



**COALITION  
FOR  
PEOPLE'S  
RIGHT TO  
HEALTH**



**Health Alliance for Democracy**

## **Submission on Right to Health for the 4<sup>th</sup> Cycle of the United Nations Universal Periodic Review of the Republic of the Philippines**

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The **Coalition for People's Right to Health (CPRH)** was established in 2016 as a coalition of service-oriented groups, individuals, non-government organizations, academic institutions, religious groups involved in health apostolate/health ministry, grassroots health activists, patient's organizations and people's organizations nationwide. The Coalition advances a people's health agenda that espouses health and its social determinants as a right of all. CPRH initiates lobby work on policy reforms and legislative agenda and launch coordinated campaign activities that advocate for a free and comprehensive national public health system.

The **Council for Health and Development** is a non-governmental, non-profit organization established in 1989 as the national organization of Community-Based Health Programs (CBHPs) in the Philippines. CBHP started in 1973 in the midst of martial rule when people were deprived of basic social services, especially health care. CHD provides support to member programs and facilitates needs such as education, trainings, and organizational needs; organizes and mobilizes health students and professionals to draw their interest towards the CBHPs and motivate them to put their skills and knowledge to the people who need them most; and, promotes the CBHP's alternative approach to health and acts as the national center for issues affecting people's health. With more than 70 member programs, individuals, and institutions under its fold, CHD celebrates 33 years of working for people's health and struggling for social change.

The **Health Alliance for Democracy** is an organization composed of individuals from the health sector who adhere to the principles of the Filipino people's struggle for sovereignty and democracy. It advocates and works for a society where the promotion of the people's economic, social and cultural rights will bring about national prosperity and well-being. The group struggles for a society where the State ensures the effective delivery of basic social services especially to the basic masses. It pushes for a quality health care system that is mass-based, scientific, and free from foreign and local monopoly control.

## The Philippines and the People's Right to Health

1. The Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights recognized the right to a standard of living adequate for health and well-being.<sup>1</sup> The Vienna Declaration and Programme of Action declared that “*human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of Governments.*”<sup>2</sup>
2. The 1987 Philippine Constitution includes pertinent constitutional provisions relating to the right to health.<sup>3</sup>
3. The UPR Recommendation No. 133.99 states “Maintain the protection of the right to life from conception to natural death (Holy See) under Theme E42 Access to health-care (general)”.
4. During the period under review, the Duterte administration furthered the implementation of policies that significantly lessened government’s responsibility for public health and resulted in starker inequities. The national health budget for 2017 to 2022, despite showing nominally increasing trends for personnel services, maintenance and operating expenses, and health insurance (PhilHealth) budgets, reveals an overall stagnation in capital outlay, from PhP 27.56 billion in 2017<sup>4</sup> to 26.96 billion for 2022<sup>5</sup>, with significant cuts made in 2019 up to 2021. This aspect of the allocation is necessary for the much-needed expansion of infrastructure and equipment to match the still unmet public health demands, notwithstanding public health emergencies like COVID-19.
5. Without sound fiscal measures to strengthen the public health system, public hospitals are forced to generate income to support their operations while non-government actors become increasingly involved in the financing and the provision of health care services. To remedy this, Philippine House of Representatives passed House Bill 7437 or the Anti-Privatization of Public Hospitals, Health Facilities and Health Services Act, though it was eventually not signed to become a law.<sup>6</sup>
6. Private hospitals continue to outnumber public hospitals. In 2016, from a total of 1,224 licensed hospitals throughout the country, 434 (35.46%) were government-owned and 790

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<sup>1</sup> Office of the United Nations High Commissioner for Human Rights. (1996). *Fact Sheet No.2 (Rev.1): The International Bill of Human Rights*. <https://www.ohchr.org/Documents/Publications/FactSheet2Rev.1en.pdf>

<sup>2</sup> Vienna Declaration and Programme of Action Adopted by the World Conference on Human Rights in Vienna, June 25, 1993. <https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

<sup>3</sup> The 1987 Constitution of the Republic of the Philippines, Article II, Section 11.

<https://www.officialgazette.gov.ph/constitutions/1987-constitution/>

<sup>4</sup> Department of Health, Philippines. (2020). *DOH Budget*. <https://doh.gov.ph/doh-budget>

<sup>5</sup> Health Policy Development and Planning Bureau. *DOH Budget 2022*. Department of Health, Philippines. [https://doh.gov.ph/sites/default/files/publications/Budget\\_2022\\_brochure\\_v4\\_final.pdf](https://doh.gov.ph/sites/default/files/publications/Budget_2022_brochure_v4_final.pdf)

<sup>6</sup> House of Representatives. (2018). House of Representatives Press releases. House of Representatives 18<sup>th</sup> Congress Third Regular Session. <https://www.congress.gov.ph/press/details.php?pressid=10791>

(64.54%) were private.<sup>7</sup> But as of December 31, 2020, despite an increase to 1,283 (4.82%) in the number of licensed hospitals, government-owned hospitals were reduced to 428 (33.3%) while privately-owned hospitals increased to 855 (66.4%).<sup>8</sup> Given the higher costs and amount of out-of-pocket spending in private hospitals, the clear majority of such facilities belies the state commitment to make health services available and accessible to the public.

