



Australian Government  
Department of Foreign Affairs and Trade

# DFAT COUNTRY INFORMATION REPORT THE PHILIPPINES

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## ACRONYMS

AFP	Armed Forces of the Philippines
ARMM	Autonomous Region in Muslim Mindanao
ASG	Abu Sayyaf Group
BIFF	Bangsamoro Islamic Freedom Fighters
CHR	Commission on Human Rights
EJKs	Extra-judicial killings
IAS	Internal Affairs Service (Philippine National Police)
IOM	International Organization for Migration
ISIL	Islamic State
LGBTI	Lesbian, gay, bisexual, transgender and intersex
MILF	Moro Islamic Liberation Front
MNLF	Moro National Liberation Front
NCMF	National Commission on Muslim Filipinos
NPA	New People's Army
OFWs	Overseas Filipino Workers
SEC	Securities and Exchange Commission

# GLOSSARY

*Bangsamoro* ‘Homeland for the Moro’ (see below), a region in the south of the Philippines

*Bangsamoro Orangic Law* (formerly known as Bangsamoro Basic Law)

A proposed law that would grant autonomy in the Bangsamoro region. See [Security Situation](#)

*Barangay* The smallest unit of local government; a village or urban community. Headed by an elected Barangay Captain

*Moro* Indigenous group in the southern Philippines

*troll* A person (or computer program) that deliberately incites anger or violence on the internet

## Terms used in this report

*high risk* DFAT is aware of a strong pattern of incidents

*moderate risk* DFAT is aware of sufficient incidents to suggest a pattern of behaviour

*low risk* DFAT is aware of incidents but has insufficient evidence to conclude they form a pattern

official discrimination

1. legal or regulatory measures applying to a particular group that impede access to state protection or services that are available to other sections of the population (examples might include but are not limited to difficulties in obtaining personal registrations or identity papers, difficulties in having papers recognised, arbitrary arrest and detention)
2. behaviour by state employees towards a particular group that impedes access to state protection or services otherwise available, including by failure to implement legislative or administrative measures

societal discrimination

1. behaviour by members of society (including family members, employers or service providers) that impedes access by a particular group to goods or services normally available to other sections of society (examples could include but are not limited to refusal to rent property, refusal to sell goods or services, or employment discrimination)
2. ostracism or exclusion by members of society (including family, acquaintances, employers, colleagues or service providers)

## 1. PURPOSE AND SCOPE

1.1 The Department of Foreign Affairs and Trade (DFAT) has prepared this Country Information Report for protection status determination purposes only. It provides DFAT's best judgement and assessment at time of writing and is distinct from Australian government policy with respect of The Philippines.

1.2 The report provides a general, rather than an exhaustive country overview. It has been prepared with regard to the current caseload for decision makers in Australia, without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.

1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the Migration Act 1958 states that:

Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.

1.4 This report draws on DFAT's on-the-ground knowledge and discussions with a range of sources in The Philippines. It takes into account information from government and non-government sources, including but not limited to those produced by the International Organisation for Migration, the United Nations, US State Department, UK Home Office, the World Bank, international think tanks and non-government organisations, and reputable media organisations. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

1.5 This updated Country Information Report replaces the previous DFAT report released on The Philippines published on 9 August 2017.

## 2. BACKGROUND INFORMATION

### RECENT HISTORY

2.1 The Philippines was colonised by the Spanish from 1521 to 1898 and was then ceded to the United States at the conclusion of the Spanish-American War in 1899. As a result, many administrative and legislative processes are based on a combination of US and Spanish approaches. During World War Two, the Philippines fell under Japanese occupation from 1942 to 1945. In 1946, the Republic of the Philippines achieved independence.

2.2 Parts of Mindanao, the southern group of islands in the Philippines, have been affected by separatist insurgencies dating back to Spanish rule. The area has several ongoing internal conflicts (see '[Security situation](#)' below). In 1989, the Autonomous Region in Muslim Mindanao (ARMM) was established and it operates autonomously from the national government in some respects (see '[Political System](#)' below).

2.3 The 'Martial Law period' from 1972 to 1981 was a period of significant political and cultural upheaval. Then-President, Ferdinand Marcos (who ruled the Philippines from 1965 to 1986) implemented martial law in response to the perceived threat of a communist insurgency. Opposition to the Marcos regime and its associated violence and corruption led to the historic 'People Power Revolution', a series of popular demonstrations in 1986, which resulted in the exile of Marcos and the ascension of Corazon Aquino, the first female president. The following years of leadership were tumultuous: successive Presidents faced coup attempts, corruption charges, impeachments and forced resignations.

2.4 In 2016, Rodrigo Duterte was elected President. Duterte was the former Mayor of Davao City and was widely known for his strong stance against crime. He had been criticised for his human rights record in relation to dealing with drug-related crime in Davao. Duterte's national administration has launched a campaign against illegal drugs, resulting in arrests and killings, including alleged extra-judicial killings (see [Extra-Judicial Killings and the Anti-drug Campaign](#)).

2.5 The Philippines is one of the most disaster-affected countries in the world, regularly experiencing severe tropical cyclones. Typhoon Haiyan (locally known as 'Yolanda'), one of the most intense tropical cyclones on record, made landfall in November 2013, killing over 6,000 people and displacing hundreds of thousands of people. Regular disaster events exacerbate poverty levels and affect livelihood opportunities for the poorest Filipinos.

