. 29, 1996)</p> <p>Vietnam (Sept. 24, 1982)</p> <p>Not signed or ratified Malaysia, Myanmar, Singapore</p>

Chapter IV.

Country Analysis

4. The Philippines



Fig. 4.1: Summary of freedom ratings for the Philippines, 2020-2023.¹

4.1 Legal Framework

Freedom of Expression is Guaranteed but Illegitimately Restricted: The 1987 Constitution

In The Philippines, the 1987 Constitution provides for freedom of expression.² Section 4, Article III states that “[n]o law shall be passed abridging the freedom of speech, of expression or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.” According to one of the drafters of the Philippine Constitution, the provisions on speech, expression, and press encompass various forms of communication, including oral, written, recorded, symbolic, and even

peaceful picketing. These provisions serve two main purposes: firstly, they prohibit prior restraint, meaning government restrictions before publication or dissemination, and secondly, they prohibit subsequent punishment that excessively curtails expression.

Exceptions to the rule against prior restraint are recognised in cases involving sensitive information during wartime, obscene publications, incitement to violence, or attempts to overthrow orderly governments by force.³ However, any system of prior restraint is met with significant scepticism regarding its constitutional validity.⁴ On the other hand, the rule against subsequent punishment is subject to exceptions determined by courts when the right to free speech conflicts with other government interests.

In both cases, courts may apply tests such as the ‘clear and present danger’ or ‘dangerous tendency’ to justify restrictions on free speech or conduct a ‘balancing of interests’.⁵ Additionally, the courts utilise the O’Brien Test to differentiate between content-based and content-neutral legislation. However, this commitment to preserving human rights and safeguarding the freedom of speech and expression is not supported by real practice, especially since former President Rodrigo Duterte assumed office in 2016. Certain practices and laws undermine the protection of free expression enshrined in the Constitution.

Democratic Status (Freedom In The World): The Philippines



Freedom House, *Explore the Map*, (n.d.), available at: <https://freedomhouse.org/explore-the-map?type=fiw&year=2023>

Media & Press Freedom Status (World Press Freedom Index): The Philippines



Reporters sans frontières, *Classement*, (n.d.), available at: <https://rsf.org/fr/classement>

Fig. 4.2: Digital Space & Online Freedom Status (Freedom on The Net) and Media & Press Freedom (World Press Freedom Index) Ratings for the Philippines over the years, 2020-2023.

Criminalisation of Defamation: RPC, 2012 Cybercrime Act, and the House Bill No. 1769

Defamation is defined as the “publication of anything which is injurious to the good name or reputation of another or tends to bring him into disrepute.”⁶ Article 353 of the Revised Penal Code (RPC) defines libel as “a public and malicious imputation of a crime, vice or defect, real or imaginary; or any act, omission or circumstance tending to cause the dishonour, discredit or contempt of a natural or juridical person, or to blacken the memory of a dead.”⁷ It may be committed by means of writing, printing, radio, or similar means, while slander is defamation committed by oral means.⁸

For a statement to be considered libellous, it must fulfil the cumulative requirements of (1) being defamatory; (2) containing an element of malice; (3) being published; and (4) being made against an identifiable person.⁹ Article 358 of the RPC states that slander or oral defamation is punishable by arresto mayor in its maximum term of six months to prisión correccional or a fine not exceeding PHP 200 (\$3). On the other hand, Article 355 states that libel is “punishable by prisión correccional in its minimum and medium periods or a fine ranging from PHP 200 to 6,000, or both, in addition to the civil action which may be brought by the offended party.”¹⁰

The concept of online or cyber libel was introduced in Republic Act No. 10175, otherwise known as the 2012 Cybercrime Prevention Act (hereinafter, the Cybercrime Act).¹¹ Section 4(c)(4) of the Act defines cyber libel as “the unlawful or prohibited acts of libel as defined in Article 355 or the Revised Penal Code, as amended, committed through a computer system or any other similar means which may be devised in the future.” In essence, the Cybercrime Act has a catch-all provision that makes all crimes in the Revised Penal Code a “cybercrime” if committed through a computer system. The penalty applicable to online libel is more severe than libel committed

outside of the digital space; it entails a maximum period of prisión correccional—which ranges from four years, two months and one day to six years—and a minimum period of prisión mayor, i.e. from six years and one day to eight years. The use of information and communications technology or infrastructure in the commission of the crime determines the severity of this penalty. As held by the Philippines Supreme Court in *Disini et al. v. The Secretary of Justice et al.*, “[by] using [the] technology in question, the offender often evades identification and is able to reach far more victims or cause greater harm.”¹²

“

The criminalisation of journalists for libel impedes public interest reporting and is incompatible with the right to freedom of expression. Criminal libel law has no place in a democratic country and should be repealed.¹⁴

- Irene Khan, UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

In 2013, the cyber libel provision within the Cybercrime Act had its constitutionality challenged by 15 groups of petitioners at the Philippines High Court. Two years later, the Supreme Court dismissed the challenges, ruling that the cyber libel provision, as well as most other provisions contained within the Act, were indeed constitutional.¹³ The Supreme Court decision stirred controversy and has been contested by human rights advocates, who note that – much like the crime of offline defamation – penalties prescribed for cyber libel are overly broad, and could affect the right to freedom of expression and access to information.

Initiatives have been taken to push for the decriminalisation of libel. Representatives from the Makabayan Bloc in Congress, for instance, filed House Bill No. 1769, which includes the repeal of several provisions in the RPC. According to the authors of the bill, “the repeal of the libel law, without derogating the right of a person to enjoy privacy, dignity, good reputation and a peace of mind, will be a big step towards democracy in [the Philippines].”¹⁵ The bill remains pending at the Committee on Revision of Laws. Moreover, newly elected senator Raffy Tulfo who was targeted by several libel cases, stated that one of his priority bills will deal with the decriminalisation of the act.¹⁶ No such bill has been put forward to date by Tulfo and his position is that it is okay to decriminalise libel but it should only apply to practitioners from established news organisations who practise code of ethics and editorial standards.¹⁷

Sedition Under the RPC and Anti-Terror Law to Stifle Dissent

Incitement to sedition is a crime under Article 142 of the RPC. It penalises those who “incite others ... by means of speeches, proclamations, emblems, cartoons, banners or other representations.”¹⁸ Article 154 penalises a range of online speech categories, notably “any person who by means of printing, lithography, or any other means of publication shall publish or cause to be published as news any false news which may endanger the public order, or cause

damage to the interest or credit of the State.”¹⁹ Convicted persons may face prison terms varying from one month and one day, to six months, or be fined between PHP 200 to 1,000 (\$3 to \$18). These penalties apply to online incitement.²⁰

During the 18th Congress from July 2019 to 2022, several bills were introduced to empower authorities to issue content takedown orders, “rectify” false or misleading content, or to block websites, without judicial oversight and procedural safeguards.²¹ At the height of the COVID-19 pandemic, the 2020 Anti-Terrorism Act was passed by the legislature and was signed into law in July 2020.²² Section 9 of the Act criminalises incitement of terrorism, which is broadly defined as any incitement of the execution of terrorism by a person not taking any direct part in the commission of such terrorism. Prohibited incitement could be in the form of speeches, proclamations, writings, and other representations. Those found guilty could be sentenced for up to 12 years. In addition, suspected terrorists can be detained for up to 14 days without a warrant or being charged, a term which may be extended for another 10 days in some cases. The constitutionality of the 2020 Anti-Terrorism Act has been challenged through 37 petitions lodged by various groups and sectors.²³ Civil society has raised alarm regarding the Act’s broad scope, and its potential to be used by state authorities as yet another tool to target critics and stifle free expression. One of the common themes of the petitions was threats to freedom of speech arising from many provisions under the law, including that of incitement of terrorism. Even prior to its signing into law, the Act was heavily criticised by civil society groups, which called for its revocation.²⁴

“

The Anti-Terror Bill disproportionately expands the State’s surveillance powers by providing longer periods of permissible surveillance and by creating new grounds therefore, while giving the government a wide berth when deciding who may be considered legitimate targets of this extreme form of privacy intrusion. At the same time, it deprives people who have been wrongfully detained [of] means of redress and reduces the powers of the Commission on Human Rights as an effective foil against potential abuses of the law. These proposals clearly violate the people’s constitutional right to communications privacy and do not adhere to international human rights standards.