7. Private hospitals generate bigger pay-outs from the government. For the first semester of 2021 alone, they had 60% (Php 22,895,629,434) of the total number of claims paid by Philhealth versus 40% (Php 14,007,716,812) paid to government hospitals. Sponsored members, or those who belong to the lowest 25% of the Philippine population, were only able to benefit 4.35% from the total benefit expense for the same period.<sup>9</sup>

8. There is a longstanding lack of support to public health care facilities at all levels from the barangay health stations (BHS) to tertiary care hospitals. Of the country's 42,045 *barangays* (smallest political unit in the local government), only 22,613 have health stations, despite the 1991 Local Government Code mandating every barangay to have at least one BHS.<sup>10</sup>

9. In 2019, household-out-of-pocket (OOP) payment was the largest among sources of health financing in the country, comprising 47.9% of the current health expenditure by health care financing scheme. Despite a reduction to 44.7% of the OOP in 2020<sup>11</sup>, such percentage is still greater than 40% of the capacity to pay for health care which the World Health Organization defines as "catastrophic health spending".<sup>12</sup>

10. A 2018 Supreme Court decision reaffirmed the devolution of health services; its implementation was facilitated by the passage of Executive Order 138 by President Duterte, institutionalizing the transfer of basic services, facilities, and their management to local authorities.<sup>13</sup> Given the uneven development throughout the country, this effectively made health matters subject to local politics instead of as a national public service.

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<sup>7</sup> Lotes, J., Roño, R., Ladrero, C. X. (2017). Licensed government and private hospital in the Philippines - 2016. *SPMC Journal of Health Care Services*. <http://sPMCjournal.com/V3N2Galley/Jason/Jason.php>

<sup>8</sup> Department of Health, Philippines. (2020). *List of Licensed Government and Private Hospitals*. Health Facilities and Services Regulatory Bureau. [https://hfsrb.doh.gov.ph/wp-content/uploads/2021/08/Hosp2020-Rev2-final8162021\\_website.pdf](https://hfsrb.doh.gov.ph/wp-content/uploads/2021/08/Hosp2020-Rev2-final8162021_website.pdf)

<sup>9</sup> Stats and charts - 1st Semester 2021. Philhealth. (2021). [https://www.philhealth.gov.ph/about\\_us/statsncharts/snc2021\\_1stSem.pdf](https://www.philhealth.gov.ph/about_us/statsncharts/snc2021_1stSem.pdf)

<sup>10</sup> Department of Health, Philippines (2020). *Philippine Health Facility Development Plan 2020-2040*. Manila: Health Facility Development Bureau. [https://doh.gov.ph/sites/default/files/publications/DOH\\_PHILIPPINE%20HEALTH%20FACILITY%20DEVELOPMENT%20PLAN%202020\\_2040\\_0.pdf](https://doh.gov.ph/sites/default/files/publications/DOH_PHILIPPINE%20HEALTH%20FACILITY%20DEVELOPMENT%20PLAN%202020_2040_0.pdf)

<sup>11</sup> Philippine Statistics Authority. (2021). *Health Spending Registered 12.6 Percent Growth, Share of Health to Economy Went Up to 5.6 Percent in 2020*. <https://psa.gov.ph/pnha-press-release/node/165216>. Reference Number: 2021-427

<sup>12</sup> Tan-Torres Edejer, T. (n.d.). Indicator Metadata Registry Details. World Health Organization. <https://www.who.int/data/gho/indicator-metadata-registry/imr-details/4989>

<sup>13</sup> Executive Order No. 138, 2021. <https://www.officialgazette.gov.ph/2021/06/01/executive-order-no-138-s-2021/>

11. Amid these conditions of health services, official government data shows that four out of 10 deaths were not medically attended, and more than half (56.4%) of the recorded deaths occurred at home.<sup>14</sup>

12. Thus, the Three Types of Obligations from the Obligations of States and Responsibilities of Others Towards the Right to Health has become of utmost concern on the right to health. The obligation to protect which requires States *to prevent third parties from interfering with the right to health* needs urgent revisiting. This obligation further requires States *to ensure that privatization does not constitute a threat to the availability, accessibility, acceptability and quality of health-care facilities, goods and services*.<sup>15</sup>

### **Corruption and Inefficiency in the Health Department**

13. There have been several controversies on questionable government fund disbursements during the Duterte administration. One of these was the multi-billion worth of awarded contracts for COVID-19 equipment to the Pharmally Pharmaceutical Corporation. According to Senate blue-ribbon committee hearings, Pharmally cornered P10 billion in pandemic deals between 2020 and 2021 despite it being a small, newly created firm that lacked the capital, track record, and credibility to handle big-ticket government procurement.<sup>16</sup>