### DEMOGRAPHY

2.6 The Philippines consists of over 7,000 islands, which are divided into three major groups: Luzon (North), the Visayas (Central) and Mindanao (South). The population of the Philippines is approximately 104 million people. The capital city, Manila, is located in Luzon.

2.7 Each year, millions of Filipinos go overseas to work. Known as 'Overseas Filipino Workers' ('OFWs'), official figures show 2.2 million Filipinos worked overseas during the second and third quarters of 2016 alone. According to the World Economic Forum, Filipinos are the eighth largest diaspora in the world.

2.8 According to the 2010 census, the main ethnic groups are: Tagalog 24.4 per cent, Bisaya (or Visaya) 11.4 per cent, Cebuano 9.9 per cent, Ilocano 8.7 per cent, Hiligaynon (or Ilonggo) 8.4 per cent, Bikol 6.8 per cent, and Waray 3.9 per cent. The population is young; the median age is 23 years.

2.9 The Constitution recognises ‘Filipino’ as the national language. Seven major dialects exist: Tagalog (upon which Filipino is based), Cebuano, Bisaya (or Binisaya), Ilocano, Hiligaynon (or Ilonggo), Bicol, and Linayte-Samarnon (Waray). The other official language is English. There are an estimated 187 indigenous Philippine languages.

2.10 For religious demography, see [Religion](#).

## ECONOMIC OVERVIEW

2.11 The World Bank classifies the Philippines as a lower middle-income country. The economy, measured in real GDP growth, saw 6.7 per cent year-on-year growth in 2017 and similar levels of growth in the preceding years, making it one of the fastest-growing emerging Asian economies. Domestic consumption, private investment, government spending and improved exports have supported the growth. Remittances from the large number of OFWs account for approximately 10 per cent (around USD22 billion) of the Philippine economy.

2.12 According to the World Bank, 21.6 per cent of the population lives in poverty according to a national poverty line that takes into account the minimum amount of money that a household needs to obtain food and non-food essentials. About 80 per cent of the poor live in rural areas and nearly forty per cent of people living in Mindanao live in poverty, compared with 5 per cent in the National Capital Region.

2.13 The Philippines is ranked 111 out of 180 countries in Transparency International’s 2017 Corruption Perceptions Index. There are credible reports of corruption in the government and public sector, often linked to personal connections or nepotism. The Philippines has several anti-corruption bodies, the primary being the Office of the Ombudsman, created in accordance with Article 11 of the 1987 *Philippines Constitution*. Several high-profile corruption cases have been tried over recent years, but few have resulted in conviction.

2.14 The Philippines operates a socioeconomic classification system, which organises households into classes based on their income level, educational attainment and housing facilities. The classes range from A to E, with E being the poorest group. The Department of Social Welfare and Development (DSWD) administers a conditional cash transfer program (*Pantawid Pamilyang Pilipino Program*) for health and education support to over 4 million of the poorest households. The programme gives cash grants to the very poor, but it is limited to people who have children under 18 years of age and pregnant women. Conditions of payment include access to healthcare and vaccinations for children and the attendance of training for parents in parenting skills.

2.15 A large number of people work in the informal sector. This work is usually unskilled and unregulated. People may pay into a social security fund, which may provide a pension, but this only applies to workers in the formal sector. Some limited social welfare services may be offered at the barangay (the smallest unit of local governance in the Philippines) level, but this depends on the barangay.

2.16 Rates of underemployment are very high. There is a large informal sector, which, by its nature, is difficult to measure. Casualisation of work and contract based work, which does not attract the protections of the Labor Code, is common. Many people are forced onto short-term contracts which are not protected by the provisions of that code and are then often rehired for another short period on a continuous basis.

## Health

2.17 According to figures published by the UN Development Programme, the Philippines spends approximately 4.4 per cent of GDP per annum on health, delivered through both state and religiously based facilities (mostly Catholic hospitals). Life expectancy is 69.2 years: 72.8 years for women and 65.9 years for men. The infant mortality rate is 21.5 per 1,000 live births.

2.18 The 1987 *Philippines Constitution* requires the state at a national level to ‘protect and promote the right to health and instil health consciousness among [the population].’ It also requires the state to make healthcare available to people ‘at an affordable cost’ and includes an undertaking to ‘provide free medical care to paupers’. In reality, despite the availability of a national health insurance agency, numerous out-of-pocket expenses make health care costly and hinder access for poor people. The poor may have difficulty understanding or accessing healthcare bureaucracy, especially if they are located in rural areas, far from services. Middle class people generally have private health insurance.

2.19 A national health insurance scheme, PhilHealth, was introduced in 1995 with the aim of providing universal health insurance. Different categories of enrolment exist, and premiums are paid by those working in the formal sector with poorer people subsidised. Legislation passed the lower house of Congress in 2017 that aims for universal health coverage, however the system is yet to be fully implemented.

2.20 The quality of healthcare facilities and services is variable. Health service provision is decentralised with the national Department of Health providing technical assistance to local government health providers but not being directly involved in service delivery. Health infrastructure is overseen by a number of different authorities and can vary from place to place. Private health facilities are better, but are unlikely to be affordable for the poor. Health facilities in urban areas are likely to be better equipped than hospitals in rural areas.

