



**The Philippines' Compliance with the International Covenant on Civil and Political Rights
Suggested List of Issues Relating to the Death Penalty**

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996
and

The World Coalition Against the Death Penalty

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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized the Death Penalty Project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition Against the Death Penalty.

The World Coalition Against the Death Penalty (WCADP), an alliance of more than 150 NGOs, bar associations, local authorities, and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

The Philippines is at risk of backsliding on its obligations under Article 6 of the International Covenant on Civil and Political Rights and the Second Optional Protocol

1. The Philippines ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights in 2007. Yet lawmakers have flouted Article 6 and the Protocol by taking steps to reinstate the death penalty.
2. In its 2012 Concluding Observations, the Committee urged the Government of the Philippines to “take all necessary measures to ensure legal clarity on the status of the Covenant in domestic law,” and “to raise awareness of the Covenant among judges, lawyers and prosecutors to ensure that its provisions are taken into account by national courts.”¹
3. In the context of the right to life under Article 6, the State Party’s Fifth Periodic Report references the creation of an Inter-Agency Committee on Extra-Legal Killings, Enforced Disappearances, Torture and Other Grave Violations of the Right to Life, Liberty and Security of Persons, as well as a Presidential task force on Violations of the Right to Life, Liberty and Security of the Members of the Media,² but makes no reference to recent efforts to reinstate the death penalty. The report’s discussion of awareness-raising activities targeting judges, lawyers, and prosecutors similarly references “capacity-building activities on International Humanitarian Law” and “trainings on handling of cases involving EJKs, Eds, torture, and other grave violation of the right to life, liberty and security,”³ but does not address the death penalty.
4. In 2016, the UN High Commissioner for Human Rights wrote to the Speaker of the House of Representatives of the Philippines and the President of the Senate of the Philippines to remind them that “[i]nternational law does not permit a State that has ratified or acceded to the Second Optional Protocol to denounce it or withdraw from it.”⁴ He noted that “the Philippines would violate its obligations under international human rights law if it reintroduced the death penalty,” and he appealed to lawmakers in the Philippines “to uphold the international human rights obligations of the Philippines and maintain the abolition of the death penalty.”⁵
5. In 2017, the UN Special Rapporteur on torture and the UN Special Rapporteur on extrajudicial executions reminded the State Party that it has an obligation under the Second Optional Protocol “to stay away from this form of punishment and cannot legally reintroduce it in its jurisdiction.”⁶ They noted that after ratifying the protocol, “State authorities ha[d] also expressly confirmed on numerous occasions its validity and binding nature on the

¹ U.N. Human Rights Committee, *Concluding observations on the fourth periodic report of the Philippines, adopted by the Committee at its 106th session*, UN Doc. CCPR/C/PHL/CO/4, 13 Nov. 2012, ¶ 5.

² Human Rights Committee, *Fifth periodic report submitted by the Philippines under article 40 of the Convention, due in 2016*, UN Doc. No. CCPR/C/PHL/5, 3 Oct. 2019, ¶ 4(a).

³ *Id.* ¶ 5.

⁴ Zeid Ra’ad Al Hussein, High Commissioner for Human Rights, Letter to His Excellency Mr. Pantaleon Alvarez and His Excellency Mr. Aquilino Pimentel III, 6 Dec. 2016, at 1, available at https://www.ohchr.org/Documents/Countries/PH/OpenLetterHC_DeathPenalty.pdf (last visited 7 Jan. 2020).

⁵ *Id.* at 2.

⁶ UN Office of the High Commissioner on Human Rights, *UN experts urge Filipino legislators to reject death penalty bill*, 16 March 2017, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21388&LangID=E> (last visited 7 Jan. 2020).