- Lisa Garcia, Executive Director of the Foundation for Media Alternatives

Crackdown on Freedom of Expression on Grounds of Combating False Information: Introducing the Anti-False Content Bill

During the 18th Congress from July 2019 to 2022, several bills were introduced to empower authorities to issue content takedown orders, “rectify” false or misleading content, or to block websites without judicial oversight and procedural safeguards.²⁵ One of them, known as the Anti-False Content bill, prescribed offences which could be penalised by up to 20 years’ imprisonment and a maximum fine of PHP 1 million (\$20,000).²⁶ Among other things, the bill prohibits the posting on one’s personal account, or on a “fictitious” or anonymous website, of content known or believed to contain “information that is false or that would tend to mislead the public.” The provision of services or funds to assist in the creation or publication of such content is likewise penalised.²⁷

SIM Card Registration Act: Threatening the Right to Free Expression, Especially for the Most Vulnerable

On Oct. 10, 2022, President Marcos Jr. signed the SIM Card Registration Act into law. The Act obliges all persons to register their SIM cards using their identification details and sign up for social media accounts using their real names.²⁸ The deadline was originally Apr. 26, 2023, but the government extended it to Jul. 25 just one day before that. While the law is intended to curb the problem of online scams, human rights observers have expressed concerns that data collected under the law could be used to further persecute perceived state enemies, including journalists and human rights defenders.²⁹ Requiring people to register their SIM cards can also contribute to the digital divide and it creates an additional step in acquiring a mobile connection. This can pose a challenge, particularly for people who already face barriers to accessing mobile networks, such as those in rural or remote areas with limited infrastructure.³⁰

“

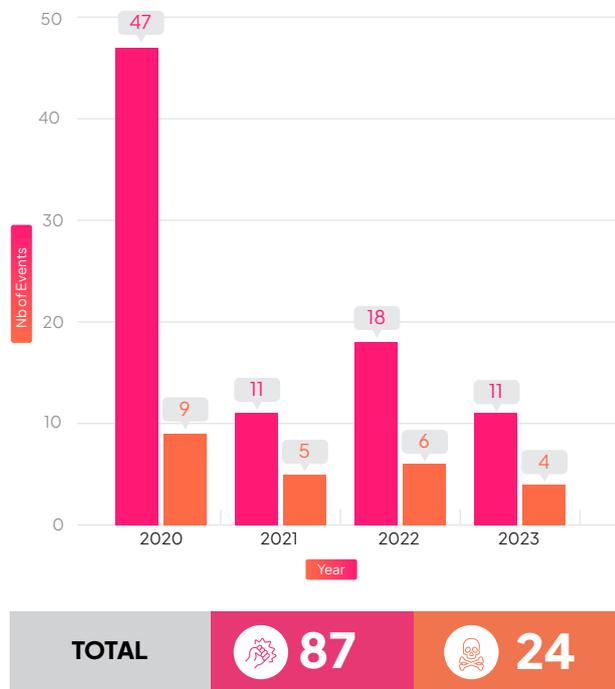
The threat of [farmers, fisherfolk, and people in the countryside] losing their access to their SIM and other social media is a direct attack [on] their right to be heard, be informed and communicate.

- Danilo Ramos, Chairperson of Kilusang Magbubukid ng Pilipinas

4.2 Challenges and Cases

The Philippines is ranked “partly free” in the Freedom of the Net Index with an aggregate score of 65 in 2021 and 2022. It placed 147th out of 180 countries in the World Press Freedom Index 2022 with a score of 41.84 and occupies position 132 in 2023, with a score of 46.21.³² The Philippines is also one of the most unsafe countries in the world for journalists to conduct their work.³³

Disorders involving the Media in The Philippines



i The information used to construct this infographic is sourced from the ACLED database, specifically the dataset titled “Disorders involving Media.” Within this database, we have exclusively selected relevant countries from the ASEAN region, namely Indonesia, Thailand, Myanmar, and the Philippines. However, this infographic only focuses on Indonesia. The events were further filtered based on an additional criterion: date. As our report focuses on events from 2020 to 2023, only those occurring between January 1, 2020, and December 31, 2023, have been included.

The Armed Conflict Location & Event Data Project (ACLED), *Disorder Involving the Media*, (10 February 2024), available at: <https://acleddata.com/data-export-tool/>

LEGEND

- Disorders involving the Media
- Disorders involving Fatalities

Fig. 4.3A: Disorders involving the Media in the Philippines, 2020-2023.

Struggles, Legislation, and Repression in The Philippines (2020–2023)



LEGEND:

⚠️ : Alleged offense + (articles/provisions invoked against the individual)
 - "Unknown": Either information is not available or no articles/provisions have been cited by the judiciary

👮 : Legal and extralegal consequences
 - "Status Unknown": Current status of the individual is unknown (detained, convicted, deceased, etc).

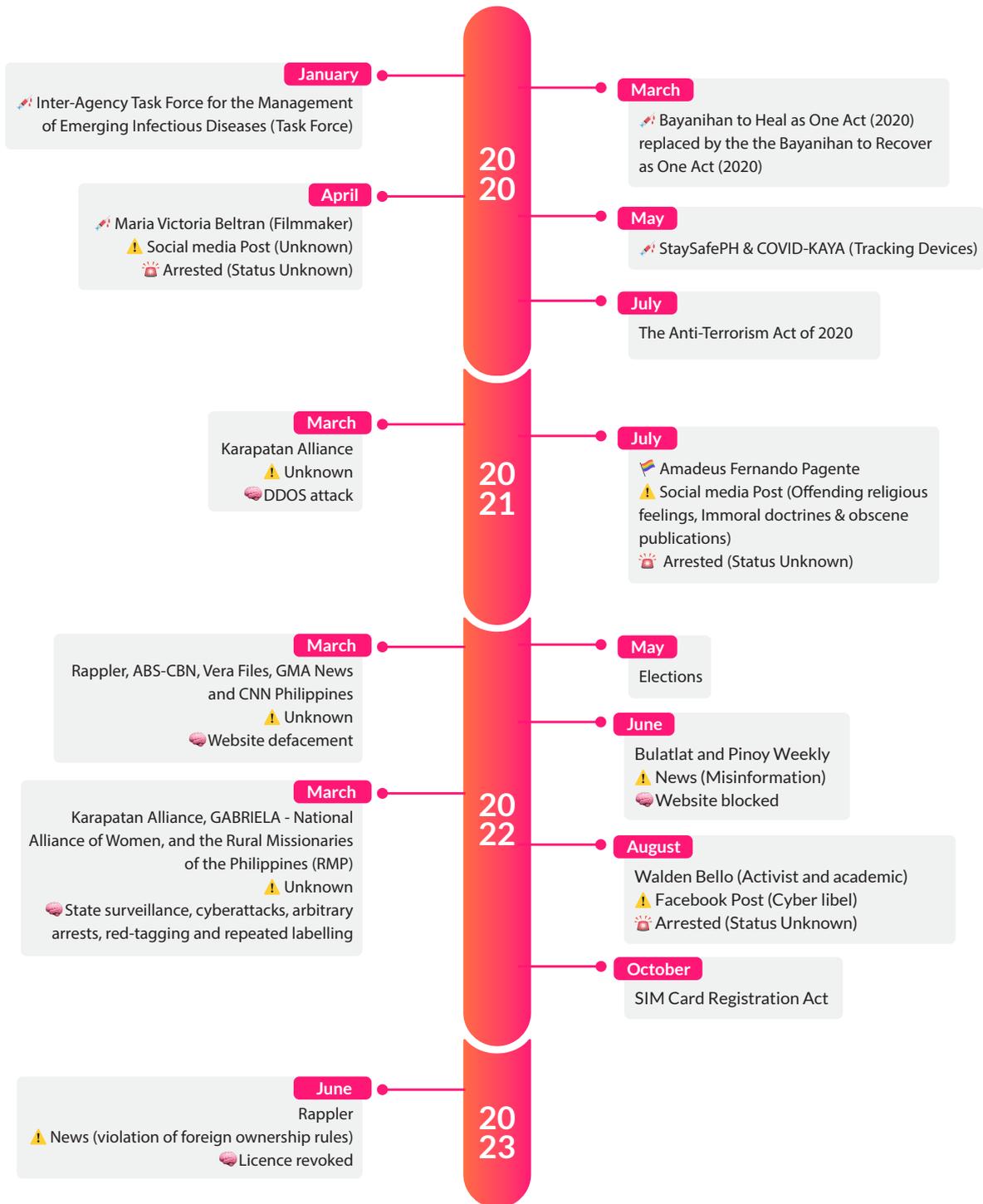


Fig. 4.4A: Summary timeline for the Philippines, 2020-2023

Country	Event	Contextualisation
 THE PHILIPPINES	 SIM Card Registration Act (2022)	This law requires all SIM card users to register their personal details, including name, address and identity card number, with telecoms operators
	 The Anti-Terrorism Act of 2020	It grants the government broader powers to prevent and combat terrorism, including the authority to conduct warrantless arrests and detain suspects for an extended period without judicial warrant, allowing the designation of individuals or groups as terrorists without due process and grants authorities the power to conduct surveillance.
	 Elections (2022)	Ferdinand Marcos Jr., commonly known as Bongbong Marcos, emerged victorious in the presidential election in the Philippines. The son of the late former President Ferdinand Marcos, who ruled the country as a dictator for over two decades, Marcos Jr.'s win has sparked discussions and reactions given the historical context associated with his family's regime.

Fig. 4.4B: Contextualisation for the Philippines' timeline, 2020-2023

Philippines' Cyber Libel Law: Invoked to Silence Journalists, Bloggers, and Netizens

THE OBSESSION TO SILENCE MARIA RESSA

One landmark case of cyber libel in the country is that of Rappler Executive Director Maria Ressa and researcher-writer Reynaldo Santos Jr. The Manila Regional Trial Court found Maria Ressa and Reynaldo Santos guilty of violating the Cybercrime Act in June 2020 over a Rappler article which the latter wrote on the links of the chief justice Renato Corona to several business people, including Wilfredo Keng who filed the case.³⁴ It also contained a line suggesting that Wilfredo Keng had ties to drugs and human trafficking operations. The article was published in May 2012, a few months before the Cybercrime Act took effect in September. It was republished in February 2014 with corrected typographical errors. This latter revised version of the article was regarded as a republication of the story and became the basis of a separate offence charged against them by the Regional Trial Court.