## Mental Health

2.21 Mental healthcare is available, but is limited. Local media reported in 2017 that only about seven per cent of public and private hospitals have mental health wards or units. Payment for mental health services, like all health services, may be required. The National Centre for Mental Health, a large government teaching hospital in Manila, caters mostly to indigent clients. Local experts told DFAT that the number of mental health professionals such as psychiatrists, psychologists and mental health nurses is not enough to meet demand. However, the data on mental health conditions is limited, making the problem difficult to measure. Other health providers that people are more likely to come into contact with, such as generalist nurses and doctors, may not have any awareness of mental health conditions or care.

2.22 Legislation passed the Senate in 2018 that provides specific legal guidance on mental healthcare for the first time. The legislation focuses on consent where possible and de-institutionalisation of patients as well as providing for increased investment in local healthcare services to provide mental health services. At the time of writing the implementing regulations have not been passed.

2.23 Stigma around mental health conditions does exist, but the issue is not taboo. Many young people in particular have better knowledge and understanding of mental health issues and are more willing to openly discuss the topic.

## People Living with HIV

2.24 The number of HIV cases has been rising in the Philippines since 2009. The Philippines has one of the fastest rising rates of infection in the world. Particularly affected groups include men who have sex with men, trans women, OFWs and sex workers, however heterosexual transmission outside of these groups is

also common. The rise in recorded cases may be related to more widespread government testing and targeting of affected communities. People living with HIV live all across the Philippines.

2.25 Treatment for HIV is widely and freely available, however less than 40 per cent of patients are receiving treatment. There are occasionally problems with supply and sometimes the most up-to-date medications are not available, but in general, people who need HIV care are able to access it. People who are infected with the virus are able to access HIV treatment before showing symptoms and before the condition becomes more advanced, which helps limit further infection with their sexual partners. ‘PREP’, a drug that can prevent the spread of HIV when taken by non-infected patients, is also available and is very popular among affected communities. Criteria for accessing PREP is strict and a black market for obtaining it exists.

2.26 People living with HIV can generally access freely available quarterly health checks. However, many hospitals are not equipped to provide HIV care and access to care is better in urban areas, particularly Manila.

2.27 Discrimination in employment against people on the basis of HIV status is illegal. However, Human Rights Watch reported in February 2018 that workers and employees with HIV suffer workplace discrimination but are unwilling to report it for fear of being further exposed as HIV positive. This discrimination includes refusal to hire HIV positive people or terminating their employment because of their HIV status.

2.28 A stigma against HIV does exist, but DFAT assesses that people living with HIV are able to access appropriate and professional healthcare. The Philippines is, in general, a conservative nation where sex and drugs, seen as linked to HIV, are taboo among some people. Young people are generally more open to discussing issues related to sexual health.

## Education

2.29 Article 14 of the *1987 Philippines Constitution* grants the right to education, including free public education at the elementary and high school level, although poverty and displacement, such as in the case of the Marawi siege (see [Security Situation](#)) may affect access. According to figures published by the UN Development Programme, primary school education is compulsory and primary school-aged children attend school universally. About 88 per cent of secondary school-aged children attend school. The adult literacy rate is over 96 per cent.

## POLITICAL SYSTEM

2.30 The Philippines is a constitutional republic with a democratically elected President and a bicameral Congress. It is governed as a centralised state divided into provinces with the exception of the Autonomous Region in Muslim Mindanao (ARMM), which has its own regional government. The ARMM has the power to create its own sources of revenues and to levy taxes, fees, and charges, subject to Constitutional provisions. There have been a number of attempts to change the government to a federal, unicameral, or parliamentary government since the Ramos Administration (1992-98).

2.31 The President functions as both the head of state and the head of government, and is the commander-in-chief of the armed forces. The President is elected by popular vote for a single six-year term, during which he or she appoints and presides over the cabinet.

2.32 The bicameral Congress is composed of the Senate, serving as the upper house, with members elected to a six-year term, and the House of Representatives, serving as the lower house, with members

elected to a three-year term. The senators are elected at large while the representatives are elected from both legislative districts and through sectoral representation.

2.33 Judicial power is vested in the Supreme Court, composed of a Chief Justice as its presiding officer and 14 associate justices, all of whom are appointed by the President from nominations submitted by the Judicial and Bar Councils. See [Judiciary](#).

2.34 The Philippines has four layers of sub-national government. A provincial governor leads provinces (of which there are 81), a city mayor leads cities, a municipal mayor leads municipalities and a barangay captain leads barangays (villages or small communities within urban areas, of which there are over 40,000). All of these positions are limited to three consecutive three-year terms. At the end of their third term, incumbents must let one term pass before they are eligible to run again. These candidates are eligible to run in elections at other levels of government, such as local government. The President has a supervisory mandate over local government, but in reality, the local level has relative autonomy from the national level, which is reinforced by the *Republic Act No. 7160* (also known as the *Local Government Code of 1991*).

2.35 Patronage is reported at all levels of government. The prevalence of political dynasties with localised power bases is a governance problem that has proved particularly hard to overcome.