Philippines, without raising any concerns over the procedure through which it had been ratified.”⁷ The experts concluded that reinstatement of the death penalty would be “in clear violation of [the Philippines’] obligations under the protocol.”⁸

6. After campaigning on the issue in 2016, in July 2019, President Rodrigo Duterte again called on Congress to reinstate the death penalty, focusing in particular on drug-related offenses.⁹ Lawmakers thereafter introduced legislation to reinstate the death penalty,¹⁰ filing at least 19 bills by the end of the year.¹¹ One bill would allow the death penalty for crimes including treason, certain types of bribery, “plunder,” drug offenses, murder, robbery involving violence or intimidation, rape, piracy, kidnapping, and certain types of arson,¹² while another would allow the death penalty for drug trafficking and drug manufacturing,¹³ and another would allow the death penalty for qualified trafficking in persons.¹⁴ Of the 19 bills that lawmakers introduced in 2019, 15 target drug trafficking or other drug-related offenses.¹⁵

7. Suggested questions:

- What measures has the State Party taken to ensure that lawmakers are familiar with the State Party’s obligations under Article 6 of the ICCPR and the Second Optional Protocol, as well as the Committee’s General Comment 36, which emphasizes, *inter alia*, that State Parties to the ICCPR “that have abolished the death penalty . . . are barred from reintroducing it.”¹⁶?
- What measures has the State Party taken to ensure legal clarity among all branches of government on the status of Article 6 and the Second Optional Protocol?

⁷ Ibid.

⁸ Ibid.

⁹ Amnesty International, *Philippines: President’s call to revive death penalty will only worsen climate of impunity*, 22 July 2019, <https://www.amnesty.org/en/latest/news/2019/07/philippines-president-call-revive-death-penalty-only-worsen-climate-of-impunity/> (last visited 7 Jan. 2020).

¹⁰ See, e.g., *4 death penalty bills filed at Senate*, GMA News Online, 5 July 2019, available at <https://www.gmanetwork.com/news/news/nation/699994/4-death-penalty-bills-filed-at-senate/story/> (last visited 7 Jan. 2020); Antonio Contreras, *Why Imee Marcos must oppose the death penalty*, Manila Times, 2 Jan. 2020, available at <https://www.manilatimes.net/2020/01/02/opinion/columnists/why-imee-marcos-must-oppose-the-death-penalty/670067/> (last visited 7 Jan. 2020).

¹¹ Maria Corazon A. De Ungria & Jose M. Jose, *The war on drugs, forensic science and the death penalty in the Philippines*, Forensic Science International: Synergy, Vol. 2, at 32-34, available at <https://doi.org/10.1016/j.fsisyn.2019.11.002> (last visited 7 Jan. 2020).

¹² Antonio Contreras, *Why Imee Marcos must oppose the death penalty*, Manila Times, 2 Jan. 2020, available at <https://www.manilatimes.net/2020/01/02/opinion/columnists/why-imee-marcos-must-oppose-the-death-penalty/670067/> (last visited 7 Jan. 2020).

¹³ *Bato to push for Senate hearings on revival of death penalty*, GMA News Online, 4 Jan. 2020, available at <https://www.gmanetwork.com/news/news/nation/721055/bato-to-push-for-senate-hearings-on-revival-of-death-penalty/story/> (last visited 7 Jan. 2020).

¹⁴ Darryl John Esguerra, *Duterte wants crimes linked to child trafficking tagged as non-bailable offenses*, Inquirer.net, 27 Sept. 2019, available at <https://newsinfo.inquirer.net/1170345/duterte-wants-crimes-linked-to-child-trafficking-tagged-as-non-bailable-offenses> (last visited 8 Jan. 2020).

¹⁵ Maria Corazon A. De Ungria & Jose M. Jose, *The war on drugs, forensic science and the death penalty in the Philippines*, Forensic Science International: Synergy, Vol. 2, at 32-34, available at <https://doi.org/10.1016/j.fsisyn.2019.11.002> (last visited 7 Jan. 2020).

¹⁶ Human Rights Committee, *General comment No. 36*, UN Doc. CCPR/C/GC/36, 3 Sept. 2019, ¶ 34.

- What steps has the State Party taken to ensure that lawmakers are familiar with the Committee’s interpretation of Article 6 to limit applicability of the death penalty to “crimes of extreme gravity involving intentional killing,”¹⁷ as specified in General Comment 36?

¹⁷ Id. ¶ 35.