



ANSWERS TO THE QUESTIONNAIRE FOR CIVIL SOCIETY/ BAR ASSOCIATIONS SUBMITTED BY THE NATIONAL UNION OF PEOPLES' LAWYERS (PHILIPPINES)

1. Taking into consideration the guarantees for the functioning of lawyers, contained in principles 16-22 of the [Basic Principles on the Role of Lawyers](#), please describe the constitutional, legal, administrative and policy measures adopted in your country to enable lawyers to exercise their professional activities in favour of their clients in a free and independent manner.

- a. Corollary to the constitutionally protected right of every Filipino to adequate legal services as well as the rights of the accused to competent and independent counsel¹, lawyers should be able to independently and freely exercise their profession without unnecessary interference from state authorities and even private persons.**

For example, under Republic Act No. 7438, a counsel shall “at all times be allowed to confer privately with the person arrested, detained or under custodial investigation.”² The law penalizes any person who obstructs, prevents, or prohibits a lawyer from visiting and conferring privately with the arrested/detained/investigated person.³

Several statutes also guarantee the right and duty of the lawyer of an accused to access and scrutinize independently and competently documents in relation to the accused's matters.⁴

- b. Lawyers are bound by the Code of Professional Responsibility (CPR). Among others, the CPR prohibits another lawyer from employing harassing tactics against opposing counsels.⁵ It also mandates that lawyers should not misuse court processes to hinder speedy and efficient administration of justice.⁶**

¹ Art. III, Section 11 of the 1987 Constitution provides that free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty; Art. III, Section 12 (1) of the 1987 Constitution provides that any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice;

² Section 2(b), R.A. 7438 or An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining, and Investigating Officers, and providing penalties for violations thereof.

³ Section 4(b), R.A. 7438.

⁴ See e.g., Section 32, The Anti-Terrorism Act of 2020; Section 6, Anti-Enforced or Involuntary Disappearance Act of 2012; Section 2, Free Legal Assistance Act of 2010; Section 9, Anti-Torture Act of 2009.

⁵ Canon 8, Chapter II, Code of Professional Responsibility.

⁶ Cannon 12, Chapter III, Code of Professional Responsibility.

- c. **A bicameral conference committee of the Philippine Congress is currently discussing the passage of a law on the creation of a Judiciary Marshals Service that would ensure security and protection of the members of the bench.⁷**

The proposed Marshals Service under the Supreme Court shall be tasked to provide security and ensure the safety of justice, judges, court officials, and personnel, and halls of justice, courthouses, and other court buildings and properties; conduct threat assessments and undertake investigations of crimes and other offenses committed, including potential security threats, against the same.

Meanwhile, a bill on the protection of the practice of law was filed before the House of Representative in July 2021.⁸ The proposed law seeks to create a council that will oversee the investigation and prosecution of attacks against lawyers. The bill is currently pending with the Committee on Justice.

- d. **In March 2021, the Philippine Senate adopted a resolution condemning the rampant killings and acts of violence against members of the legal profession and urging President Rodrigo Duterte to take the necessary steps to ensure their safety and protection.⁹**

In the same month, the Supreme Court en banc issued a statement condemning the killings of lawyers, judges, and prosecutors, and vowed to look into institutional changes to better protect them.

2. **What entities and/or mechanisms are in place to prevent and/or punish interferences with the free and independent exercise of the legal profession? Please briefly describe them and specify whether they are independent bodies or if they belong to the administrative structure of the State.**

- a. **State institutions like the Supreme Court of the Philippines and the Commission on Human Rights (CHR) have acknowledged the continuing attacks on lawyers, and are working towards putting an end to the culture of impunity surrounding it.**

The Supreme Court of the Philippines has started to heed the appeals of lawyer organizations and civil society to act upon the countless killings and other forms of attack that have continued to plague Filipino lawyers. It has vowed to look into institutional changes that must be made in order to better protect lawyers around the country.

⁷ See Senate Bill No. 1947, at: <https://legacy.senate.gov.ph/lisdata/3413130939!.pdf>, and House Bill No. 9086, at: https://hrep-website.s3.ap-southeast-1.amazonaws.com/legisdocs/third_18/HBT9086.pdf

⁸ House Bill No. 9882, at: https://hrep-website.s3.ap-southeast-1.amazonaws.com/legisdocs/basic_18/HB09882.pdf

⁹ Senate Resolution No. 691, at: https://legacy.senate.gov.ph/lis/bill_res.aspx?congress=18&q=SRN-691.

Unfortunately, up to this writing, no concrete measures have been adopted other than such statement of concern.