2.36 Presidential and vice presidential elections were held in the Philippines on 9 May 2016. Nearly 44 million Filipinos participated in the election; voter turnout was 82 per cent. Former Mayor of Davao City in Mindanao, Rodrigo Duterte, was elected President, winning 39 per cent of the national vote (notably, 63 per cent of the vote in Mindanao and 72 per cent of the overseas Filipino vote). Leonor ‘Leni’ Robredo was elected Vice President. Both were inaugurated on 30 June 2016. Duterte and Robredo ran for different parties and are independent of each other. Duterte campaigned on his priority issues of federalism and curbing crime, corruption and drug use.

## HUMAN RIGHTS FRAMEWORK

2.37 The Philippines is party to most major international human rights conventions, having ratified the Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Convention on the Rights of Persons with Disabilities. Many human rights are guaranteed in the Philippines Constitution under Article XIII on ‘Social Justice and Human Rights’ and the Bill of Rights in Article III.

2.38 Draft anti-discrimination bills, which would disallow discrimination on various grounds, including on the basis of religion or sexual orientation and gender identity, have been tabled in parliament over the past decade but are yet to be passed. Some local government units have anti-discrimination ordinances which differ from place to place in terms of coverage and effectiveness.

### National Human Rights Institution

2.39 The Commission on Human Rights (CHR) is an independent office established in May 1987 under the Philippines Constitution. The Government provides the bulk of its funding. The Commission is comprised of a Chair and four members who must be natural-born citizens of the Philippines and a majority of whom must be members of the Philippine Bar. The President of the Philippines appoints Commissioners for seven-year

terms. The current Commissioners began their terms in 2015, under former President Benigno ‘Nonoy’ Aquino.

2.40 The CHR has been vocal in opposing the methods employed in the anti-drug campaign, especially alleged extrajudicial killings, and the President has publicly clashed with the Commission about the issue. An attempt was made, via the House of Representatives, to reduce the budget of the Commission to 1000 pesos (about \$25) in 2018. The Senate prevented this measure and the funding cut did not take place.

2.41 The Commission is headquartered in Metro Manila and maintains regional offices. The CHR is not present in the ARMM, which has its own Regional Human Rights Commission. However, the Commission does conduct ‘missions’ to the ARMM and considers that human rights in the region are part of its mandate.

2.42 The CHR is fully compliant with the ‘Paris Principles’ (relating to the status of national human rights institutions) and has ‘A’ status (the highest status of national institutions accredited by the Global Alliance of National Human Rights Institutions). The CHR has monitoring and investigative capacity but no enforcement powers.

## SECURITY SITUATION

2.43 A variety of security issues affect the Philippines, ranging from everyday criminal issues, especially in urban areas, to active insurgencies and terrorism. Petty crime (bag snatching, pickpocketing and residential burglaries) is common. Violent crime, including murder and rape, is relatively high by international standards and gun ownership is common. The homicide rate was 11.02 per 100,000 people in 2016, which is one of the highest in the Asia-Pacific region.

### Far-left Groups

2.44 The New People’s Army (NPA), the armed wing of the communist party, have been waging a communist insurgency for decades. The NPA is mostly concentrated in Mindanao, but also operates on a smaller scale throughout the country. The NPA is engaged in criminal activities including extortion, arson, ransom and protection rackets. The group is known to demand ‘revolutionary taxes’ from businesses operating in some parts of Mindanao, enforcing the extortion demands by threatening or conducting attacks against infrastructure such as power and telecommunication facilities.

2.45 Far-left groups are not necessarily unified. Ideological and organisational differences exist between different groups within the left. Some, but not all, groups are violent and some are armed. Some indigenous people in particular are involved in far-left groups as a way to pursue land and traditional rights.

2.46 Membership, or alleged membership of a far-left group is politically sensitive. President Duterte vowed to ‘destroy the NPA’ referring to efforts against the group as a ‘war’ that is ‘just like drugs’. ‘Red baiting’, where a person is falsely accused of having links to the communists for political or personal gain, has also been reported amongst journalists, students, academics and human rights advocates.

2.47 The Duterte administration commenced peace talks with these groups in August 2016, but progress has stalled with the collapse of unilateral ceasefires and the government’s cancellation of the process in February 2017.

## Violence in the Southern Philippines

2.48 According to Conflict Alert, almost 11,000 incidents of violence occurred in the Autonomous Region of Muslim Mindanao (ARMM) between 2011 and 2016. However, security analysts told DFAT that the number of incidents is difficult to assess accurately. DFAT understands that the number of incidents related to shadow economy issues, including the illegal drug trade, firearms and gambling as well as robberies, gender-related violence and inter-clan violence are more common than terrorism or rebellion-related violence. However extremist violence is more likely to be fatal.

2.49 The south of the country has a history of conflict related to Islamic separatism. In July 2018, President Duterte signed the Bangsamoro Organic Law (originally known as the ‘Bangsamoro Basic Law’) into law following many years of negotiation. The law requires a transitional authority, mostly comprised of former fighters, to devolve some parts of national law to a more independent region. A plebiscite on the ratification of the law will be held in the Bangsamoro region in January 2019.

2.50 In May 2017 militants affiliated with the Islamic State group took over parts of the southern city of Marawi. The Armed Forces of the Philippines retook the city, which was badly damaged, after a siege that lasted several months. The government announced the end of fighting on 23 October 2017. Over 1000 people were killed, almost all of whom were alleged to be fighters. A small number of civilians were also killed. According to the UNHCR, over 12,000 families remain displaced by the conflict as of September 2018 and over 64,000 families have returned.

