



International Fair Trial Day

Focus Country of 2024: Philippines

Hold the Date and Call for Nominations for the Ebru Timtik Award 14 June 2024, **[LOCATION: TBC]**

In 2021, a group of lawyers and lawyers' organisations came together to establish an annual [International Fair Trial Day \(IFTD\)](#) to be observed every year on 14 June. This initiative is supported by more than 100 legal associations across the world, all of which are committed to the vital importance of the right to a fair trial and the serious challenges to due process rights worldwide. They established a Steering Group for the organisation of IFTD.

The Steering Group agreed that in each subsequent year, one country - where fair trial rights are being systemically violated - would be chosen as the focus country, and an event would be organised to mark IFTD, as well as a series of activities around the event to draw attention to the situation in that country. The events include holding a conference on systemic fair trial issues and making a public statement with concrete recommendations on how to tackle these.

The decision to establish an IFTD was also accompanied by the establishment of the Ebru Timtik Award. Ebru Timtik is a lawyer from Turkey who lost her life on 27 August 2020 as a result of a 238-day hunger strike she undertook to protest against the systemic violations of fair trial rights which people in Turkey are facing. Every year, on the occasion of the IFTD, the Ebru Timtik Award is granted by an independent jury to an individual or individuals and/or an organisation who have or which has made a significant contribution to the defence and promotion of the right to a fair trial in the focus country.

The first IFTD focus country chosen was [Turkey](#), in 2021. A [virtual conference](#) was held on 14 June 2021, to mark the occasion. The first Ebru Timtik Award was granted posthumously to Ebru Timtik herself. The [second conference](#), which focused on the systemic fair trial issues in [Egypt](#), took place in Palermo, Italy on 17-18 June 2022. [Mohamed El-Bager and Haitham Mohammadein](#), two Egyptian human rights lawyers who were in detention at the time, received the Ebru Timtik Award. In 2023, the focus country was Mexico. Legal professional organisations, bar associations, and civil society organisations from [Mexico](#) and across the world gathered for the 2023 IFTD [conference](#) held in Mexico City on 14 June 2023. The winners of the Ebru Timtik Award 2023 were two feminist lawyers, [Alicia de los Ríos Merino and Ana Yeli Pérez Garrido](#), who were celebrated for their tireless work to address the justice struggle for the systemic issue of enforced disappearances and violence against women in Mexico.

2024 International Fair Trial Day Focus Country: Philippines

The Steering Group has expanded since 2021 to include a number of other prominent organisations taking part in the work, all as listed below. Several nominations were received for this year's IFTD focus country. **Following due consideration of the proposals, the Philippines has been chosen as the focus country of 2024.** This decision is based on the following:

a) Independence of judges and lawyers

The guarantee of an independent judiciary and legal profession is core rule of law principle, and the independence of judges and lawyers is indispensable for the operation of a judicial system that ensures fair trials. Such independence has been under serious threat in the Philippines for a long time. In the 15 years from September 2007 to December 2022, a total of 271 incidents of what appear to be work-related attacks on Filipino lawyers and judges have been recorded by the National Union of Peoples' Lawyers.¹ Out of these, there were 86 unlawful killings and at least 185 other forms of attacks such as attempted killings, threats, intimidation, surveillance, and labelling or vilification. Targeted in these attacks were 20 judges (including two retired/former judges) and 165 lawyers (including both those in public service and private practice). The peak of the attacks were recorded during the term of former President Rodrigo Duterte from 2016-2022. Under the tenure of the current President Ferdinand Marcos Jr., 41 attacks and threats were monitored from 1 July 2022 to 31 December 2023, including three killings of lawyers.² The pressure on the legal community is therefore still strong, given also that various other forms of harassment and persecution of legal professionals persist, including the "red tagging"³ of legal professionals. A culture of impunity is predominant in respect of these unlawful actions.. They go hand-in-hand with the continued constriction of civic space and, human rights defenders, and political activists. The red-tagging is often followed by the filing of trumped-up charges and, in some cases, terrorism prosecutions.⁴

In their joint communication to the Philippine government dated 15 June 2023, Margaret Satterthwaite, UN Special Rapporteur on the independence of judges and lawyers, and Fionnuala Ní Aoiláin, UN Special Rapporteur on the protection and promotion of human rights and fundamental freedoms while countering terrorism, raised the vulnerable situation of Filipino human rights lawyers and judges, particularly victims of a killing, an attempted killing, arbitrary surveillance, and red-tagging as "communist terrorists" or "terrorists".⁵ They cautioned the Philippine government:

"The reported abuses are alarming on their own, but they are even more troubling as targeted attacks on legal workers that appear to be aimed at leaving communities without legal assistance. Such acts interfere with the ability of lawyers and paralegals to perform their professional functions without intimidation, hindrance, harassment or improper

¹National Union of Peoples' Lawyers, *Under Siege: Attacks and Threats on Filipino Lawyers and Judges*.