14. In 2020, officials of the National Health Insurance Corporation or PhilHealth figured in a Php 15-billion fraud investigation in what a whistleblower dubbed as the “crime of the year.” The whistleblower claimed that the Php 15 billion covers the unauthorized release of interim reimbursement mechanisms or funds allocated for “fortuitous events” such as the pandemic, to hospitals who have not yet recorded COVID-19 cases. The amount also included the alleged overpriced information technology systems the agency proposed to purchase, he added.<sup>17</sup>

15. Despite strong public clamor for an increase in government funding for public health, the Department of Health spent a mere Php 38 centavos for every Php 1 of allotment, thus not utilizing at least 62% of the allocation as of August 2021; this poor fund absorption translates to the limited provision of essential and necessary projects and health services. Legislators have questioned the health department’s poor disbursement of allotted funds in the previous years.<sup>18</sup>

16. Shrinking government prioritization on health furthers inequality and gaps that push the system to a breaking point long before the pandemic hit – a potential violation of Obligation to

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<sup>14</sup> Philippine Statistics Authority (2022). *Registered Deaths in the Philippines, 2020*. <https://psa.gov.ph/vital-statistics/id/165879>.

<sup>15</sup> Office of the United Nations High Commissioner for Human Rights. (2008). *The right to health - OHCHR*. ohchr.org. <https://www.ohchr.org/Documents/Publications/Factsheet31.pdf>

<sup>16</sup> Cepeda, M. (2021). *List: Everything you need to know about the pharmally pandemic deals scandal*. Rappler. <https://www.rappler.com/newsbreak/iq/list-everything-need-to-know-pharmally-covid-19-pandemic-deals-scandal/>

<sup>17</sup> Jalea, G., Peralta, J. (2020). *Whistleblower claims ₱15 billion stolen by PhilHealth execs in fraud schemes*. CNN Philippines. <https://www.cnnphilippines.com/news/2020/8/4/PhilHealth-P15-billion-stolen-mafia-execs.html>

<sup>18</sup> Corrales, N. (2021). *62% of 2021 DOH budget still unspent as of August*. Inquirer.net. <https://newsinfo.inquirer.net/1494951/62-of-2021-doh-budget-still-unspent-as-of-august>

Fulfill which *requires States to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures to fully realize the right to health.*

### **The Local Pandemic Response and Compliance to the ICESCR**

17. In addition to the backdrop of poor health spending and utilization, the national budget for 2020 showed a massive cut for **epidemiology and disease surveillance** from PhP 263 billion (USD 5 billion) to PhP 115.5 (USD 2.2 billion), over 50% compared to 2019.<sup>19</sup> This contributed to a pandemic response that could not immediately and adequately prevent, treat, and control the spread of epidemics, as mandated for state parties by Article 12, Section 2c of the International Convention on Economic, Social, Cultural Rights (ICESCR).<sup>20</sup>

18. The first cases of COVID-19 were diagnosed in the Philippines at the end of January 2020, from foreign nationals who may have had extensive close contacts with locals. Despite this, authorities were unable to immediately trace and quarantine these individuals.<sup>21</sup>

19. Despite China locking down Hubei province as early as 24 January, 2020, the Duterte government hesitated to implement border controls due to concerns over political backlash instead of public health precautions; the travel ban was implemented only after the first case was confirmed.<sup>22</sup>

20. While the World Health Organization warned against the threat of the virus to “*weaker health systems*”, the Health Secretary argued that the Philippines did not have a weak system as it was a “middle-income country”, while the President minimized the danger, claiming that there was no reason to be “extra scared” and that the virus was “not really that fearsome”.<sup>23</sup>

21. For the first few cases, samples had to be sent to Australia until more local laboratories were capacitated to handle COVID-19 samples.<sup>24</sup> As of 10 March 2022, 28 of the country’s 81 provinces are still without a testing center, with an additional 3 provinces without a public laboratory.<sup>25</sup> It was only on 7 March 2020 that local transmission was confirmed<sup>26</sup>, but testing

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<sup>19</sup> Gregorio, X. (2019). Budget for disease surveillance cut amid outbreaks. *CNN Philippines*.

<https://www.cnnphilippines.com/news/2019/9/24/disease-surveillance-budget-cut-outbreaks.html>

<sup>20</sup> International Covenant on Economic, Social and Cultural Rights, December 16, 1966,

<https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>

<sup>21</sup> Gonzales, C. (2020). *DOH: 8 ‘close contacts’ of Chinese couple with nCoV showed flu-like signs*. Inquirer.net

<https://newsinfo.inquirer.net/1223297/doh-8-close-contacts-of-chinese-couple-with-ncov-showed-flu-like-signs>

<sup>22</sup> CNN Philippines. (2020). *Duterte orders travel ban from China province amid coronavirus scare*.