Maria Ressa

The conviction of Maria Ressa and Reynaldo Santos brought into sharp relief the myriad human rights concerns arising from the Act. Among those concerns is the fact that Wilfredo Keng filed the case in 2017, almost five years following the publication of the original article and way beyond the one-year statute of limitations for libel under the RPC. The Cybercrime Act, conversely, is silent on the statute of limitations for this offence. In response to such a problem, the Department of Justice used Republic Act No. 3326 to extend the RPC libel statute of limitations from one to 12 years. This means that libel suits can be filed by any person within 12 years of the publication of an alleged libellous material. According to Atty. Marnie Tonson of the Philippine Internet Freedom Alliance (PIFA), since the Cybercrime Act was passed after the publication of the article in the Rappler case, the change in statute of limitations should not extend to that case. The National Bureau of Investigation, however, claimed that the article is subject to the theory of “continuous publication,” which assumed that Wilfredo Keng discovered the story about him only after the law had been passed.³⁵ The conviction against Maria Ressa and Reynaldo Santos was upheld on appeal in July 2022. The Court of Appeals additionally sentenced both to longer sentences, adding eight months and 20 days.³⁶

In February 2020, Wilfredo Keng filed a second cyber libel lawsuit against Maria Ressa over a social media post she had made earlier that month, which included screenshots of the 2002 Philippine Star article linking him to a murder case.³⁷ Subsequently, the case was withdrawn on June 1, 2021.

A third libel case was instituted against Maria Ressa and another Rappler reporter Rambo Talabong over an investigative story on an alleged corruption practice at a university. Responding to the case, Rappler’s legal counsel stated that “cyber libel is now the first option in case of disagreement on reporting.”³⁸ On Aug. 10, 2021, the Manila court dismissed the case after the complainant decided that he was no longer interested in pursuing the case.³⁹ Notably, this

dismissal closely follows the withdrawal of Wilfredo Keng’s second cyber lawsuit just 2 months before.

On top of the multiple spurious charges against Maria Ressa, both Ressa and Rappler have also been facing targeted tax evasion charges since a case was filed by the Duterte administration in 2018. However, in a consequential legal victory on Sept. 12, 2023, both were acquitted of the charges, ending four years and 10 months of the trial.⁴⁰ The weaponisation of tax evasion laws is one of the common tactics used by authoritative governments to crackdown on activists and dissidents, and suppressing freedom of expression.

“

*These ridiculous cases remind us all of the importance of independent journalism holding power to account.*⁴¹

- Maria Ressa, Executive Director of Rappler

Despite the repeated weaponisation of libel by various actors, the Supreme Court appears to have shown some inclination to decriminalise it. In 2019, for instance, it sustained the conviction of broadcaster journalist and current senator Raffy Tulfo arising from an article he had written for Abante Tonight, a local tabloid publication, in 2003. The Court nevertheless only ordered Raffy Tulfo to pay the imposed fine and overturned his prison sentence. In 2021, the Court proceeded to acquit Raffy Tulfo of all libel charges against him and held that the “constitutionality of criminali[s]ing libel is doubtful.” In its decision,

the Supreme Court also stated that “[t]he need to protect freedom of speech and of the press cannot be understated. These freedoms are the most pervasive and powerful vehicles of informing the government of the opinions, needs, and grievances of the public.”⁴²

Media is Under High Pressure

In a concerted effort to repress media work in the country, on June 28, 2022, the Philippine Securities and Exchange Commission ordered the revocation of Rappler’s operating licence over an alleged violation of foreign ownership rules.⁴³ Rappler had also been the subject of a tax probe by the Duterte administration in early 2018 on similar foreign ownership allegations, which led to the online news outlet and its head Maria Ressa being indicted on tax evasion and failure to file tax returns charges later that year.⁴⁴ On Jan. 18, 2023, after more than four years of trial, Ressa and Rappler were acquitted by the Philippines’ Court of Tax Appeals, leaving her and Rappler with three remaining defamation and tax cases related to their activities.⁴⁵

“
Throughout the six years of the Duterte administration, we have seen lawsuits and regulatory processes used as tools to muzzle the press and these, as much as the touted infrastructure projects, form part of the Duterte legacy.”⁴⁶

- Written statement on the Rappler shutdown by the National Union of Journalists of the Philippines (NUJP)

Aside from Rappler, other media outlets and activists have also been targeted by cyber libel cases. Since its enactment in 2012, 3,770 cyber libel cases have been filed.⁴⁷ As of May 2022, there were 12 convictions on the basis of cyber libel.⁴⁸ In a study published in June 2023 analysing at least 50 Filipino journalists who face libel charges, the National Union of Journalists in the Philippines (NUJP) stated that in 61% of the cases, local politicians are the ones filing cases against journalists—thus reinforcing the idea that freedom of expression is often infringed upon by political actors.⁴⁹

On Aug. 8, 2022, social activist and academic Walden Bello was arrested on cyber libel charges. The charge came after he wrote in a Facebook post that Jefry Tupas, an ex-information officer for Vice President Sara Duterte, was involved in illegal drug use at a party raided by the Philippine Drug Enforcement Agency in November 2021. Walden Bello is an ardent critic of the late Ferdinand Marcos, father of sitting President Ferdinand Marcos Jr. and Duterte, in addition to being a well-reputed progressive voice in the country.⁵⁰

In a previous case from February 2022, Pauleen Velasquez, a 31-year-old woman in General Santos City, was arrested during a joint operation carried out by several law enforcement units in the area.⁵² A complaint was made against her for posting an allegedly libellous message on Facebook using a dummy account. She is now facing an imprisonment of prison mayor or a minimum fine of PHP 200,000 (\$3,522).⁵²

Online Attacks on Alternative and Mainstream Media

The past few years have also seen online attacks on both alternative and mainstream media sites.⁵³ In 2021, the human rights group Karapatan fell victim to sustained distributed denial of service (DDoS) attacks; a Swedish-based digital forensics nonprofit by the name of Qurium Media found that

the attacks were linked to the Department of Science and Technology of the Philippine military.⁵⁴ The Computer Emergency Response Team (CERT-PH) in the Department of Information and Communications Technology (DICT) also confirmed that an internet protocol address associated with cyberattacks against various alternative media outlets was linked to the Department of Science and Technology and the military.⁵⁵ The DICT stated that the allegations were “unfounded and patently false.”⁵⁶

The news websites Rappler and ABS-CBN, as well as websites Vera Files, GMA News and CNN Philippines, have all experienced several technical attacks.⁵⁷ A hacking group called Pinoy Vendetta claimed responsibility for these attacks, as well as others conducted on websites of opposition senators, the Philippine Senate and left-leaning groups. A spokesperson of the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC), Lorraine Badoy, praised the hackers for being able to put down websites of the political left. Despite this, the NTF-ELCAC and Pinoy Vendetta have both consistently denied collusion.⁵⁸ Lorraine Badoy has likewise accused Rappler of being “an ally and mouthpiece” of the Communist Party of the Philippines, New People’s Army and the National Democratic Front of the Philippines, in addition to stating that Facebook’s fact-checkers are “liars and unethical journalists” like Maria Ressa and Rappler.⁵⁹

Red-Tagging of Activists and Critics

In addition to lawsuits and cyberattacks, individuals in the country are targeted by state agencies through the creation of false narratives online. In January 2021, the Armed Forces of the Philippines (AFP) listed through a Facebook post several names of University of the Philippines alumni, claiming that they were joiners of the New People’s Army and had been killed or captured. The AFP has since taken down the post, but it has been circulated around by other Facebook pages. In a statement, the NUJP underscored that the AFP was motivated to push

the narrative that the University of the Philippines is a “breeding ground” for enemies of the state.⁶⁰

Journalists are among those who often get red-tagged publicly on social media. In April 2020, a photo of female journalists conducting a media safety training session from 2013 surfaced on several platforms. The photo’s caption claimed that one of the photographed women, who works with ABS-CBN broadcasting network, was involved in local communist groups.⁶¹ In a different incident, the Butuan City police posted a photo that named several organisations as communist groups on Facebook, while other law enforcement authorities in the city of Baguio accused a handful of left-wing groups of being terrorists on Twitter.⁶² Under the Duterte administration, red-tagging was a common form of harassment and intimidation, and it appears to continue under the current president, Ferdinand Marcos Jr. Red-tagging is especially dangerous for Indigenous activists because, having already reduced visibility, red-tagging further marginalised Indigenous peoples by labelling them as terrorists or communists. However, red-tagging can happen to anyone part of the opposition and, perhaps its most dangerous trait is that it often is a precursor for violent attacks.⁶³ There was hope for improvement in 2022 when the now ex-National Security Advisor, Clarita Carlos, declared she would want to stop this oppressive tactic.⁶⁴ That quickly changed only seven months into her role, when, in her own words, was forced out by other “forces.”⁶⁵ She was replaced by retired general Eduardo Año, who did not address the red-tagging issue so far. This is even more concerning because he is allegedly involved in the abduction of activist Jonas Burgos in April 2007 who has officially been ruled as an enforced disappearance authored by the military, and was also chief-of-staff of the Armed Forces of Philippines during Duterte’s authoritarian regime.⁶⁶

“

Red-tagging is a dangerous weapon used to stifle dissent and silence voices of truth. It undermines the very fabric of democracy, casting a shadow of fear and intimidation over those who dare to speak out for justice and equality.