2.51 Rebuilding from the conflict has been slow and is continuing at the time of writing. Obstacles remain for displaced people, including the presence of unexploded ordnance, human remains and dangerous (sharp or unstable) building debris. The government began escorting small groups of displaced people to briefly visit and collect belongings from their former houses in April 2018.

2.52 On 23 May 2017, President Duterte declared martial law, applicable to the whole of Mindanao in response to the Marawi siege, which continues in place at the time of writing, having been extended twice. The practical effects of martial law include curfews and roadblocks. There is some local support for martial law in Mindanao, with residents reporting that the streets are safer, that violent crime has fallen and that governance and the economy has improved as a result of the presence of security forces.

2.53 Several low-intensity internal conflicts are ongoing, mostly concentrated in Mindanao in the Southern Philippines (especially in central and western Mindanao, including the Zamboanga Peninsula and Sulu archipelago). The key threats posed by the groups involved in the various conflicts are terrorist attacks, kidnapping-for-ransom, violent crime and violent clashes between the armed groups or with the Armed Forces of the Philippines. Islamic groups may splinter and form alliances; they do not necessarily share goals or resources, although this does occur between some groups.

### Armed Groups

2.54 The following paragraphs are not an exhaustive list of armed groups in the south of the country. Many of these groups are prone to splits and factionalism and new groups may quickly form or split away. There may not be ideological consistency within existing groups.

2.55 The Maute group, also known as the Islamic State of Lanao, was founded in 2012 and pledged allegiance to the Islamic State in April 2015. The group has been involved in a number of attacks, including the 2017 Marawi siege. In 2016 the group was responsible for 16 terrorist incidents in which 130 people were killed, the highest death toll of any of the groups listed here.

2.56 The Abu Sayyaf Group (ASG) was founded in 1991 as a separatist militant Islamist movement operating in Mindanao, primarily on the islands of Jolo and Basilan in the Sulu archipelago. Some factions of

the ASG pledged allegiance to Islamic State (ISIL) in 2016. The group is responsible for several high-profile kidnappings, including of foreign nationals, and numerous large-scale attacks, including a car bomb at an army checkpoint in July 2018. ASG were also involved in the Marawi siege in 2017.

2.57 The Moro National Liberation Front (MNLF) was formed in 1972 and was a leading organisation for Moro separatists for the next twenty years. A *Final Peace Agreement* was signed between the Government and the MNLF on 2 September 1996. Some MNLF members entered the government of the Autonomous Region of Muslim Mindanao (ARMM) and the Philippine security forces, while other elements the MNLF remain opposed to the outcome. Several ARMM Governors were MNLF members. Different factions of the MNLF supported or opposed the Bangsamoro Organic Law process, described above, however some breakaway factions were also involved in the Marawi siege.

2.58 The Moro Islamic Liberation Front (MILF) formed as a breakaway from the MNLF in the late 1970s. After years of negotiation, the Government and the MILF signed the *Comprehensive Peace Agreement on the Bangsamoro* on 27 March 2014. The Agreement provides for the transitional process from the current Autonomous Region in Muslim Mindanao (ARMM) to a new autonomous entity to be called the Bangsamoro (the Moro homeland) Autonomous Region of Muslim Mindanao (BARMM), described above. Pending a successful outcome of the 21 January 2019 plebiscite to endorse the BARMM, an 80-member, MILF-majority Transitional Authority will govern the BARMM until elections are held in 2022.

2.59 The Bangsamoro Islamic Freedom Fighters (BIFF) is a group that was formed in 2010 and continues to conduct attacks in Mindanao, sometimes in cooperation with rogue elements of the MILF. For example, in 2016, the BIFF and some breakaway MILF members attacked a jail in Mindanao and aided the escape of 150 prisoners. In September 2018, 25 suspects, allegedly from a breakaway faction of the BIFF were charged over a bombing in Isulan, Sultan Kudarat that killed three people. Two factions of BIFF are aligned with the Islamic State and proscribed under Australian law.

### 3. REFUGEE CONVENTION CLAIMS

#### RACE/NATIONALITY

3.1 Hundreds of distinct ethnic and tribal groups have lived in the Philippines in a history stretching centuries. Generally, Philippine national identity is strong and overrides ethnic or tribal affiliations for many. See [Demography](#).

##### Indigenous People

3.2 Indigenous people (locally referred to as 'IPs') are ethnic or tribal groups that retain their distinct cultural practices and identities. 14 – 17 million indigenous people belong to over 100 distinct ethno-linguistic groups. Over 60 per cent of the indigenous population is located in Mindanao and 30 per cent in Northern Luzon. Indigenous people may have ancestral religions, however most are Catholic. The Moro People in the south are mostly Muslim.

3.3 In 1997, the National Committee on Indigenous Peoples was established to advocate for indigenous people. The Commission employs staff including lawyers who assess land claims and can issue 'Certificates of Ancestral Domain', 235 of which have been issued at the time of writing. Local governments may also fund or provide social services or land to indigenous people.