<https://www.cnnphilippines.com/news/2020/1/31/Philippines-novel-coronavirus-China-travel-ban.html>

<sup>23</sup> Luna, F. (2020). *Healthcare ‘grossly neglected’ in ‘middle-income’ Philippines, groups say*. Philstar.com.

<https://www.philstar.com/headlines/2020/02/06/1990598/healthcare-grossly-neglected-middle-income-philippines-groups-say>

<sup>24</sup> Edrada, EM., Lopez EB., Villarama JB., et al. (2020). First COVID-19 infections in the Philippines: a case report. *Tropical Medicine and Health* 48(21). doi:10.1186/s41182-020-00203-0

<sup>25</sup> Health Facilities and Services Regulatory Bureau. (2022). Licensed COVID-19 Testing Laboratory in the Philippines. Department of Health. <https://hfsrb.doh.gov.ph/list-of-licensed-covid-19-testing-facilities/>

<sup>26</sup> Department of Health, Philippines. (2020). *DOH confirms local transmission of COVID-19 in PH; reports 6<sup>th</sup> case*. Press Release. <https://doh.gov.ph/doh-press-release/doh-confirms-local-transmission-of-covid-19-in-ph>

protocols had to follow a scheme of prioritization <sup>27</sup> instead of ensuring equitable and wider access to diagnostics.

22. There exists a dichotomy in price and financing between public and private laboratories, with the private comprising the majority. Private laboratories are allowed a 20% markup by the Department of Health, causing the discrepancy.<sup>28</sup>

23. The cost of COVID-19 testing remains expensive for most Filipinos; despite the implementation of a price cap for diagnostics, actual prices gravitate towards the ceiling. PCR tests are allowed to cost PhP 2,800 (USD 53) in public facilities or PhP 3,360 (USD 64) in private laboratories, although some have reported prices as high as PhP 5000 (USD 95).<sup>29</sup>

24. Despite packages provided by PhilHealth, the maximum benefit only covers PhP 2,800 (USD 53), which is equivalent to the price cap for public laboratories, while allowing for co-payment of up to 20% in private laboratories.<sup>30</sup> This means that significant out-of-pocket spending is necessary in predominantly private facilities.

25. Antigen tests were slowly permitted by authorities to be accessed and used by the public for purposes of self-testing. However, its results are neither officially counted in tallies nor recognized for the purpose of health insurance claims.<sup>31</sup>

26. Contact tracing remains to be the “weakest link” of the local pandemic response, despite the hiring of volunteers and use of numerous applications.<sup>32</sup> According to lead officials, instead of reaching the target of 30-37 contacts for every positive case, the Philippines only traced 4-5 as of October 2021<sup>33</sup>, hence the persistence of community transmission of COVID-19.

27. Quarantine and isolation facilities were built for close contacts and confirmed cases of COVID-19 while hotels, multi-purpose or event halls, sports venues, and convention centers were also repurposed as such, although quality and staffing differed per facility or municipality.

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<sup>27</sup> Department of Health, Philippines. (2020). *Interim Guidelines on Expanded Testing for COVID-19*. Department Memorandum 2020-151. <https://doh.gov.ph/sites/default/files/health-update/dc2020-0174.pdf>

<sup>28</sup> Department of Health, Philippines. (2021). *Price Cap for COVID-19 Reverse Transcription-Polymerase Reaction (RT-PCR) Testing*. <https://doh.gov.ph/sites/default/files/health-update/DC2021-0374%20FOR%20WEB%20POSTING.pdf>

<sup>29</sup> CNN Philippines. (2021). *Govt lowers price cap for RT-PCR test*. <https://www.cnnphilippines.com/news/2021/9/2/RT-PCR-swab-test-price-cap-Philippines.html>

<sup>30</sup> Philippine Health Insurance Corporation. (2021). *Benefit Packages for SARS-CoV-2 Testing Using RT-PCR Tests (Plate-based and Cartridge-based)*. <https://www.philhealth.gov.ph/circulars/2021/circ2021-0021.pdf>

<sup>31</sup> Crisostomo, S. (2021). *DOH: Rapid antigen results not counted in COVID-19 tally*. Philstar.com. <https://www.philstar.com/headlines/2021/09/18/2127881/doh-rapid-antigen-results-not-counted-covid-19-tally>

<sup>32</sup> Salaverria, LB. (2021). *Palace: Contact tracing ‘weakest’ point in PH response*. Philippine Daily Inquirer. <https://newsinfo.inquirer.net/1406010/palace-contact-tracing-weakest-point-in-ph-response>

<sup>33</sup> Salaverria, LB & Chiu, PD. (2021). *Only 4-5 people traced per COVID case detected – Magalong*. Philippine Daily Inquirer. <https://newsinfo.inquirer.net/1496155/only-4-5-people-traced-per-covid-case-detected-magalong>

Some patients complained of the lack of sanitation, proper staffing ratios, and inconsistent policies<sup>34</sup>, apart from reports of inhumane treatment in these facilities.<sup>35</sup>