-Anonymous

National Security Adviser Hermogenes Esperon Jr. also initiated a perjury case against three human rights groups in July 2019: Karapatan, GABRIELA (National Alliance of Women), and the Rural Missionaries of the Philippines (RMP) in retaliation to a protection order from government threats and harassment filed by the groups at the Supreme Court. In June 2022, the trial in their case began, which prompted international human rights organisations to call for its immediate suspension.⁶⁷ All three groups have been victims of state surveillance, cyberattacks, arbitrary arrests, red-tagging and repeated labelling in the past.⁶⁸



As we rejoice in the triumph of civil society groups Karapatan, GABRIELA, and RMP, who have been acquitted of the perjury charges levied against them, it is imperative that we maintain a vigilant stance. In the midst of 2023, there was a notable attempt to resurrect judicial harassment against ten Human Rights Defenders (HRDs) at a higher court, though the case was ultimately dismissed. This incident underscores the disconcerting trend of the government weaponizing the Anti-Terrorism Act (ATA) to stifle and persecute HRDs. The blatant misuse of the Anti Terror Law for suppressing and persecuting HRDs is alarming, and we urge the authorities to desist from such actions and refrain from causing further harm. The resilience of these individuals in the face of unfounded charges should serve as a testament to the importance of safeguarding the rights and freedoms of those dedicated to advocating for human rights. Despite the reprieve in this instance, it is crucial to remain watchful and proactive in defending against any future attempts to curtail the vital work of HRDs.

– Cornelius Hanung, East Asia and ASEAN
Programme Manager at FORUM-ASIA

Online Content Manipulation & Restrictions

State authorities also block access to websites and online news outlets. On June 8, 2022, the National Telecommunications Commission (NTC) ordered the blocking of access to the independent news websites Bulatlat and Pinoy Weekly on accusations that they publish “misinformation” and support local terrorist organisations.⁶⁹ National Security Adviser Hermogenes Esperon Jr. said that the order was issued pursuant to the Anti-Terrorism Act, citing provisions on incitement of and recruiting to commit terrorism. The blocking of these sites was condemned by the NUJP, who stated that it “leaves a gap in discourse and in the flow of information and highlights the threat posed by the Anti-Terrorism Law on freedom of expression and on freedom of the press.”⁷⁰

“

[T]he journalism community and the communities that we report about and must stand together against government moves to harass, restrict and silence any of us to keep the press free for all of us.⁷¹

- Anonymous (NUJP)

Bulatlat, one of the websites subject to the order, filed a civil lawsuit at the Quezon City Trial Court seeking the issuance of a temporary restraining order and/or a writ of preliminary injunction on the NTC memorandum.⁷² In August 2022, the Court ordered the NTC to cease access blocking and granted the independent media group’s application for an injunction.⁷³ The NTC, however, did not immediately execute the order, prompting Bulatlat’s managing company, Alipato Media, to file an indirect contempt petition against the NTC to compel implementation of the order.⁷⁴

The disruption of online expression is furthermore conducted by changing public narratives about sensitive political issues. During the May 2022 election period, politicians and political parties coordinated harassment campaigns to delegitimise critics and the media.⁷⁵

In the research project conducted by Digital Public Pulse (DPP), researchers identified several indicators of “networked political manipulation” on social media, including influential accounts taken down before analysis, obscure accounts widely shared, supposedly non-political pages sharing significant political content, and inflammatory attacks on politicians and media.⁷⁶ These accounts, termed “anti-democratic” actors, contribute to the influence of politicians on social media without being covered by election-related policies. Their freedom to spread partisan content without identity disclosure shields them from scrutiny. Platforms address such manipulation differently, with Facebook and YouTube conducting takedowns for coordinated inauthentic behaviour or influence operations, while Twitter handles it under its platform manipulation policy.

Further, requests to limit access to or remove content were reported by tech companies. Meta restricted access to 13 items on Facebook in 2020, one of which was based on a “private report of defamation” and to 25 items in 2021 on Facebook and Instagram.⁷⁷ Between January and June 2022,

the platform received 51 requests to restrict access to the two social media platforms and complied with 37 of them. They received 101 requests in the second half of 2022. There was a peak in requests in the first half of 2023, with 5,240 cases in total. Google reported 12 removal requests in 2020 and 81 in 2021, with a 43.7% compliance rate in the second half of 2021. We observe 62 requests for 2022. Like many other countries in Southeast Asia, there is a peak in 2023 with 66 requests only from January to June.⁷⁸ Throughout 2020, Twitter received 13 requests to remove content on 36 accounts and complied with a little over 60% of them.⁷⁹ A social media platform that did not record any requests to limit access or remove content between 2019 and 2022 was TikTok; however, in 2023, seven government requests to remove or restrict content or accounts were reportedly sent to the platform.⁸⁰ Further, according to data from the SurfShark website, the Philippines has had a total of 584 account data requests from Apple, Google, Meta, and Microsoft between 2013 and 2021.⁸¹

The legal response to the blocking of Bulatlat, including a civil lawsuit and court orders against the National Telecommunications Commission (NTC), reflects media organisations' efforts to challenge online expression restrictions. This shows the ongoing struggle between independent media and state authorities attempting to control the narrative, particularly in politically sensitive matters.

This also highlights how politicians and parties orchestrated harassment campaigns during the May 2022 election, undermining critics and the media. Exposing a broader pattern of manipulating public discourse during crucial moments, emphasising challenges to freedom of expression and the media's role in democracy. Finally, data on content restriction requests from tech giants like Meta, Google, and Twitter offers a quantitative view of content moderation efforts, revealing evolving dynamics in online restrictions and the response of major platforms to government demands.



PANDEMIC POLITICS: COVID-19 IMPACT ON ONLINE FREEDOM

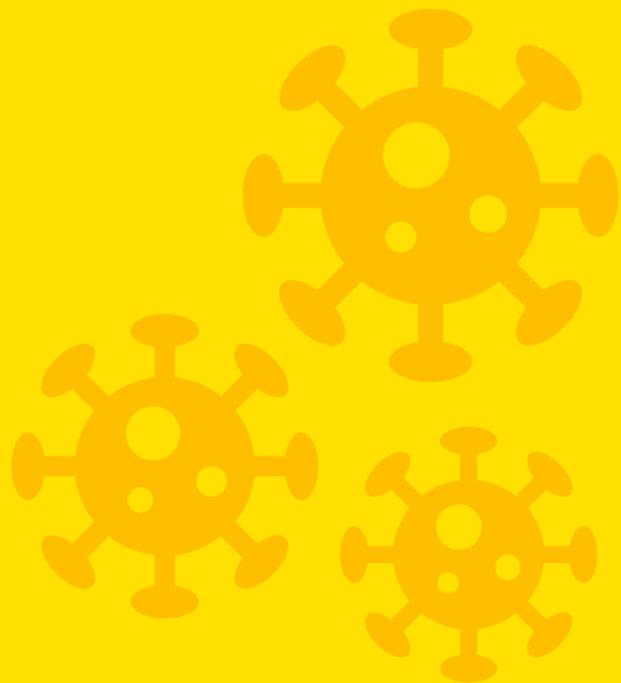
In light of the COVID-19 pandemic, the Philippine Government enacted RA No. 11469 in March 2020. Also known as the Bayanihan to Heal as One Act, the legislation grants the president additional authority to further criminalise online expression. The law passed determined several media and civil society groups to warn about the serious danger it poses to freedom of expression, mainly due to its failure to define false information.⁸² Although Section 6(f) of the Act expired in June 2020, at the time it penalised individuals and groups for the creation, perpetuation and spreading of ‘false information’ about the pandemic on social media and other platforms—especially if said information is clearly promoting “chaos, panic, anarchy, fear or confusion.”⁸³ Those found guilty could serve up to two months prison time, as well as be fined with sums ranging from PHP 10,000 (\$208) to 1 million pesos (\$20,755), or both.

The Bayanihan to Heal as One Act expired in Jun. 2020 and was subsequently replaced in September 2020 by RA No. 11494, also known as the Bayanihan to Recover as One Act.⁸⁴ However, the provision in the original law regarding the penalisation of those who spread false information was not renewed.⁸⁵

The government attempted to dictate the narrative around the COVID-19 pandemic and, in doing so, restricting online freedom. Individuals were reportedly forced by authorities to publicly apologise for posting critical content on social media.⁸⁶ There were also instances

when agencies ordered employees to refrain from making public critical comments on social media.⁸⁷ As a result, the Philippines witnessed an increase in online and media censorship.

In April 2020, filmmaker Maria Victoria Beltran was threatened with arrest and was eventually detained after she made a satirical social media post calling Sitio Zapatera in Cebu the nucleus of COVID-19.⁸⁸ During the same month, an editor of a university campus newspaper was threatened with the charge of cyber libel after he criticised on social media the Government’s response to COVID-19. Joshua Molo was then forced to publicly apologise.⁸⁹

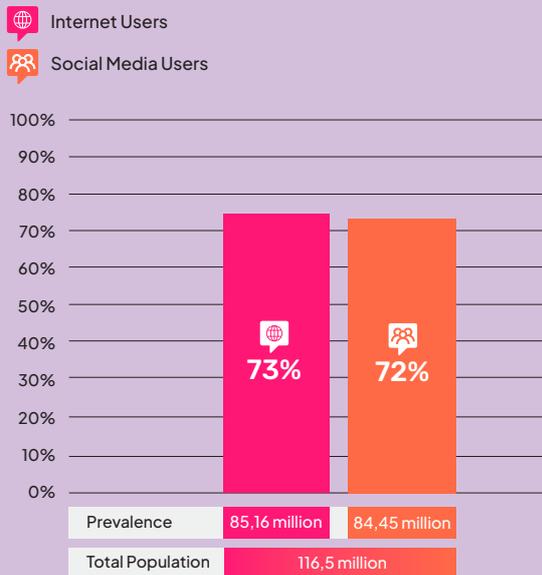




INTERSECTIONAL GENDER ANALYSIS: ONLINE GENDER BASED VIOLENCE IN THE PHILIPPINES

The Philippines maintains its position as the leading social media user in the Asia Pacific region for the year 2023, with an average daily usage of 3 hours and 38 minutes per individual.⁹⁰ While this extensive digital engagement might suggest a thriving online environment, it's essential to recognise that the sheer volume of activity does not necessarily translate to stringent adherence to laws and regulations by authorities.