Meanwhile, the CHR is an independent national human rights institution created under the 1987 Philippine Constitution. They have called on the government numerous times to act with urgency in pinning down perpetrators of violence and proceed with active measures that would protect the safety of human rights lawyers who continue to serve the most vulnerable and marginalized.

The Integrated Bar of the Philippines (IBP), because it is the mandatory association of all lawyers in the Philippines, can help prevent interference with the exercise of the legal profession through its official positions and views. The IBP, however, is a non-governmental agency although it can have a persuasive representation with the Supreme Court should it decide to do so.

- b. In specified instances, various state agencies including law enforcement agencies are mandated to ensure the free and independent exercise of the legal profession.¹⁰ But this seems to be mostly if not all on paper.
 - c. The failure of state institutions to competently investigate and resolve attacks against legal professionals has pushed law groups such as the NUPL to conduct their own monitoring, investigation, and documentation of such attacks. The increase in the number of attacks and threats against lawyers and judges has also been reported and monitored by national media organizations.
3. Please indicate if there are any legislative, administrative, or institutional barriers that have hindered the work of lawyers and the exercise of the legal profession in your country, and describe them.
- a. As a result of President Duterte's "war on drugs", listing people on drug lists has become a common practice. This has extended to lawyers who have been labeled drug protectors because of their defense of those accused of drug crimes. The consequence of being on this list is to be discredited, exposed, and subject to a probability of being killed. In fact, a number of lawyers have been killed after President Duterte publicly warned lawyers that they will be next targets for providing legal services to drug suspects.

¹⁰ See e.g., Section 29, The Anti-Terrorism Act of 2020; Section 9, Anti-Torture Act of 2009; Administrative Order No. 35 (2012) creating the Inter-Agency Committee on Extra-Legal Killings, Enforced Disappearances, Torture, and Other Grave Violations of the Right to Life, Liberty, and Security of Persons.

Fabricated and malicious criminal charges have been filed to pressure, harass, discredit and intimidate lawyers. This has been a prevalent practice and is commonly orchestrated by police and armed forces, the same actors who are charged with investigating these crimes.

There is no structural protection, compensation or remedy for the victims and their families. There is also lack of effective oversight of executive bodies and law enforcement agencies, supporting a culture of impunity.

There appears to be a denial and minimization of the issue coupled by a widespread tolerance of impunity among government officials and law enforcement agencies.

4. Please describe the role of the national bar association(s) in protecting lawyers and the free exercise of the legal profession. Is the bar association *de jure* and *de facto* independent from the State?

- a. **The Integrated Bar of the Philippines is *de jure* independent from the state. Its primary duties and responsibilities include safeguarding the professional interests of its members, assisting in the administration of justice, among others. It is the only mandatory association of all lawyers in the country, and therefore, holds a major role in protecting members of the bar. It is not an official part of the government.**

The IBP's fundamental purposes are to elevate the standards of the legal profession, improve the administration of justice, and enable the Bar to discharge its public responsibility more effectively. While it has no automatic standing to file suits in its own name absent personal and direct injury to itself and its members (i.e., the lawyers), the IBP has – in tandem with independent lawyers' groups - time and again taken meta-legal actions through public statements and assemblies to denounce actions contrary to preserving and upholding the Constitution and the rule of law in the Philippines.

5. Please provide detailed information on the number of lawyers that have been subject to criminal, administrative or disciplinary proceedings in the last five years for alleged violations of standards of professional conduct. How many of them were found guilty? How many of them were ultimately disbarred?

- a. **The NUPL does not have any verifiable documentation on this. The most competent office that can provide this is the Commission on Bar Discipline of the IBP which receives, hears and decides such proceedings against lawyers.**

6. Please provide information on any case where lawyers in your country have been subject to intimidation, hindrance, harassment or improper interference, whether

from State authorities or non-State actors, for action taken in accordance with their recognized professional duties. Please also describe the measures that State authorities have taken to investigate and bring perpetrators to justice.

- a. **The NUPL monitored a total of 196 incidents of *prima facie* profession or work-related attacks against lawyers from January 2011 to November 30, 2021. Seventy-seven (77) incidents resulted in the killing of lawyers. There were 120 incidents involving different forms of attacks such as frustrated or attempted killing, vilification/labelling, fabricated charges, threats, harassment, and intimidation. At least 54 of these incidents were carried out with the alleged or suspected participation of state agents.**

On 23 April 2021, the NUPL formally submitted to the Supreme Court of the Philippines a documentation covering attacks from January 2011 to April 22, 2021. This was in response to the Court's call to provide vetted information of any incident of such threat or killing.