² Ibid.

³ <https://www.hrw.org/news/2023/01/26/philippines-officials-red-tagging-indigenous-leaders-activists>

⁴ "Red-tagging" in this context means the practice by the security forces or government officials or "shills" (individuals who attempt to give credibility to a person or organization without disclosing that they have a close relationship with the said person or organization involved) of subjecting individuals or organizations critical or not fully supportive of the actions of the government to malicious harassment and blacklisting N. This tagging identifies these individuals and organizations as communists or terrorists or both. It produces a chilling effect on general discourse and can encourage assassinations and retaliations.

⁵ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=28162>

interference. If confirmed, the reported instances of red-tagging would also violate the rule that lawyers should not be identified with their clients or their clients' causes."

b) Drug-related extrajudicial killings and accountability

Despite President Marcos' claims that the "war on drugs" initiated by his predecessor, Rodrigo Duterte, will have a "new face" aimed at drug rehabilitation, drug-related extrajudicial killings have continued. Marcos has not rescinded the executive orders that provide overbroad authority to the police to conduct anti-drug raids and operations under procedures that effectively facilitate extrajudicial executions, and are the legal basis used by the police to try to justify unlawful killings. From 30 June 2022, when Marcos assumed office, until 15 October 2023, the Dahas Project of the University of the Philippines Diliman's Third World Studies Center has documented 438 drug-related fatalities in 471 days, averaging nearly one death per day.

There is little or no accountability for these killings. From 6,252 deaths from police operations, based on official figures (though estimated by human rights groups to be 30,000 including unlawful killings by unidentified gunmen), only two cases have resulted in the conviction of police officers.⁶ The majority of these cases remain uninvestigated and unresolved.

The International Criminal Court (ICC) in July 2023 resumed its investigation into possible crimes against humanity committed in the context of the "war on drugs", following the failure of the Philippine government to prove that it was genuinely and properly investigating the same.⁷ President Marcos has maintained that the Philippines will not cooperate with the investigation,⁸ while progress in the domestic review is unclear. The constitutionally independent Commission on Human Rights (CHR) remains excluded from the probe⁹ despite a definitive finding of impunity in cases it has investigated, stating in an April 2022 report:

"Overall, the CHR finds that the government has failed in its obligation to respect and protect the human rights of every citizen, in particular, victims of drug-related killings. It has encouraged a culture of impunity that shields perpetrators from being held to account."¹⁰

During the Universal Periodic Review (UPR) of the Philippines' human rights record in 2023, several states and the UN High Commissioner on Human Rights urged the Philippine government to rejoin the ICC as a State party to the Rome Statute and conduct prompt, impartial, thorough and transparent investigations into all killings and other human rights violations committed in the context of the drug war.¹¹

⁶ <https://www.hrw.org/news/2023/09/06/letter-prime-minister-albanese-regarding-human-rights-concerns-philippines>

⁷ <https://www.icc-cpi.int/philippines>

⁸ <https://www.reuters.com/world/asia-pacific/philippines-will-not-cooperate-with-icc-drugs-war-probe-marcos-2023-07-21/>

⁹ <https://www.rappler.com/philippines/chr-hopeful-involvement-government-drug-war-killings-review-panel-2024/>, <https://www.rappler.com/newsbreak/in-depth/commission-human-rights-still-excluded-bongbong-marcos-jr-administration-drug-war-review-panel/>

¹⁰ <https://chr.gov.ph/wp-content/uploads/2022/05/Executive-Summary-CHR-National-Report-April-2022-Final.pdf>

¹¹ Report on the Philippines of the Working Group of the Universal Periodic Review, A/HRC/52/13, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G23/081/56/PDF/G2308156.pdf>.

c) Targeting of activists, rights defenders, and civil society organisations through counterterrorism measures