The Philippines Percentage of Internet and Social Media Users



DataReportal, *Digital 2023, Philippines*, (9 february 2023), available at : <https://datareportal.com/reports/digital-2023-philippines>

Fig. 4.3B: Percentage of Internet and Social Media Users in the Philippines, 2023.

Despite the widespread use of social media, concerns persist regarding the effective implementation and enforcement of existing laws and regulations. The extensive online presence and the dynamic nature of digital interactions underscore the need for continuous scrutiny and refinement of legal frameworks to ensure the protection and rights of internet users in the Philippines.

Circumstances or cases wherein women in the Philippines, and those with intersecting identities, find themselves subjected to distinct forms of harassment. The venom of misogynistic comments and gender-based violence disproportionately targets them. Gender-based violence (GBV) facilitated by technology (called Technologically-Facilitated Gender Based Violence, TF GBV), includes acts committed, aided, intensified, or amplified through information communication technologies or other digital tools. This extends further as LGBTIQ+ individuals and ethnic minorities encounter compounded forms of online victimisation.⁹¹ TF GBV are frequently disregarded because they do not involve direct physical harm. However, they result in a variety of harms and violations of rights and freedoms, encompassing physical, sexual, psychological, economic, social, and political consequences.⁹²

In 2023, a 55-year-old widow from Nueva Ecija, faced extortion, with a man threatening to disseminate her intimate images unless she paid 3,000 pesos.⁹³ The perpetrator, now apprehended,

had no real connection with the victim-survivor; he found the images on a pornography site that included her personal information. In Caloocan City, a woman reported her ex-partner sharing her intimate images with friends after their breakup.⁹⁴ The 31-year-old man, upset about the relationship ending, demanded a meeting for deletion. Angeles City, Pampanga, witnessed a similar case where an offender sought sex in exchange for not publishing his former partner's intimate videos.⁹⁵

According to the 2023 ground mid-year report by Foundation for Media Alternatives, from January to June 2023, FMA documented 27 cases of Online Gender-Based Violence (OGBV), a 15% decrease from the previous year. The primary forms include non-consensual sharing of intimate content (81%), threats or blackmail (44%), and physical or sexual abuse (19%). Other offences include spying or surveillance (11%), harassment (7%), and control of accounts or information (4%). The National Capital Region reported the most cases (15), followed by Central Luzon (4) and CALABARZON (2). Victims are predominantly women and girls, with 40% below 18 years old, and perpetrators, all men or boys, have known relations with 76% having connections to the victims, ranging from partners to family, friends, or acquaintances.

These compellingly refutes the prevailing misconception that technology-facilitated sexual violence has minimal impact on women's lives. Contrary to this perception, Online Gender-Based Violence (OGBV), much like offline GBV, ruthlessly exploits people marginalised based on gender and LGBTIQ+ identity, exacerbating the marginalisation already faced by these communities. The stories vividly illustrate the pervasive and profound consequences of TF

GBV, challenging assumptions and underscoring the urgent need for comprehensive interventions to address the multifaceted dimensions of gender-based violence in the online realm.

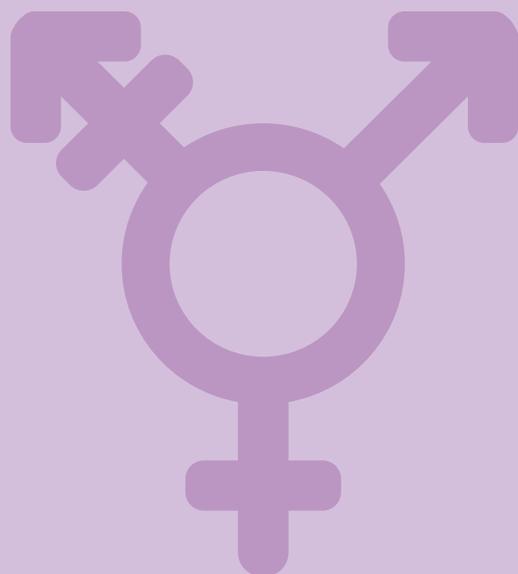
In the LGBTIQ+ community, the reality is that they still face challenges expressing themselves freely on social media due to pervasive criticism and discrimination. Despite advancements in recognising and affirming LGBTIQ+ rights, many individuals within this community still encounter prejudice, bias, and derogatory comments when sharing their experiences, opinions, or personal stories on various social media platforms. Pura Luka, also known as Amadeus Fernando Pagente, a LGBTIQ+ (non-binary identifying) Philippine drag artist, has been charged with six counts of violating Article 133 (offending religious feelings) and Sections (2)(B)(3) and (2)(B)(5) of Article 201 (immoral doctrines and obscene publications) of the Revised Penal Code, in connection with Section 6 of Republic Act 10175, the Cybercrime Prevention Act of 2012, simply for their artistry.⁹⁶ This arose after Pura Luka uploaded a series of videos posted on social media, including their controversial "Ama Namin" performance.⁹⁷ This is just one of many under-reported cases of online discrimination and violence against the LGBTIQ+ community in the Philippines.

The practice of actively exercising one's political rights is also heightened for women and LGBTIQ+ individuals in the Philippines. During the National elections in 2022, Aika Robredo, one of the daughters of Former Vice President Leni Robredo who is running for Presidential position was not exempted from experiencing TF GBV. Social media and the Google search engine were suddenly inundated with links to an alleged sex video purportedly involving Aika

Robredo, the eldest daughter of the Vice President.⁹⁸ Here, the Commission on Human Rights has maintained its position to condemn practices that debase, objectify, and treat women and their bodies as instruments of entertainment and tools for political mudslinging amid campaign events.⁹⁹

While there are policies and regulations in place, there must be a convergence in the formulation of government policies. Thus, the need for data intricacy becomes evident. Gender-disaggregated data is not merely a statistic but a tool for nuanced understanding, a compass guiding policies to impact different groups equitably. An intersectional feminist approach calls for inclusive decision-making processes, ensuring that policies are crafted to address the nuanced needs and concerns of women with diverse identities. Aside from forming holistic policies in the Philippines, there is also a need to spearhead digital literacy and education for empowerment. This should include an intersectional approach that demands cultural sensitivity in educational programs, recognizing the diverse needs of women with various identities. It should go beyond imparting basic skills, but aiming to empower women and intersecting genders to engage critically with technology, challenging prevailing gender norms and stereotypes perpetuated online.

Overall, the above examples demonstrate the obstacles in the way for women and LGBTIQ+ communities to safely navigate the Philippine digital space. The narratives and information above will ideally call the community to action to recognize, understand, and dismantle the barriers that impede the full and equal participation of women with diverse identities in the digital evolution of the Philippines, as well as for the rest of the region.



THE PHILIPPINES



2023 Political Overview

Congressional Presidential system in theory, semi-authoritarian regime in practice.

Head of State, Head of Government

President Ferdinand 'Bongbong' R. Marcos Jr.



Pura Luka Vega

Philippine nonbinary drag artist

#FreePuraLuka

🏳️‍🌈❤️ CASE STUDY

Identity-based violence, anti-LGBTQIA+ sentiment, and the weaponisation of religion are tools often used to perpetuate **Digital Dictatorship**, such as in the case of this Philippine drag artist...

WHEN

2021–2023 (videos posted); early October 2023 (arrest)

WHERE

Manila, the Philippines

WHO

Pura Luka Vega (government name Amadeus Fernando Pagente), Philippine nonbinary drag artist 🏳️‍🌈❤️

WHY/WHAT

🏳️‍🌈❤️ Pura Luka posted a series of videos on social media of their drag shows. This was enough to have reports filed against them, and for them to be detained.

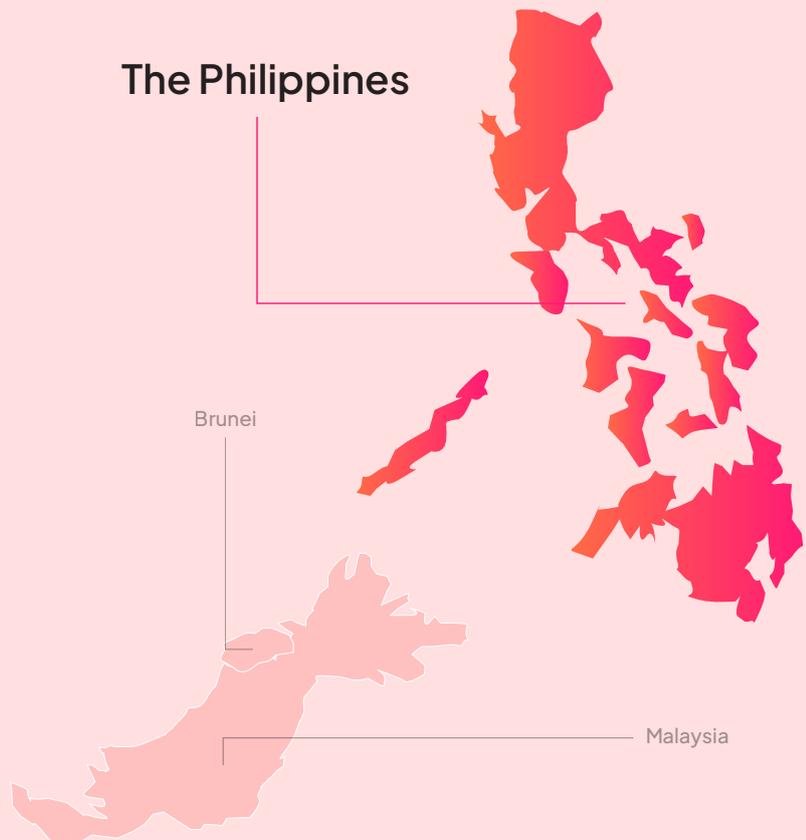
HOW

⚠️ How Digital Dictatorship has caused the violation of Pura Luka's human rights:

🗣️📺🙏 Kapisanan ng Social Media Broadcasters ng Pilipinas Inc. (KSMBPI) made a complaint to the Pasay Prosecutor's Office, on the grounds that Pura Luka was allegedly spreading 'vulgar content,' 'mocking Jesus,' and being 'immoral.' In the context of LGBTQIA+ lived experiences, these accusations are likely rooted in homophobia.