As far as we know, no coherent and measurable responses to address and prevent these attacks have been made by State authorities in this regard.

7. What activities does your organization carry out to promote the independence of the legal profession? Do you co-ordinate with other organizations with similar functions in other countries or regions? Are you part of a network for this purpose? Please give examples.

- a. **The National Union of Peoples' Lawyers (NUPL), a nationwide voluntary organization of human rights lawyers and law students providing *pro bono* legal services especially to the marginalized sectors, has been documenting cases of killings, threats, harassment, intimidation, vilification and labelling of lawyers, prosecutors and judges since its formation in September 2007.**

NUPL has also its own Committee on the Protection and Welfare of Lawyers. This documentation has been used, cited and referred to by local and international organizations and media in their reports.

Key officers of NUPL were also the main conveners of the Counsels for the Defense of Lawyers in May 2005 (later renamed Counsels for the Defense of Liberties) or CODAL which started in an organized fashion the monitoring, documenting, and campaigning on the issue of the attacks against members of our profession.

In 2006, 2008, and 2019, CODAL and then the NUPL hosted various fact-funding missions led by international groups of lawyers such as the Dutch Lawyers of for Lawyers Foundation, the International

Association of Democratic Lawyers (IADL), and the International Association of Lawyers, among others.

We continue to conduct information drives, protest actions and various engagements in collaboration with national and international lawyers and non-lawyers organizations like IBP, IADL, the Confederation of Lawyers in Asia and Pacific, Lawyers for Lawyers, International Association of Lawyers, Council of Bars and Law Societies of Europe (CCBE), Lawyers Rights Watch of Canada, International Commission of Jurists, American Association of Jurists, National Lawyers Guild of the US, International Committee on Human Rights in the Philippines. We also engage in dialogues with the UN Special Rapporteurs, the UN Human Rights Council, and the Office of the High Commissioner for Human Rights.

It was upon the initiative of NUPL that a broad number of Philippine lawyers asked the Supreme Court through a letter-appeal to act on the killings of members of the profession on top of previous representations with this Court on the matter including its Office of the Court Administrator.

8. To what extent has, the legislation and/or measures adopted in your country because of the Covid-19 pandemic, affected the exercise of the independence of the legal profession or security of lawyers. Please explain.

- a. **Security forces intensified their operations to “red-tag” those who were openly critical of the scant government action in response to the COVID-19 pandemic. This included lawyers as they try to inform the public, defend those who have been arbitrarily arrested, charged or detained, or provide legal and humanitarian assistance.**

The consequences of red-tagging have been harassment, surveillance, loss of existing and potential clientele, reluctance to join or continue membership in red-tagged organizations like NUPL, trumped-up and nuisance suits, and worst, killings.

- b. **Due to the closure of the courts and COVID-19 restrictions, reporting of incidents, fact-finding missions, and monitoring of incidents all over the country have been greatly reduced. Access to remedies has been hindered as well due to the difficult conditions. Even case conferences and consultations with clients or witnesses require a lot of resources to ensure a safe environment.**

9. Please describe the measures and policies you would suggest to better protect and guarantee the free exercise of the legal profession.

- a. **The NUPL humbly make the following recommendations:**

- i. Ensure the State's faithful adherence and compliance with the UN Basic Principles on the Role of Lawyers on 1) access to lawyers and legal services, 2) non-interference in the exercise of professional duties, 3) safeguarding the safety of lawyers, 4) non-association with their clients' causes, and 5) entitlement to freedom of expression and belief;**
- ii. Develop public awareness of the UN Basic Principles on the Role of Lawyers;**
- iii. Address not only killings but also other forms of attacks and threats against lawyers, prosecutors, and judges;**
- iv. Create a systematic mechanism to actively and regularly monitor and document attacks against lawyers. Possibly, the creation of an independent, credible and partial body composed of representatives from lawyers organizations and civil society;**
- v. Ensure prompt, effective, and credible investigation as well as aggressive prosecution of perpetrators. This includes formation of quick reaction teams to respond to actual and imminent attacks;**
- vi. Initiate and fully support impartial and independent investigations such as visits and fact-finding missions by UN officials and international NGOs;**
- vii. Assist and provide families of the victims with legal support and financial aid;**
- viii. Call on President Duterte and other public officials to refrain from publicly attacking lawyers, particularly putting an end to the practice of red-tagging and end public disclosure of questionable drug lists;**
- ix. Publicly condemn all attacks against lawyers, prosecutors, and judges at all levels and in strong terms; and,**
- x. Consider coming up with a special protective remedy for lawyers under attack or threat as well as review the rule on the issuance of the writ of amparo to make it more effective and responsive.**