3.4 Many indigenous communities are affected by poverty, which may be exacerbated by geographic isolation or a lack of a permanent address denying access to social services. They are also vulnerable to violence associated with [leftist insurgencies](#). Depending on the area, some indigenous people do not have access to education as trained teachers may not be able or willing to go to remote areas. Indigenous people advocating for land rights over their ancestral lands may be engaged in confrontation, sometimes violent, with mining, farming and corporate interests.

3.5 Indigenous people who relocate from their ancestral lands may have distinctive facial features or have accents or language differences that make their identity readily apparent. Some low level discrimination against indigenous people may occur, but in general and in particular in large cities it is very common for people from different ethnic groups to live and work together.

3.6 DFAT assesses that indigenous people who live in remote areas on ancestral lands face a moderate risk of violence at the hands of corporate or ideological interests. People of indigenous ancestry living in urban areas such as Metro Manila face a low risk of discrimination or violence.

#### RELIGION

3.7 The constitution provides for freedom of religion and worship. According to the 2015 census, 79.5 per cent of the population is Roman Catholic. Other Christian groups make up a further nine per cent of the population. These include international Christian denominations such as Jehovah's Witnesses, Seventh Day Adventists, The Church of Jesus Christ of Latter-day Saints (Mormons) and some mainline

Protestant groups such as Anglican and Methodist churches. Various Christian churches founded in the Philippines include Iglesia ni Cristo, Aglipayan (a Philippines-based schismatic catholic church in communion with the global Anglican movement), Church of God International, the Kingdom of Jesus Christ and the Name Above Every Name. The Muslim population figure is contested, but is somewhere between six and 12 per cent, mostly concentrated in the southern region of Mindanao.

## Christians

3.8 The Philippines is a majority Catholic country with significant non-Catholic Christian churches also present and influential. The Catholic Church has a significant influence in daily life, although it is not as politically active as it was in the past. While the Catholic Church is seen as conservative on many social issues such as contraception or LGBTI rights, many non-Catholic Christians, especially evangelical Christians, may be more conservative. Views and beliefs within the church are not necessarily uniform and the Filipino society is generally conservative even on matters about which the churches do not take a stand.

3.9 On 30 January 2017, the Catholic Bishops' Conference of the Philippines issued a public statement opposing the government's anti-drug campaign. On 18 February 2017, the CBCP held a prayer rally in Manila where around 20,000 people gathered to register their concerns about the killings related to the drug war.

3.10 DFAT assesses that as the majority religion, Catholics and other Christians do not face discrimination or violence. Non-Catholic Christians do not face any restrictions on their ability to practice freely. Although the Church is influential, those who disagree with church teaching on social issues face a low risk of social or official discrimination.

## Islam

3.11 Most Muslims reside in the southern region of Mindanao and are members of ethnic minority groups. Some indigenous groups have syncretic Islamic characteristics without necessarily being Muslim. Islam is the majority religion in the five provinces of Western Mindanao that make up the Autonomous Region of Muslim Mindanao (ARMM). Some Muslims have also moved to large urban centres such as Manila and Cebu and formed communities in those cities.

3.12 Sharia is practiced in part in the ARMM and Muslims from outside the ARMM can travel there to access the sharia courts. Sharia applies to personal laws such as marriage, custody and inheritance but has no jurisdiction in criminal, financial or property matters. The Presidential Decree No. 1083 of 1977 states that Muslim Personal Laws apply only to Muslims, and where Sharia conflicts with general laws, the latter prevail.

3.13 Some Muslim communities in the south, particularly in rural areas, will refer financial, criminal or property matters to community elders or councils which may informally provide Sharia remedies or punishments. These councils depend on the local tribe and may simply involve discussions among two elders.

3.14 The long history of conflict and secessionist activity in Mindanao has led to a level of distrust between the Christian majority and the Muslim minority. In January 2015, 44 members of the Philippine National Police and five civilians were killed in an anti-terror operation in Maguindanao province in Mindanao, now known as the 'Mamasapano incident'. This event increased the level of anti-Muslim sentiment on social media and online, where commentary linked Islam with terrorism.

3.15 DFAT assesses that anti-Muslim sentiment is generally low level. In Muslim majority areas, Sunni Muslims face no risk of discrimination and violence.

## Shi'a Muslims

3.16 Almost all Filipino Muslims are Sunni, however a small number of Shi'a Muslims are also found in Mindanao, particularly in the provinces of Lanao del Sur and Zamboanga del Sur. Shi'a communities can also be found in Luzon, including Metro Manila. Shi'a Muslims are geographically dispersed within these areas, they do not necessarily live in close communities. Filipino Muslims are more likely to identify by their tribal background or conservativeness than they are by sectarian (Sunni or Shia) identity.

3.17 An accusation of being a Shi'a may be used as a slur levelled in personal disputes. Violence is also a possibility with some extremist groups claiming an affiliation with ISIL, a group involved in anti-Shi'a violence in other countries. However, the activities of Islamic extremists in the Philippines do not appear to be as focussed on sectarian violence. The motives of ISIL internationally do not hold the same attraction to local extremists who have generally been more focused on local issues. A bomb attack in 2017 in Quipao, part of Metro Manila, targeted a Shi'a Imamate, although a sectarian motivation for that attack has not been confirmed.

3.18 The risk of violence against Shi'a cannot be ruled out. However, DFAT assesses that Shi'a Muslims are not at risk of official discrimination and are at a low risk of social discrimination and violence.