🙏📺 Pura Luka was declared persona non grata (a socially 'unacceptable/unwelcome person') and arrested, charged with violating **Article 133 (offending religious feelings), and Sections (2)(B)(3) and (2)(B)(5) of Article 201 (immoral doctrines and obscene publications) of the Revised Penal Code of the Philippines**. Pura Luka was detained for 3 days, and was released upon paying a P 72,000 bail bond.

The Philippines



Al Jazeera, *Philippines' drag artist Pura Luka Vega arrested for 'offending religion'*, (6 October 2023), available at:

<https://www.aljazeera.com/news/2023/10/6/philippines-drag-artist-pura-luka-vega-arrested-for-offending-religion>

Inquirer, *Pura Luka Vega faces new criminal raps for offending religious feelings*, (23 October 2023), available at:

<https://entertainment.inquirer.net/524202/pura-luka-vega-faces-new-criminal-raps-for-offending-religious-feelings-cybercrime>.



Arrests, litigation, and the other forms of harassment mentioned in this case study are just some examples of how Digital Dictatorship has affected the individual(s) mentioned, as well as Southeast Asian society as a whole. HRDs and/or journalists, including the one(s) in this case study, are often perpetually targeted by Digital Dictatorship in numerous ways that go beyond just what is discussed here.

4.3 Access to Effective Remedy: Granted by the Constitution, but Hindered by an Inaccessible Legal System

Article III, Section 14 of the Philippine Constitution embodies the principles of due process of law and presumption of innocence in criminal proceedings. Section 11 further mandates the free access of all persons to the courts, quasi-judicial bodies and adequate legal assistance. The Public Attorney's Office (PAO) was established under the Department of Justice to provide free legal representation to persons who either have no income or are below certain income thresholds in civil, criminal and administrative cases. There are also legal groups that provide free legal assistance to indigents, such as the Integrated Bar of the Philippines and the Free Legal Assistance Group. Law schools also have pro bono legal service centres with similar functions. Nevertheless, it is generally known that the Philippine legal system is difficult to navigate, expensive, and resource-consuming, and the justice system continuously fails to guarantee due process rights.

Non-Judicial Grievance Mechanisms

Non-judicial grievance mechanisms are further available to citizens. The Philippines is a member of the UN and, like most other member states, it undergoes a Universal Periodic Review every four to five years, which puts its human rights laws and policy under the microscope to be reviewed by other states.

The Philippines has an A-accredited National Commission on Human Rights as one of the three independent offices set up to investigate all forms of human rights violations involving civil and political rights in the country. Following the expiry of the

previous set of commissioners on May 5, 2022, the institution was left in a vacuum.¹⁰⁰ In September 2022, President Marcos Jr. appointed the first two of five commissioners.¹⁰¹

In the current 19th Congress, three bills addressing the issue of HRDs were filed at the House of Representatives.¹⁰² During the previous Congress, a similar bill authored by Rep. Edcel C. Lagman was adopted by the Lower House but was never enacted, given the Senate's failure to adopt its corresponding bill.¹⁰³ The Duterte administration criticised this initiative as unnecessary, unconstitutional, and serving only the interest of terrorist organisations such as the Communist Party of the Philippines, the New People's Army and the National Democratic Front.¹⁰⁴ The absence of an effective mechanism exacerbates the situation, allowing for the continuation of "red-tagging" practices without proper accountability. Recently, the UN expert's call for authorities to denounce these practices and the suggestion to abolish the counter-terrorism task force (NTF-ELCAC) indicate a need for comprehensive non-judicial mechanisms.¹⁰⁵ Such mechanisms would not only protect individuals from unjust accusations but also foster a more inclusive and transparent process for addressing human rights concerns, thereby contributing to a more just and accountable society. Such mechanisms would not only protect individuals from unjust accusations but also foster a more inclusive and transparent process for addressing human rights concerns, thereby contributing to a more just and accountable society. The persistence of threats, surveillance, and even unlawful killings emphasises the urgency of establishing or strengthening non-judicial grievance mechanisms to safeguard the rights of individuals and create a more conducive environment for freedom of expression and activism.¹⁰⁶

Anti-SLAPP and Whistleblower Protections: A Challenge for Freedom of Speech in the Philippines

Another important view to consider in protecting the Freedom of Speech mandated under the 1987 Constitution is protection against SLAPP cases and whistleblowers. Protection against SLAPP cases is limited to environmental cases. The 2010 Supreme Court Rules of Procedure for Environmental Cases allows a SLAPP defence when an accused can allege that a lawsuit is brought against them “with the intent to harass, vex, exert undue pressure or stifle any legal recourse that one has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights.”¹⁰⁷ Moreover, courts could hold a summary hearing and dismiss a case if it is proven to constitute a SLAPP suit and permit a SLAPP accused to seek damages and compensation.¹⁰⁸ Nothing in the rule indicates that such a dismissal is mandatory, however, save for cases where it is specifically requested by the party concerned.

While the Philippines’ whistleblower protection framework is far from perfect, Republic Act No. 6981, or the Witness Protection Security and Benefit Act contains a clause that encourages “a person who has witnessed or has knowledge of the commission of a crime to testify before a court or quasi-judicial body, or before an investigating authority, by protecting him from reprisals and economic dislocation,”¹⁰⁹ in practice, past whistleblowers involved in high-profile scandals were still pushed into exile for fear of such reprisal and dislocation. The Witness Protection Program of the Department of Justice is also limited to those testifying about an offence not categorized as a grave felony or if there is no sufficient likelihood that the witness or their family will be killed, forced, intimidated, harassed, or corrupted. Several attempts by the Senate to pass a whistleblower act have failed. In 2016, former President Duterte urged Congress to

legislate a bill on the subject, and one such bill was debated the year after, but not passed.¹¹⁰

Both Anti-SLAPP measures and whistleblower protections contribute to the creation of an environment where citizens are free to express their opinions, discuss matters of public interest, and expose wrongdoing without the fear of legal repercussions or personal harm. Moreover, by protecting those who disclose information about illegal or unethical conduct of the erring public officials, these measures contribute to a more accountable society. Freedom of speech, coupled with legal protections, ensures that information that serves the public interest is not suppressed, allowing for a more transparent and accountable governance.

The Philippines can adapt to these measures to cultivate a culture where openness and transparency are valued. This, in turn, strengthens the principles of freedom of speech enshrined under the 1987 Constitution by removing barriers that might otherwise hinder individuals, concerned citizens, and human rights defenders from expressing their views or sharing critical information. Further, this ensures that human rights defenders can engage in their advocacy work without being unduly hindered by the threat of lawsuits or retaliation. This contributes to a more robust human rights culture, where defenders play a pivotal role in advancing justice and accountability.

Finally, Anti-SLAPP measures and whistleblower protections are integral components of a legal framework that safeguards and enhances freedom of speech. By discouraging intimidation tactics and providing legal safeguards for those who speak out against wrongdoing, these measures contribute to a society where open discourse thrives, accountability is upheld, and the public interest is well-served.

Chapter V.

Recommendations

In this chapter, we will discuss recommendations regarding the governance of the digital space in Thailand. These recommendations are addressed to different stakeholders.

Recommendations to Governments

- 1 Decriminalise defamation and libel by repealing or amending Article 353 to 358 of the Revised Penal Code, and the cyber libel law, Section 4(c)(4), prescribed in the 2012 Cybercrime Prevention Act (Republic Act No. 10175), bringing them in line with Article 19 of the International Covenant on Civil and Political Rights;
 - a. In particular, clarify or reform the definition of “defamation” and “libel” so that they are written in ways that are comprehensible and accessible to all members of society, so that all society members are aware of their responsibilities, protections and the consequences of not abiding. The repeal or amendment process should include effective public consultation (in particular, taking into account historically marginalised opinions);
 - b. Specify the penalties prescribed for cyber libel, addressing the contradictions posed by Article 358 and 355, to ensure the right to freedom of expression and access to information is not impacted.
 - c. Build on the efforts of House Bill No. 1769, and have the Committee on Revision of Laws take decisive action.
- 2 When punishing expression as a threat to national security under Sedition Law in Article 142 of the Revised Penal Code, and the 2020 Terrorism Act, the scope of ‘incitement’ should be specified, and
- 3 the government must demonstrate, with evidence, that:
 - a. the expression is intended to incite imminent violence;
 - b. it is likely to incite such violence; and
 - c. there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence, in line with the Johannesburg principles;
- 4 When punishing creators of online content deemed “false news which may endanger the public order, or cause damage to the interest or credit of the State, under Article 154, the government must demonstrate, with evidence, that:
 - a. the expression is false news and;
 - b. the news will endanger the public order; and repeal clause (c) which will enable human rights defenders, journalists, civil society members, ordinary users, lawyers and academics to safely carry out their legitimate online activities to spread awareness for human rights violations without fear or undue hindrance, obstruction, judicial harassment, and/or online harassment (eg OGBV and general OBV, hate speech campaigns or doxxing):
 - c. cause damage to the interest or credit of the State;
- 5 Guarantee transparency and access to information, both offline and online, particularly where such information relates to the public interest and impacts upon the individual’s right to public participation, including by amending existing laws or adopting a law to

enable provision of such access. Implement measures to enhance transparency in political advertising, including clear disclosure of funding sources and target audiences to promote accountability and integrity, and combat disinformation;