28. Investigative drugs allowed under compassionate use can only be accessed through donations or astronomical out-of-pocket payments of patients and their caregivers, and could also not be included in health insurance packages for COVID-19.<sup>36</sup>

29. Despite approving a total of 11 vaccine brands<sup>37</sup>, the Philippines has only fully vaccinated 57% of its population as of 10 March 2022.<sup>38</sup> Vaccines are inequitably distributed across the country, with very limited and infrequent data being released to the public. As of November 2021, eight regions continue to lack the amount of doses needed by their respective population.<sup>39</sup>

30. The Philippines has relied on purchasing and receiving donations for its vaccine procurement, due to lack of capacity for local vaccine production. Nonetheless, the country has not expressed a commitment to support for the TRIPS Waiver proposal at the World Trade Organization, despite calls from both Houses of Congress and several civil society organizations.<sup>40</sup> According to the International Commission of Jurists, supporting global health and vaccine equity is a human rights obligation, as a state party to the ICESCR and the International Covenant on Civil and Political Rights.<sup>41</sup>

31. Access to testing, contact tracing, isolation or quarantine, treatment, and vaccination, necessary for the COVID-19 response, remains inequitable for many parts of the population. The Department of Health and the pandemic taskforce are shifting to an 'endemic scenario,' wherein testing and contact tracing were to be reduced in favor of immediate isolation.<sup>42</sup>

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<sup>34</sup> Reysio-Cruz, M. (2020). *Patients in quarantine in QC bemoan poor sanitation, lack of water, unclear protocol*. Philippine Daily Inquirer. <https://newsinfo.inquirer.net/1265147/patients-at-qc-quarantine-facility-bemoan-poor-sanitation-lack-of-water-unclear-protocol>

<sup>35</sup> Arguillas, C. (2021). *COVID-19 patient in Davao treatment facility: help us heal, don't treat us as prisoners*. MindaNews. <https://www.mindanews.com/top-stories/2021/05/covid-19-patient-in-davao-treatment-facility-help-us-heal-dont-treat-us-as-prisoners/>

<sup>36</sup> Maderazo, JJ. (2021). *Hospitals should stop 'fleecing' COVID-19 victims*. Inquirer.net. <https://opinion.inquirer.net/139674/hospitals-should-stop-fleecing-covid-19-victims>

<sup>37</sup> VIPER Group COVID19 Vaccine Tracker Team. (2022). *11 Vaccines Approved for Use in Philippines*. COVID-19 Vaccine Tracker. <https://covid19.trackvaccines.org/country/philippines/>

<sup>38</sup> Department of Health, Philippines. (2022). National COVID-19 Vaccination Dashboard. <https://doh.gov.ph/covid19-vaccination-dashboard>

<sup>39</sup> Tomacruz, S. (2022). *Nearly a year into PH vaccine drive, 8 regions yet to receive enough doses*. Rappler. <https://www.rappler.com/newsbreak/investigative/regions-yet-receive-enough-doses-analysis-philippines-covid-19-vaccination-drive-2022-part-1/>

<sup>40</sup> Paid, TJ. (2021). *Health advocacy group asks DTI to back TRIPS waiver*. Business Mirror. <https://businessmirror.com.ph/2021/10/13/health-advocacy-group-asks-dti-to-back-trips-waiver/>

<sup>41</sup> International Commission of Jurists. (2021). Human Rights Obligations of States to not impede the Proposed COVID-19 TRIPS Waiver – Expert Legal Opinion. Geneva: International Commission of Jurists. <https://www.icj.org/wp-content/uploads/2021/11/Human-Rights-Obligations-States-Proposed-COVID-19-TRIPS-Waiver-2021-ENG.pdf>

<sup>42</sup> Cos, W. (2022) *DOH calls for shortened isolation requirements; testing only needed for symptomatic people*. ABS-CBN News. <https://news.abs-cbn.com/news/01/12/22/doh-calls-for-shortened-isolation-requirements>

Vaccination is now the core focus of the response, to the point that the government has begun to implement punitive policies against unvaccinated individuals, to the point of infringement of their civil and political rights and freedoms.<sup>43</sup> This abandonment of public health measures also reneges on the aforementioned state responsibility to prevent, treat, and control epidemics and endemics according to Article 12 of the ICESCR.

32. Because of the overwhelmed health system brought about by the stresses of the pandemic and chronic neglect of health infrastructure, more and more patients have been unable to access essential and immediate care, leading to an increase in mortalities (relative to the 5-year average of 2015-2019) from illnesses such as hypertension, diabetes, cancer, heart disease, and stroke, apart from deaths from obstetric complications, malnutrition, and even suicides.<sup>44</sup> The situation is a clear opposite of the “*highest attainable standard of physical and mental health*,” mandated by the ICESCR, International Declaration of Human Rights, and WHO standards.