## Ahmadis

3.19 The Ahmadi sect originated in what is now Pakistan in the late 19<sup>th</sup> century. It follows the teachings of Mirza Ghulam Ahmad who claimed to have been given divine revelation. The sect has grown into a global movement based partly in the Pakistani diaspora but also with local missions in many parts of the world, including in South East Asia and Australia. It is headquartered in the United Kingdom.

3.20 A small community of about 300 Ahmadis live in the Philippines. They have a mission house in Manila, and also live in the south of the country. They are mostly refugees. They do not necessarily live together in the same buildings, however they do live close by to each other and many of them are related to each other.

3.21 Ahmadis attempted to organise an event in 2017 which was targeted by other Muslims who protested, allegedly violently. Most Filipino Muslims are not aware of Ahmadis and their beliefs, however Muslims with some connection to Pakistan (either being Pakistani or having travelled to Pakistan), where Ahmadi issues are high profile, allegedly targeted the local event or influenced other local Muslims to do so.

3.22 DFAT assesses that Ahmadis living outside of Muslim majority areas are subject to a low risk of social discrimination, which among foreign-born Ahmadis, is not inconsistent with the experiences of other foreigners. Most Muslim Filipinos are unaware of Ahmadi beliefs or identity, however allegations of incitement of violence against Ahmadis are credible. There are no official restrictions on Ahmadi practice.

## POLITICAL OPINION (ACTUAL OR IMPUTED)

3.23 The political party system in the Philippines is weak with little ideological cohesion, and most Congress members and senators elected on individual platforms. As such, there is limited organised political opposition in Congress.

3.24 Only a few politicians have raised serious or public concerns with the conduct of the Government's anti-drug campaign. Former human rights lawyer and critic of the government, Senator Leila de Lima, was arrested in February 2017. De Lima had led a Senate investigation into extra judicial killings related to the national anti-drug campaign and Duterte's alleged involvement in extra judicial killings while he was Mayor of Davao. De Lima was charged with drug offences, which she described as a 'punishment' for

investigating Duterte. At the time of writing, de Lima remains detained at the Philippine National Police Headquarters, awaiting trial. Similarly, Vice President Leni Robredo, who has also openly criticised Duterte, has been vilified by pro-Duterte social media trolls (see also [Media and Journalists](#)). Senator Antonio Trillanes, another critic, was briefly arrested and released on bail in September 2018 on a revived 2007 rebellion case, after President Duterte revoked his 2011 amnesty. Human rights groups allege that his arrest was political (see [Arbitrary Arrest and Detention](#)).

3.25 DFAT assesses that these three cases demonstrate an intolerance to high-profile criticism of the President but are also related to political machinations. DFAT is not aware of incidents where lower-profile supporters of political groups or personalities have been affected by these political events.

## Media and Journalists

3.26 The Philippines has a vibrant media sector and press criticism of the government is not uncommon. The Constitution guarantees freedom of speech, expression and of the press. Large media companies are required to register with the Securities and Exchange Commission, like all private corporate businesses. Broadcasters are also required to apply for franchise approval from Congress. Local newspapers are often owned or financed by local politicians who influence the editorial content and hamper independence. Recently, President Duterte made verbal threats of violence against journalists who criticise the anti-drugs campaign.

3.27 In 2018, Freedom House rated the internet in the Philippines as 'partly free'. Harassment on social media has increased since Duterte came to power, especially against journalists or commentators who criticise the Government's policies. According to anecdotal reports, the Government is funding social media trolls to promote its policies and attack anyone who opposes them.

3.28 A number of libel cases have been brought against journalists, allegedly to silence their reporting on sensitive political issues or to harass journalists into silence. This may lead to a degree of self-censorship. Well-organised troll campaigns have targeted media groups that are critical of the government, however the identity, even national origin, of these trolls is not clear.

3.29 In January 2018, the Philippines Securities and Exchange Commission (SEC) attempted to shut down an online publication, *Rappler*, breaking foreign investment rules. Rappler is known for criticising the Duterte administration's policies and alleged corruption. After Rappler changed its funding mechanism to comply with the regulations, on 9 November 2018, the Justice Department and Bureau of Internal Revenue filed a tax evasion case against it and its CEO, Maria Ressa. The website continues to run at the time of writing and is appealing the decision. Other news outlets including ABS-CBN, a broadcaster, were threatened with actions related to tax or the revocation of their broadcast franchises and the owners of the *Philippine Daily Inquirer*, a newspaper, are looking to sell after the President made a number of comments about their coverage of politics.

3.30 Threats against journalists who are critical of the government or some business interests have been reported. A number of journalists have been killed, however numbers of deaths are difficult to estimate; it is not always clear that the journalist was killed in relation to political opinion or reporting. Reporters Without Borders ranked the Philippines as 133<sup>rd</sup> out of 180 countries in its World Press Freedom index, in part due to journalist killings.

3.31 Journalists who cover drug-related killings, often moving around in dangerous areas after dark looking for stories, are known as 'night crawlers'. Journalists allege that they have been co-opted into acting as witnesses in drug cases favourable to police. These journalists rely on their relationships with police and the community to get access to stories.

3.32 DFAT assesses that journalists who are engaged in criticism of the government face a low risk of violence, but recognises the dangerous nature of the work. Journalists who are critical of the government face a moderate risk of being accused of libel, including in vexatious law suits and media organisations face a moderate risk of official interference.