The Anti-Terrorism Act that took effect in July 2020 provides the state significant powers, including the designation of terrorists or terrorist organisations, the surveillance and interception of communications, inquiries into bank deposits, and freezing of assets. Human rights advocates have strongly criticised the broad definition of terrorism under the law and warned of the potential for its misuse. Acting on dozens of lawsuits challenging the constitutionality of the law, the Supreme Court in 2021 declared most assailed provisions as “not unconstitutional” under a facial challenge, striking down only a proviso in the definition that could result in the criminalisation of legitimate actions like protests and strikes, as well as the mode of adopting designations of foreign and supranational jurisdictions.¹²

The Philippine government has exploited the ambiguous and sweeping definition of terrorism, leveraging its extensive authority under the Anti-Terrorism Act to obscure armed conflict, dissent, advocacy, and protest by categorising them as acts of terrorism. Consequently, counterterrorism measures have exacerbated violations of fundamental rights and freedoms, a trend that was started by the counterinsurgency entity, the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC).

Trumped-up charges of “terrorism”, “material support for terrorists”, and “facilitating the commission of terrorism” have already falsely implicated local community organisers and rights defenders, including paralegal volunteers and clergy conducting humanitarian missions in poor and militarised communities. Four indigenous peoples’ rights activists, a community doctor, and several peace consultants have also been designated as “terrorists,” and their bank accounts and those of their family members and organisations were frozen. Two cases for financing terrorism are now being tried against a community journalist and a lay worker and staff of religious groups, some of whom had been detained following illegal office raids and planting of evidence.¹³

Using its broad authority to ex parte investigate bank deposits and freeze assets without delay under the Anti-Terrorism Act (ATA) and the Terrorism Financing Prevention and Suppression Act of 2011 (TFPSA), the Anti-Money Laundering Council (AMLC) and the Anti-Terrorism Council (ATC) have implemented targeted financial sanctions against church groups and non-profit organisations (NPOs), including civil forfeiture proceedings, jeopardising their very existence and withholding crucial assistance from their intended beneficiaries.

At the same time, the Philippine government has imposed burdensome regulations on NPOs based on amorphous concepts of “beneficial ownership” and “related accounts” to comply with recommendations of the Financial Action Task Force (FATF), particularly on the so-called protection of NPOs from misuse by terrorist organisations (Recommendation No. 8). These have resulted in their exclusion from financial services by banks and deprived them of their right to seek, secure, and use resources.

Under the ATA and the TFPSA, parties are not afforded the right to notice and hearing before they are designated as “terrorists” or “terrorist organisations” or their assets are frozen. Freeze orders and criminal prosecutions are also issued and initiated based on secret evidence, mostly perjured testimonies from alleged former rebels. Although the Philippine Supreme Court has

¹² <https://freedomhouse.org/country/philippines/freedom-world/2023>

¹³ <https://www.amnesty.org/en/location/asia-and-the-pacific/south-east-asia-and-the-pacific/philippines/report-philippines/>

recently introduced rules¹⁴ that offer judicial safeguards and remedies under the ATA and the TFPSA, it is contended that they cannot adequately rectify, let alone address the fundamental flaws inherent in these laws.¹⁵

In a joint communication to the Philippine government dated 10 October 2023,¹⁶ six UN Special Rapporteurs expressed grave concerns on the judicial harassment, red-tagging, office raids, and targeted financial sanctions against religious groups; human rights, indigenous and humanitarian organisations; rights defenders; indigenous peoples; journalists; and lawyers in the name of countering terrorism and terrorist financing. They stressed that “any rights limitations in the name of the fight against terrorism and the financing of terrorism must meet the objective criteria of proportionality, necessity, legality and non-discrimination under international law”¹⁷ and “any terrorism-related listing and asset freezing procedure must comport with due process and procedural rights, including the right to fair trial, the presumption of innocence, the right to appeal, and a right to effective protection by the courts”.¹⁸

d) Torture and other cruel, inhuman or degrading treatment

The congestion rate in penal facilities under the Bureau of Corrections (BuCor) stands at 421%,¹⁹ while pre-conviction detention facilities under the Bureau of Jail Management and Penology (BJMP) are operating at 367% of official capacity.²⁰

These overcrowded conditions lead to routine disregard and violation of international law standards such as International Covenant on Civil and Political Rights, the Convention against Torture and the UN Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules).²¹ Instances of prohibited practices such as torture (including psychological torture) and other proscribed ill.-treatment, including corporal punishment, and degrading strip searches of visitors,²² persist. Adequate provisions for sleeping facilities, sanitary and hygiene installations, health care services, nutritional food, drinking water, and access to reading materials are often neglected. The daily meal allowance, ranging from PhP39 to PhP70, is deemed insufficient.²³

The inhumane conditions in jails contribute to a high mortality rate, with approximately 5,200 prisoners dying annually at the New Bilibid Prisons,²⁴ and 300 to 800 deaths each year in BJMP jails.²⁵ A nominal PhP15 daily medical allowance per detainee is allocated by the government,

¹⁴ <https://sc.judiciary.gov.ph/sc-issues-rules-on-anti-terrorism-cases/>

¹⁵ NUPL Press Statement, January 5, 2024, *Rights lawyers note measures to provide judicial safeguards and remedies under challenged Terror Law; but raise serious concerns on certain provisions.*

¹⁶ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28339>

¹⁷ *Ibid.*, p.11.