- 6 Expand the 2010 Supreme Court Rules of Procedure for Environmental Cases, an anti-SLAPP law, to all areas of law to ensure legal protections against strategic lawsuits against public participation (SLAPP) aiming at silencing dissent, and protect individuals from judicial harassment by the state and corporations;
- 7 Expand the Republic Act No. 6981 to include offences categorised as grave felonies, to ensure whistleblowers are not pushed into exile or are victims of reprisal or dislocation.
 - a. Clarify legal responsibility under civil and administrative law for what constitutes ‘online gender-based violence (OGBV),’ ‘hate speech,’ ‘hateful conduct,’ ‘harassment,’ ‘doxing,’ and other key terms, while simultaneously upholding the right to freedom of expression and opinion. Enable people of marginalised groups (e.g. women, LGBTIQ+, disabled peoples, people marginalised based on ethnicity, Indigenous peoples, etc.) to guide and participate in the development of reasonable definitions for terms used in legislation that disproportionately affect them. Ensure that reports of online gender-based violence (OGBV) are subject to systematic and consistent investigation, and offer assistance to individuals or groups affected;
 - b. Expand any definitions of ‘personal information’ and/or ‘private information’ to protect (if not already protected) an

individual’s full legal name; date of birth; age; gender/legal sex; LGBTIQ+ identity; places of residence, education and work; private personal information of family members and relatives; descriptions and pictures depicting an individual’s physical appearance; and screenshots of text messages or messages from other platforms. These should be considered when investigating cases of doxing, smear campaigns, and other instances of online violence that weaponise an individual’s personal/private information against them. Ensure that reports of doxing campaigns and other forms of violence on the digital space are subject to systematic and consistent investigation, and offer assistance to individuals or groups affected.

- 8 Working with responsible MPs and with tech companies, enforce social media policies to prevent harmful effects of doxing. Establish a committee, if not already in place, to ensure compliance with these regulations, with a particular focus on moderating or removing illicit content.
- 9 Repeal or amend the SIM Card Registration Act, replacing it with a system of self-regulation. Cease the targeting and criminalisation of legitimate online speech by opposition activists, journalists, HRDs, and other dissenting voices solely in the exercise of their rights to free expression online, through the abuse of laws and administrative regulations;
- 10 Denounce and halt all red-tagging practices, abolish the counter-terrorism task force (NTF-ELAC), and cease all other targeting and criminalisation of legitimate online speech by opposition activists, journalists, HRDs, and other dissenting voices solely in the exercise of their rights to free expression online,

through the abuse of laws and administrative regulations;

- a. prevent the placement of arbitrary restrictions on, or arrests of journalists, activists and human rights defenders who merely criticise public officials or government policies

- 11 Legally recognise human rights defenders and provide effective protection to journalists, HRDs and other civil society actors who are subjected to intimidation and attacks owing to their professional activities;
- 12 Recognise online and technology facilitated online gender-based violence (OGBV) as a human rights violation and include it in laws to criminalise and prohibit all forms of violence in digital contexts. Enhance the capabilities of law enforcement agencies to effectively investigate and prosecute such crimes;
- 13 Conduct and integrate gender-disaggregated data within the Philippine Statistics Authority, and other online discrimination surveys to build a knowledge base to drive evidence-based decision-making on OGBV. Ensure the data is reliable, and accessible to state officials and policymakers alike.
- 14 Ensure inclusivity and promote effective decision-making and policymaking on OGBV by actively including the voices and perspectives of women with various identities in all relevant processes, recognizing their valuable insights and experiences.
- 15 Strengthen collaboration with the technology industry, feminist organisations, civil society, the Philippine Commission on Human Rights and the Philippine Commission on Women, and regional human rights bodies to bolster measures and policies aimed at promptly and effectively providing remedies to victims of online gender-based violence (OGBV);
- 16 Implement an immediate moratorium on the export, sale, transfer, servicing, and use of targeted digital surveillance technologies until rigorous human rights safeguards are put in place to regulate such practices. In cases where such technologies have been deployed, ensure both targeted individuals and non-targeted individuals whose data was accessed as a result of someone else's surveillance are notified, implement independent oversight, and ensure targets have access to meaningful legal remedies;
- 17 End all legal proceedings against individuals facing investigation, charges or prosecution initiated by state authorities for engaging in legitimate activities protected by international human rights law or for addressing violations. Cease all violence against independent media and journalists allowing them to freely report on the emerging situation in the country and stop all efforts to restrict independent information from reaching people;
- 18 Ensure that all measures restricting human rights that may be taken in response to mass-destabilising events, including public health emergencies such as a global pandemic, are lawful, necessary, proportionate and non-discriminatory. Review the measures taken in response to the pandemic, including Bayanihan to Heal as One Act (2020) replaced by the Bayanihan to Recover as One Act (2020), Inter-Agency Task Force for the management of Emerging Infectious Disease (Task Force, January 2020), StaySafePh & COVID-KAYA (Tracking Devices, Mau 2020), in order to ensure that a clear and sufficient legal framework exists for the response to any future pandemic, and take a cautious, progressive approach to emergency measures, adopting those that require derogation only as a last resort when strictly required because other, less restrictive options prove inadequate;

- 19 Take immediate steps to ensure and protect the full independence and impartiality of the judiciary and guarantee that it is free to operate without pressure and interference from the executive;
 - a. Ensure the Revised Penal Code is not being used to discriminate against marginalised groups,
 - b. Ensure due process rights are guaranteed
- 20 Facilitate the participation, leadership, and engagement of a diverse range of people of marginalised communities in government. Create task forces to take proactive initiatives to safeguard marginalised communities (e.g. women, LGBTIQ+, people marginalised based on ethnicity) from specific forms of abuse, (e.g. hate crimes, smear campaigns, the sharing of intimate images online including revenge porn), doxxing, hate speech, and overall gender-based violence.
- 21 Carry out routine assessments of the state of digital rights under the jurisdiction. Facilitate the creation of task forces, consisting of individuals trained in the safeguarding of digital rights, to investigate these affairs.
- 22 Set up accessible, appropriate and safe, judicial and non-judicial grievance mechanisms with a victim-centred approach, Provide, among the remedies, fair treatment, just compensation or satisfaction, and the establishment of sufficient grounds to avoid its repetition. Also, implement an evaluation system that regularly screens the existing mechanisms.
- 23 Integrate subjects related to OGBV and healthy relationships, consent, bullying and online safety in school curricula, through a Department of Education campaign against OGBV.
- 24 Provide gender training for law enforcement officers for them to investigate OGBV cases and prosecute perpetrators.

Recommendations to Members of Parliament

- 1 Propose amendments to the Revised Penal Code and other laws to address all shortcomings in line with international human rights standards such as UDHR and the ICCPR; and gather consensus among other MPs to ensure these amendments are adopted into the text of the law;
- 2 Hold the government accountable by ensuring that the steps taken by government bodies and agencies in the legal framework are evaluated and analysed on an individual as well as regular basis, applied only in cases where there is a risk of serious harm, and cover both the enterprises in the public and private sector without discrimination, particularly when such a step could result in the violation of rights of individuals affected;
- 3 Build discussion and debate around digital rights with specific attention paid to the socioeconomic and legislative context of the Philippines as well as good practices adopted regionally and internationally, with the general public actively involved in providing the grassroots perspective;

- 4 Adopt and enforce national laws to address and punish all forms of gender based-violence, including in the digital space. Legal and policy measures to eradicate online gender-based violence (OGBV) should be framed within the broader framework of human rights that addresses the structural discrimination, violence and inequalities that women and other communities marginalised based on gender (e.g. the LGBTIQ+ community) face. Policies should also highlight specific forms of abuse that people marginalised based on gender often face online (e.g. doxxing, non-consensual sharing of intimate pictures online, the spread of deep fakes);
- 5 Adopt specific laws and measures to prohibit new emerging forms of online gender-based violence (OGBV), as well as specialised mechanisms with trained and skilled personnel to confront and eliminate online gender-based violence;
- 6 Organise and take responsibility for task forces that will take proactive initiatives to safeguard marginalised communities (e.g. women, LGBTIQ+, people marginalised based on ethnicity) against specific forms of abuse (e.g. hate crimes, smear campaigns, the sharing of intimate images online including revenge porn), doxxing, hate speech, and overall gender-based violence.
- 7 Ensure that the opposition parties are allowed to fully participate in drafting and passing legislation to enable them to fully represent their constituents.