### **Securitization of the local pandemic response, compliance to the ICCPR and Siracusa Principles**

33. The global COVID-19 pandemic brought about major societal changes given its enormous implications on public health, economics, and culture. However, in countries wherein the weaknesses and outright neglect of health systems had been made evident (or even more so), this public health emergency also caused increasing reliance on emergency powers, as allowed by the International Covenant on Civil and Political Rights (ICCPR), which was ratified by the Philippines on 23 October 1986 and enforced on 23 January 1987.<sup>45</sup>

34. From lockdowns to curfews, policies generated in the name of mitigating the spread of the virus in the Philippines were allegedly temporary yet at the same time became far-reaching in scope.<sup>46</sup> Given the nature of stringent controls and guidelines that relied on state security forces much more than health workers (thus termed securitization), as in the previous drug and counter-insurgency operations, potential human rights violations were a grave concern.

35. The Inter-Agency Task Force for the Management of Emerging Infectious Disease (IATF-EID) ultimately decides what activities to allow or restrict based on the designated level of community quarantine.<sup>47</sup> But while this is nominally headed by the Secretary of the Department of Health, the actual executors of the developed National Action Plan are the National Task

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<sup>43</sup> Roper, G. (2022). *DILG wants inventory of vaxxed, unvaccinated amid COVID spike*. ABS-CBN News. <https://news.abs-cbn.com/news/01/12/22/ph-wants-inventory-of-vaxxed-unvaccinated-amid-covid-spike>

<sup>44</sup> Philippine Statistics Authority. (2021). *Causes of Deaths in the Philippines (Preliminary): January to December 2020*. <https://psa.gov.ph/content/causes-deaths-philippines-preliminary-january-december-2020-0>

<sup>45</sup> International Covenant on Civil and Political Rights, December 16, 1966. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

<sup>46</sup> Aspinwall, N. (2020). *The Philippines' Coronavirus Lockdown Is Becoming a Crackdown*. The Diplomat. <https://thediplomat.com/2020/04/the-philippines-coronavirus-lockdown-is-becoming-a-crackdown/>

<sup>47</sup> Lopez, V. (2020). *Duterte convenes inter-agency body as COVID-19 cases rise to 20*. GMA News. <https://www.gmanetwork.com/news/topstories/nation/728975/duterte-convenes-inter-agency-body-as-covid-19-cases-rise-to-20/story/>



Force Against COVID-19 (NTF) and its five czars, who coordinate testing, contact tracing, quarantine, treatment, and vaccines, respectively. Of these, only one is a doctor, and two are retired generals—one of the Philippine National Police, heading contact tracing, and another from the Philippine Army, who serves concurrently as vaccine czar and the overall Chief Implementor of the NTF.<sup>48</sup> The NTF itself is chaired by the Secretaries of the Department of National Defense and the Department of Interior and Local Government; both are also retired army generals.<sup>49</sup> The orientation of the leadership behind the COVID-19 response reveals a relatively more militarist approach, given the discussed composition and background.

36. Many of the policies released by the NTF and IATF are done through resolutions, instead of ensuring corresponding legislation or being “*provided by law*”, which is necessary for the restriction of certain rights in the interest of public health, as enjoined in the ICCPR and limited by the Siracusa Principles.<sup>50</sup>

37. A securitized response is further revealed in the major role played by the police in enforcing health protocols, through Joint Task Force COVID Shield under the Philippine National Police. Manning checkpoints and patrolling communities, uniformed personnel could warn, fine, or arrest individuals for violations such as not properly wearing face masks or needlessly leaving their homes beyond curfew hours. Unsurprisingly, data from the harshest iteration of the local COVID-19 lockdowns, from March to May 2020, revealed that more individuals were accosted for such violations instead of being tested for the virus.<sup>51</sup>

38. Curiously, despite the civilian nature of the police in the Philippines, most started donning the camouflage attire upon deployment, which is more associated with the military or counter-insurgency operations, apart from the evident use of high-powered rifles and even armed personnel carriers while doing patrols.<sup>52</sup> The lack of healthcare workers given the extent of the pandemic and chronic understaffing left police and some volunteers from local governments to be responsible for the mitigation of the disease in communities. The proportionality of such responses remains questionable, basing on Siracusa, inasmuch that restrictions “*must be the least intrusive option to achieve the desired result*” in maintaining health protocols. Moreover, it neglects the provision of the International Covenant on Economic, Social, and Cultural Rights for the “*creation of conditions which would assure to all medical service and medical attention in the event of sickness.*”

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<sup>48</sup> Department of Interior and Local Governance, Philippines. (2021). *LGU Guide for Rehabilitation and Recovery from COVID-19*. [https://dilg.gov.ph/PDF\\_File/reports\\_resources/dilg-reports-resources-2021624\\_dd4d5c6d5f.pdf](https://dilg.gov.ph/PDF_File/reports_resources/dilg-reports-resources-2021624_dd4d5c6d5f.pdf)