¹⁸ *Ibid.*, p.12.

¹⁹ <https://www.rappler.com/nation/statistics-philippines-prison-congestion-june-30-2023/>

²⁰ <https://www.philstar.com/headlines/2023/06/22/2275793/philippine-jails-overcrowded-367-coa>

²¹ Karapatan Alliance Philippines Submission to the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), November 2023.

²² <https://newsinfo.inquirer.net/717022/female-jail-visitors-forced-to-remove-undies>

²³ <https://www.rappler.com/nation/bureau-corrections-food-medicines-budget-prisoners-2024/>

²⁴ <https://edition.cnn.com/2019/10/04/asia/philippines-inmate-deaths-intl-hnk-scli/index.html>

²⁵ <https://news.abs-cbn.com/news/11/13/19/bilibid-hospital-chief-1-inmate-dies-every-day-jail-mortality-rate-in-critical-condition>

further exacerbating the inadequate support for detainees' well-being.²⁶ The plight of vulnerable prisoners, such as nursing mothers and their infants, the elderly, and those afflicted with life-threatening diseases, became most pronounced during the COVID-19 pandemic.

Despite the existence of the Anti-Torture Law in the Philippines, Karapatan has recorded 488 instances of torture since July 2010. Among these cases, 244 occurred during the Benigno S. Aquino III administration, 233 during the Rodrigo Duterte administration, and 11 during the Ferdinand Marcos Jr. administration.²⁷

These cases consistently reveal a pattern of deliberate violations prohibited by international and domestic legal law and standards on detention, torture, and cruel, inhuman, or degrading treatment or punishment by State agents. This includes the victims being subjected to red-tagging, which has historically led to more severe violations like extrajudicial killings, enforced disappearances, arbitrary or illegal arrest or detention, and torture and ill-treatment.²⁸

Patterns in these cases involve the use of secret detention facilities or safe houses by State agents, despite Philippine laws prohibiting such practices. The victims often experience physical and psychological torture or other proscribed ill-treatment; coercion to sign documents with perjured statements; denial of access to counsel of their own choice; no or restricted access and visitation by family members or human rights groups; and red-tagging within detention facilities.²⁹ Human rights lawyers have witnessed how their clients were deprived of their right to be assisted by counsel at all times in order to force them into fake surrenders or guilty pleas.

During its recent second visit to the Philippines, the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (SPT) visited over 40 places of deprivation of liberty in the country, conducted confidential interviews with staff members and persons deprived of liberty, and examined the treatment of individuals in different stages of the criminal justice system. Following the visit, the SPT called on the Philippines to fast-track the adoption of the bills to designate the National Preventive Mechanism.³⁰

e) Arbitrary detention

The Philippine jail population stands at 130,000 in detention (pre-conviction) facilities, and 50,000 in penal facilities. Drug arrests have been the major driver of jail and prison congestion in the Philippines. More than 70% of the BJMP detainee population and BuCor convicted population are arrested for drug offences.³¹ The arrests have continued under the present administration; the police chief has reported that it made 16,463 arrests in drug-related operations in its first 100 days of office.³²

The absence of clarity as to how many of these cases relate to the drug trade as opposed to personal drug use and how many persons were convicted, released or remain in pretrial detention, combined with irregularities in due process especially in cases of undercover operations, gives

²⁶ <https://www.rappler.com/nation/bureau-corrections-food-medicines-budget-prisoners-2024/>

²⁷ *Supra* note 21.

²⁸ https://www.upr-info.org/sites/default/files/country-document/2022-10/CHRP_UPR41_PHL_E_Main.pdf, para. 10

²⁹ *Ibid.* paras. 16, 17; see also <https://www.omct.org/en/resources/statements/philippines-new-maximum-security-prisons-will-violate-the-rights-of-detainees> and <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=9876&file=EnglishTranslation>.