Recommendations to Tech Companies

- 1 Ensure the companies' terms of services and policies are uniform and in compliance with international standards on freedom of expression, which are reviewed regularly to ensure all circumstances and situations that may arise have been addressed, while also addressing new legal, technological, and societal developments, in line with the obligation to respect human rights under the UNGPs;
- 2 Drop the for-profit business model that revolves around overcollection of data. Such business models are being utilised by the government and are violating data rights.
- 3 Adopt the Global Network Initiative Principles on Freedom of Expression and Privacy;
- 4 Clearly and completely explain in guidelines, community standards, and terms of services what speech is not permissible, what aims restrictions serve, and how content is assessed for violations;
 - a. Ensure tech companies recognise gendered hate speech as hate speech,
 - b. Ensure profanities and slang in Filipino local languages directed against human rights defenders are considered hate speech, including less common words or phrases which convey the same threat of serious harm as "kill", "murder" or "rape".
- 5 Ensure the integrity of services by taking proactive steps to counteract manipulative tactics utilised in the dissemination of disinformation, including the creation of fake accounts, amplification through bots, impersonation, and the proliferation of harmful deep fakes.

- 6 Prioritise prediction of, preparation for, as well as protection against digital dictatorship and online-based violence when launching, revolutionising, or reforming products, services, and initiatives. The guidelines of the Center for Countering Digital Hate (CCDH) ‘STAR Framework’ should be urgently considered, which include: safety by design; transparency in algorithms, rules enforcement, and economics; accountability systems implementation; and corporate responsibility.¹ In addition, these predictive, preparative, and protective factors must take into account and implement the input of marginalised communities (e.g. LGBTIQ+ peoples, women, and those marginalised based on ethnicity) who often become targets of online violence that is often unregulated or even perpetuated by existing systems;
- 7 Products, services, and initiatives must have consumer safety in mind from the very beginning of conception. This means that product, service, and initiative developers, as well as high-level executives, must all take all possible measures to ensure that their products are safe, by design for all users, including marginalised communities (e.g. including LGBTIQ+ peoples, women, and those marginalised based on ethnicity). Not only does far-sighted consideration ensure user safety and the safeguarding of human rights, but it will also increase the longevity of these products, services, and initiatives in a rapidly changing economy where people are becoming increasingly aware and adamant about the protection of their human rights. Ensuring safety by design includes the practice of performing thorough risk assessments, and educating developers as well as executives to recognise their responsibilities to uphold human rights standards during the development as well as execution processes;
- 8 Promote transparency. CCDH specifically highlights the need for transparency in “algorithms; rules enforcement; and economics, specifically related to advertising.”² Though transparency is more of a ‘preparative’ factor rather than a ‘preventive’ one, it will make civic engagement and corporate accountability much more effective, ultimately amounting to increased ‘prevention’ efficacy;
- a. Transparency in algorithmic development, for example, is essential; though algorithms are not responsible humans, they were created by responsible humans. This same logic can be applied to Artificial Intelligence (AI); though AI is not human, it was created by humans. If algorithms and AI are developed and/or trained by humans with harmful biases (e.g. misogynistic, anti-LGBTIQ+, ableist, racist biases), they are accordingly likely to cause and perpetuate harm (e.g. misogynistic, anti-LGBTIQ+, ableist, racist harm). Transparency in the development of algorithms, AI, and other technologies is essential so that any harm being perpetuated by these non-human systems can be flagged, and accordingly addressed.
 - b. The same logic can be applied to company regulation development processes, as well as advertising strategy. For example, if company regulations were formulated in a way that disproportionately excludes marginalised voices (e.g without any adopted input from a diverse range of

1. CCDH, *PUBLIC SUPPORT FOR SOCIAL MEDIA REFORM: Assessing CCDH’s STAR Framework for social media regulation*, (16 August 2023), available at: <https://counterhate.com/research/public-support-for-social-media-reform-star/>; The following recommendations will elaborate on this.

2. CCDH, *PUBLIC SUPPORT FOR SOCIAL MEDIA REFORM: Assessing CCDH’s STAR Framework for social media regulation*, (16 August 2023), available at: <https://counterhate.com/research/public-support-for-social-media-reform-star/>.

people of intersectional identities, such as women, LGBTIQ+ people, disabled people, or people marginalised based on ethnicity), those regulations are more likely to cause or perpetuate human rights violations. Companies should implement measures to enhance transparency in advertising, including clear disclosure of funding sources and target audiences to promote accountability and integrity, and combat disinformation;

- 9 Transparency goes hand-in-hand with effective corporate regulatory and accountability systems. The people who run and work for tech companies, like consumers, are humans, who must be proportionately held accountable for their actions if they intend to create products, services, and initiatives for consumption by civil society. Companies and their stakeholders (particularly senior executives) must recognise they hold a lot of economic, political, and social power by virtue of being in their positions, and thus naturally hold more responsibility than the average consumer. This means that though consumers have their own responsibilities, companies cannot put responsibility disproportionately on the consumer to regulate their own use of the companies' products, services, and initiatives, if these companies genuinely intend to safeguard human rights. Thus, companies must implement regulatory systems that put people above profit, in order to allow themselves to be held accountable, and in order to facilitate their self-regulation;
- 10 Enable people of marginalised groups (e.g. women, girls, LGBTIQ+ people, disabled people, people marginalised based on ethnicity), to participate and lead in the technology sector to guide the design, implementation, and use of safe and secure digital tools and platforms.
- 11 Commit to eradicating online gender-based violence (OGBV) and allocate resources to information and education campaigns aimed at preventing ICT-facilitated gender-based violence. Additionally, invest in raising awareness for the intersection between human rights and digital security, demonstrating how human rights must be taken seriously in both the offline and online spaces. This can come in many forms, including working closely with local communities and human rights organisations (e.g. feminist groups, LGBTIQ+ groups) to facilitate dialogue and sensitivity training regarding the needs of people marginalised based on gender and/or other factors;
- 12 Implement and communicate stringent user codes of conduct across their platforms, ensuring their enforcement. Additionally, establish uniform content moderation standards that can effectively identify and address nuanced forms of online violence, while remaining sensitive to diverse cultural and linguistic contexts;
- 13 Improve the systems for reporting abuse so that victims of online gender-based violence (OGBV) and racial discrimination can easily report it and track the progress of the reports;
- 14 Publish regular information on official websites regarding the legal basis of requests made by governments and other third parties and regarding the content or accounts restricted or removed under the company's own policies and community guidelines, and establish clear, comprehensive grievance mechanisms that allow governing bodies and civil society members to dispute restrictions or removals of content and accounts. Aside from being clear and comprehensive, these mechanisms must have efficient, effective, and bias-trained systems of humans and/or electronic systems ready to receive and handle the grievances.;

- 15 When appropriate, consider less-invasive alternatives to content removal, such as demotion of content, labelling, fact-checking, promoting more authoritative sources, and implementing design changes that improve civic discussions;
- 16 Engage in continuous dialogue with civil society to understand the human rights impacts of current and potential sanctions, and avoid overcompliance in policy and practice;
- 17 Ensure that the results of human rights impact assessments and public consultations are made public;
- 18 Ensure that any requests, orders and commands to remove content must be based on validly enacted law, subject to external and independent oversight, and demonstrates a necessary as well as proportionate means to achieve one or more aims.
- 19 Organise task forces and initiate proactive initiatives to safeguard LGBTIQ+, women, girls and other concerned minorities against specific forms of abuse, (e.g. the non-consensual sharing of intimate images, including revenge porn), doxxing, hate speech, and overall gender-based violence.
- 20 Carry out routine assessments of human rights impacts and provide comprehensive transparency reports on measures taken to address the against marginalised communities (e.g. e.g. hate crimes, smear campaigns, the sharing of intimate images online including revenge porn).
- 21 Conduct assessments and due diligence processes to determine the impact of business activities on users, with respect to online freedom. Ensure meaningful and inclusive stakeholder engagement, with no one left behind.

Recommendations to Civil Society

- 1 Set up an independent multi-stakeholder body with the cooperation of various sectors to monitor and provide recommendations on trends in, and individual cases of digital rights abuses;
- 2 Work alongside governments and other stakeholders, to generate dialogue on issues and ensure accountability of government measures especially when it comes to issues related to democracy and human rights;
- 3 Support the independent evaluation and analysis of substantive aspects, including the use of the principles of necessity and proportionality through established global standards, and the impact of responses on society and economy;
- 4 Hold implementing authorities and officials liable for the misuse of their powers or information obtained, while carrying out their duties in the existing legal framework;
- 5 Strengthen understanding and solidarity among underprivileged people (e.g. class solidarity, solidarity among women and others marginalised based on gender, understanding among different ethnic groups within a jurisdiction);
- 6 Promote a safe and respectful environment for free online expression;
- 7 Continue to increase knowledge on digital security through training and capacity building programs, and actively carry out training on

media literacy, including how to verify information to be true;

- 8 Continue to conduct awareness campaigns to educate individuals and communities about the various forms of gender-based violence, its impact on survivors, and the importance of promoting a safe and respectful online environment; Efforts must engage men and boys to change harmful attitudes, perception and behaviours at broader societal-level;
- 9 Advocate for the implementation and enforcement of robust laws and policies that criminalise all forms of gender-based violence, including online gender-based violence (OGBV);
- 10 Develop and implement digital literacy programs that equip individuals, especially women and marginalised communities, with skills to navigate online platforms safely, recognise and respond to online harassment, and protect their privacy;
- 11 Create and participate in grassroots, community-led initiatives to safeguard LGBTIQ+, women, girls and other concerned minorities against specific forms of abuse (e.g. the non-consensual sharing of intimate images, including revenge porn), doxxing, hate speech, and overall gender-based violence. Wherever possible, mobilise these initiatives to hold governments, MPs, and corporations accountable.
- 12 Have specialised support services and helplines for the survivors of OGBV, including counselling. Advocate for data collection and collect disaggregated data on OGBV when running prevention and response programmes.
- 13 Collaborate with social media platforms and technology companies to develop and enforce policies and mechanisms that effectively address OGBV.

Endnotes

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