<sup>49</sup> Romero, A. (2020). *DND, DILG take over implementation of quarantine*. The Philippine Star. <https://www.philstar.com/headlines/2020/03/26/2003515/dnd-dilg-take-over-implementation-quarantine/>

<sup>50</sup> Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, September 28, 1984. <https://www.refworld.org/docid/4672bc122.html>

<sup>51</sup> San Juan, AD. (2022). *More arresting than testing in gov't COVID response — medical groups*. Manila Bulletin. <https://mb.com.ph/2022/02/17/more-arresting-than-testing-in-govt-covid-response-medical-groups/>

<sup>52</sup> Balagtas See, A. (2021). *‘They treated me like I murdered someone’: Lockdown arrests mark 1st year of PH pandemic response*. Philippine Center for Investigative Journalism. <https://pcij.org/article/6436/they-treated-me-like-i-murdered-someone-lockdown-arrests-mark-1st-year-of-ph-pandemic-response>

39. Recorded punishments would vary, with some having significant psychological or emotional impact, such as the use of coffins and cemeteries to establish a fear of death that COVID-19 could inflict.<sup>53</sup> Others involved more physical forms of torture, such as being forced to perform strenuous exercise routines, held under the heat of the sun, made to swim in canal water, and locked inside dog cages. The cruel and inhuman punishments meted out on violators of pandemic restrictions are obvious human rights violations in themselves due to the immense harm and humiliation.<sup>54</sup>

40. Gender-based violence was even noted as being perpetrated by police onto curfew violators, such as being sexually molested (including a 15-year-old girl that was later killed after filing a complaint)<sup>55</sup> and, in another incident, several LGBTQI+ individuals being made to perform lascivious acts on each other<sup>56</sup>, violating ICCPR provisions to respect people's inherent dignity.

41. At least eight deaths have been recorded to have occurred to individuals tagged as quarantine protocol violators, for offenses such as violation of curfew<sup>57</sup> or checkpoints<sup>58</sup> and the non-wearing of face masks<sup>59</sup>, perpetrated by law enforcement and local government officials. The first of these incidents occurred weeks after President Duterte advised police and military officials that when dealing with unruly quarantine violators, "Shoot them dead!"<sup>60</sup> These are clear violations of the proportionality and non-discriminatory requirements of emergency measures in the Siracusa Principles, and deplorable violations of the right to life.

42. The pandemic has also affected legal and judicial recourse of those who are incarcerated or deprived of liberty while sick or vulnerable, leading to further worsening of their comorbidities, COVID-19 infection, or even death, which was referred to by the Supreme Court as "deliberate indifference",<sup>61</sup> and thus infringes upon ICCPR commitments towards the detained.

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<sup>53</sup> Kwok, C. & Lee, Z. (2020). *Coffins and skulls warn people in the Philippines to stay home amid coronavirus pandemic*. South China Morning Post. <https://www.scmp.com/video/coronavirus/3077304/coffins-and-skulls-warn-people-philippines-stay-home-amid-coronavirus>

<sup>54</sup> Human Rights Watch. (2020). *Philippines: Curfew Violators Abused; COVID-19 Response Should Respect Detainee Rights*. <https://www.hrw.org/news/2020/03/26/philippines-curfew-violators-abused>

<sup>55</sup> Cruz, M. (2021). *Lawmaker: Female cops can end 'sexual ambush'*. Manila Standard. <https://manilastandard.net/news/national/367421/lawmaker-female-cops-can-end-sexual-ambush.html>

<sup>56</sup> Amnesty International. Philippines: Investigate humiliating abuses by local officials enforcing curfew. <https://www.amnesty.org/en/latest/news/2020/04/philippines-investigate-humiliating-abuses-curfew/>

<sup>57</sup> Cinco, M., Corrales, NA., & Santos, TG. (2021). *'Tanod' enforcing ECQ sued for murder for shooting scavenger*. Philippine Daily Inquirer. <https://newsinfo.inquirer.net/1471375/tanod-enforcing-ecq-guns-down-scavenger>

<sup>58</sup> Ferreras, V. & Cahiles, G. (2020). *Retired soldier shot dead by police at checkpoint in Quezon City*. CNN Philippines. <https://www.cnnphilippines.com/news/2020/4/22/Retired-soldier-shot-dead-by-police-.html>

<sup>59</sup> Lalu, GP. (2021). *Cop in Pampanga teen slay faces homicide raps; PNP chief orders full probe*. Inquirer.net <https://newsinfo.inquirer.net/1519561/cop-in-pampanga-teen-slay-faces-homicide-raps-pnp-chief-orders-full-probe>

<sup>60</sup> Merez, A. (2020). *'Speculation': Palace denies Duterte's 'shoot them dead' remark influenced cop in ex-soldier's slay*. CNN Philippines. <https://news.abs-cbn.com/news/04/23/20/speculation-palace-denies-dutertes-shoot-them-dead-remark-influenced-cop-in-ex-soldiers-slay>