³⁰ <https://www.ohchr.org/en/press-releases/2023/12/philippines-dire-need-national-torture-prevention-body-say-un-experts>

³¹ <https://www.rappler.com/voices/thought-leaders/opinion-drug-arrest-jail-prison-congestion-search-alternatives/>

³² <https://pnp.gov.ph/cpnps-first-100-days-report/>

rise to concerns that numerous cases may constitute arbitrary detention.

The continuing weaponisation of penal laws against rights defenders and political activists has also brought the number of political prisoners to 795, as of 30 November 2023. Out of this number, there are 98 with life-threatening illnesses and 78 elderly persons.³³

In its submission to the 2022 UPR of the Philippines, the NUPL described the Philippine government's use, circumvention, reinterpretation, or reinventing of the law to justify or legitimise State action or repression, which has resulted in a high incidence of arbitrary detention in the country. The planting of evidence, particularly firearms, ammunition, explosives, and explosive devices, remains to be a *modus operandi* of law enforcement authorities as a means of placing targeted individuals in custody. Both drug-related and politically-related arrests stem from a conscious government policy of identifying and neutralising "enemies of the state".

The writ of *habeas corpus* has proven to be ineffective, as security forces undermine the process by fabricating "evidence" to expedite the filing of indictments. In turn, the courts routinely dismiss the victims' petitions, citing them as "moot and academic", in accordance with the prevailing doctrine in the 1985 case of *Ilagan v. Enrile*.³⁴ The Philippines' legal framework for lawful arrest and detention may be robust, but this legality has not prevented arbitrary arrest and detention.

Pressure by international actors, and solidarity and support to the Filipino legal community, remain crucial to improve the human rights situation in the Philippines. The 2024 IFTD offers a concrete possibility of bringing about change, and promises to have a strong impact with strategic analysis of policy and systemic conditions.

Call for nominations for the Ebru Timtik Award

The Steering Group of the IFTD would like to also invite you to nominate one or more individual(s) or an organisation for the Ebru Timtik Award from amongst those who have demonstrated outstanding commitment and sacrifice in upholding fundamental values related to the right to a fair trial in the Philippines. The individual(s) or organisation nominated for the award must be or have been active in defending and or promoting the right to a fair trial in the Philippines through either a recent outstanding piece of work in relation to this fundamental right or their distinguished long-term involvement in fair trial issues.

The deadline for nominations is 1 May 2024. To nominate, please send your nominations to nominationsetaward@gmail.com in English and kindly include: (1) the candidate's detailed bio, (2) a letter signed by the nominating organisation/group of individuals explaining the reasons why they/it consider(s) that the candidate should be granted the Award, and (3) one recommendation/supporting letter from an unrelated, external organisation, if the application is submitted by a group of individuals.

For the details of the award criteria and process please see "[Selection criteria for the grant of the Ebru Timtik Fair Trial Award](#)". After the deadline, a jury composed of independent individuals who are experienced with the right to a fair trial, including one or more from the focus country, will review and assess the nominations and determine the award recipient(s).

³³ https://www.karapatan.org/media_release/investigate-secret-detention-facilities-torture-cases-in-the-philippines/

³⁴ https://lawphil.net/judjuris/juri1985/oct1985/gr_70748_1985.html

Signatures:

- Avocats Européens Démocrates / European Democratic Lawyers (AED)
- Bar Human Rights Committee of England and Wales (BHRC)
- Barreau Nantes / Nantes Bar Association
- Consiglio Nazionale Forense / National Bar Council of Italy (CNF)
- Çağdaş Hukukçular Derneği / Progressive Lawyers' Association (ÇHD)
- Defense Sans Frontiere – Avocats Solidaires (DSF-AS)
- European Association of Lawyers for Democracy and Human Rights (ELDH)
- Federation Barreaux D'Europe / Federation of European Bars (FBE)
- International Association of Democratic Lawyers (IADL)
- International Bar Association Human Rights Institute (IBahri)
- International Commission of Jurists (ICJ)
- International Observatory for Lawyers (OIAD)
- Lawyers for Lawyers (L4L)
- Ordine degli Avvocati di Bologna / Bologna Bar Association
- Özgürlük İçin Hukukçular Derneği / Association of Lawyers for Freedom (ÖHD)
- Republikanischer Anwaltinnen- und Anwalteverein e.V / Republican Lawyers Association (RAV)
- The Law Society of England and Wales (LSEW)
- Union Internationale des Avocats Institut pour l'État de Droit / The International Association of Lawyers Institute for the Rule of Law (UIA-IROL)







The Law Society
of England and Wales