<sup>61</sup> Buan, L. (2021). *Kin of activist who died in jail of COVID-19 sues cops, officials*. Rappler. <https://www.rappler.com/nation/family-activist-died-jail-joseph-canlas-sues-negligence/>

43. In urban districts across the Philippines, the COVID-19 pandemic revealed inadequacies not only in the health system but also the failures in implementing additional or emergency powers. For many marginalized communities, the deplorable state of daily life was made even more unbearable in a pandemic with drastic health and economic implications, furthered by unemployment and lack of financial assistance.<sup>62</sup> In rural areas, agricultural workers were unable to travel to harvest and sell their crops given the restrictions on movement during lockdown.<sup>63</sup> Coupled with the lack of financial assistance and health access, families are unable to have neither food, financial nor health security amid the ongoing crisis.

45. Amid the vaccination campaign, President Duterte threatened to arrest individuals who refused to get vaccinated, despite the lack of a legal basis.<sup>64</sup> The DILG proceeded to census unvaccinated individuals in every barangay and restricted their movement.<sup>65</sup> While ICCPR allows for limiting rights in the name of public health, Siracusa Principles explicitly indicate that a law must exist prior to the limitation.

46. The pandemic response that has become associated with inefficiency, privilege, human rights violations, and a punitive approach has left many individuals with the responsibility of dealing with the pandemic on their own instead of being provided by state. With majority of economic opportunities stifled by the worst of the pandemic, the individual burden to comply with health protocol, lest be branded as a *pasaway* or violator whose dignity is assaulted, is a reneging of the Philippine Constitutional provision to provide and promote the right to health.

47. The Siracusa Principles are clear in stating that when a state invokes public health as the reason for limiting rights as provided by the ICCPR, *“These measures must be specifically aimed at preventing disease or injury or providing care for the sick and injured.”* Many of the mentioned occurrences were overbroad and were not oriented towards the provision of health services.

48. An additional casualty of the misuse and abuse of pandemic-related emergency powers is the fomenting of distrust in not just those implementing the COVID-19 response, but the science and health dimensions of the pandemic and the institutions that serve these purposes.<sup>66</sup> With the neglect of health as well as science and technology in the Philippines, it becomes a tragic dismantling of the state’s fundamental obligations towards the right to health.

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<sup>62</sup> Dela Peña, K. (2022). *Jobs for Filipinos: Dark past and present, uncertain future*. Inquirer.net  
<https://newsinfo.inquirer.net/1553035/jobs-for-filipinos-dark-past-and-present-uncertain-future>

<sup>63</sup> Conde, M. (2020). *For Philippine farmers reeling from disasters, lockdown is another pain point*. Mongabay.  
<https://news.mongabay.com/2020/05/for-philippine-farmers-reeling-from-disasters-lockdown-is-another-pain-point/>

<sup>64</sup> CNN Philippines. (2021). DOJ: No law to force vaccination, Duterte's arrest warning only out of exasperation.  
<https://www.cnnphilippines.com/news/2021/6/22/DOJ-Duterte-vaccination-jail-threat-.html>

<sup>65</sup> Galvez, D. (2022). *DILG tightens noose as barangays ordered to submit list of unvaccinated*. Inquirer.net  
<https://newsinfo.inquirer.net/1539504/dilg-tightens-noose-as-barangays-ordered-to-submit-list-of-unvaccinated>

<sup>66</sup> Berse, KB. (2020). In Science We Trust? Science Advice and the COVID-19 response in the Philippines.  
<https://ingsa.org/covidtag/covid-19-commentary/berse-philippines/>

### **Recommendations of CPRH, CHD, and HEAD:**

1. Immediately increase the health budget, focusing on health infrastructure, human resources, and service delivery to build a comprehensive and tax-based health system.
2. Systematically address and reverse the privatization and devolution of essential health services, which hampers public access to these services.
3. Improve and empower community-based health programs across the country to strengthen primary care and mental health services.
4. Address the social determinants of the COVID-19 pandemic: housing, access to water, food security, security of tenure and benefits, occupational and school health, among others.
5. Revamp and reorganize the national task force towards a more evidence-based and health-oriented institution that values human rights and active community participation.
6. Enact a proactive pandemic response that is grounded on both scientific evidence and the realities of the marginalized amid the public health and economic crisis.
7. Ensure access to COVID-19 diagnostics, therapeutics, technologies, and vaccines both locally and globally through a patent waiver, national industrialization, and robust public health institutions.
8. Limit the role of police and military in the pandemic response to reduce the discourse of fear and discipline, and instead empower the health workforce, including community health workers.
9. Increase active monitoring and avenues for reporting of human rights violations in communities, health facilities, and government institutions.
10. Reorient health workers and institutions, government officials, and the general public towards human rights conventions and the right to health, in order to rebuild trust and confidence.
11. Investigate and prosecute all pandemic-related human rights violations and irregularities.
12. Effect laws that foster a human rights framework in health, including future pandemics or crises.