## Non-governmental organisations

3.33 NGOs that are critical of the government operate openly, distributing publications, organising public demonstrations and operating on social media. They may take precautions, such as not operating openly or publishing their address or names of their staff. Media and political criticisms of NGOs, particularly international or foreign NGOs, are not uncommon and these public criticisms may embolden critics, especially internet trolls. In spite of this, NGOs including national and international groups continue to exist and operate.

3.34 A range of organisations that advocate for human rights are present in the Philippines. Human rights organisations are split into two main groups: those who work closely with the international community and the Philippines Commission on Human Rights and who receive the bulk of the international funding; and the far-left, who generally document human rights violations but are more politically-motivated. Given the ideological divide, the two sets of organisations are not generally willing to coordinate their efforts, including to voice concerns against the anti-drug campaign, unlike their role during the People Power Revolution in 1986.

3.35 Human rights groups are generally able to function independently but continue to report harassment of human rights activists, including environmental and land activists. In particular, this harassment is experienced by those that undertake their work or conduct investigations at the community level, in provincial locations, where alleged perpetrators of violations are local officials or people in a position of authority. Human rights defenders are also at risk of extra-judicial killings. Human Rights Watch reported that between 2010 and 2015, 300 leftist activists, human rights defenders and other alleged New People's Army (NPA) supporters were killed.

3.36 DFAT assesses that civil society is active in the Philippines but human rights groups may be at a low risk of government interference. The risk of violence for human rights defenders, including environment and land activists and lawyers, increases when they are working at the local (provincial) level and among activists associated with the far left.

## Street Demonstrations and Protestors

3.37 Citizens' right to demonstrate is protected by the Constitution. Street protests occur and are a relatively common sight, particularly in relation to land disputes and other local matters. Street demonstrations are generally not interfered with by the government or counter-protestors.

3.38 DFAT assesses that most public protests and political events occur without state interference and that the state generally respects the right to protest and freedom of assembly for the purposes of protesting.

## GROUPS OF INTEREST

### Women

3.39 Violence against women is widespread in the Philippines. Rape, including spousal rape, is illegal, with penalties ranging from 12 to 40 years' imprisonment. Many cases go unreported. Police stations have 'women's desks' for women to report violence and a specialist police command dealing with women's issues exists within the police force, but the effectiveness of these services varies. Some women may turn to Barangay Captains for assistance with domestic violence and some women may be provided effective protection in this way in the form of 'Barangay Protection Orders', which are analogous to Apprehended Violence Orders. However, some women report that Barangay Captains insist on trying to reconcile the victim and her abuser, exposing her to further violence.

3.40 Some women who are victims of violence may be supported by extended family. However, whether or not this is effective protection depends on the individual family. Sources who work with women's rights in the Philippines told DFAT that some women who seek protection from their extended family may be stigmatised and abused for leaving their husbands. Single women with children are particularly stigmatised.

3.41 The Department of Social Welfare and Development, local specialist NGOs and some churches provide shelter and counselling services, which are more readily accessible in large cities. Local NGOs told DFAT that these services are too few in number to meet demand. These services generally target the poor, but women from wealthier backgrounds may be accepted. Victims of domestic violence may be stigmatised; there is a taboo about family violence. Some women are reluctant to leave abusive partners for religious or moral reasons. Annulment, a process where the Catholic Church may dissolve a marriage as an alternative to divorce, can take a long time and is costly.

3.42 Rates of infant mortality are high. Traditional midwives are often present at a birth. Traditional midwives work within their local, often poor communities. These midwives may cover many areas of women's reproductive health including contraception, abortion, childbirth and post-birth care. Many women prefer traditional birth practices as they find doctors and hospitals to be impersonal.

3.43 Abortion is illegal. The criminalisation of abortion has driven the practice underground. Women may engage traditional providers who provide 'massages', which can be violent in nature and which can lead to serious injury of the woman or deformity of the foetus but are generally not effective in terminating pregnancies. Traditional abortifacient herbs may also be used, some of which are more effective than others. Illegal surgical abortions also occur, but not commonly due to the illegal nature of the practice. A black market for abortion drugs, such as RU-486, also exists. These drugs are illegal, but also have other medical uses, such as for excessive bleeding in menstruation. Women are unable to access these drugs for such medical purposes.

3.44 Overall, DFAT assesses that women face a low risk of official discrimination. Women who are victims of domestic violence may be unable to access services. Women who do not have a means of family support, particularly widows (see also [Extra-Judicial Killings and the 'Anti-drug Campaign'](#)), and who have no other means of support are at a high risk of violence and social discrimination.

### LGBTI

3.45 The Philippines is one of the more tolerant countries in Asia in relation to attitudes towards LGBTI people. The law does not prohibit consensual same-sex relations in the Philippines and issues facing the lesbian, gay, bisexual, transgender and intersex (LGBTI) community are discussed in public. The

Metro Manila Pride Parade is the longest running in Southeast Asia and has been celebrated every year since 1994. A number of high profile LGBTI people are seen in the media and on television.

3.46 Although more tolerant than many countries, discrimination against LGBTI individuals does exist and the LGBTI community continues to face numerous societal, cultural and legislative barriers. Some provisions of the Revised Penal Code have been used to intimidate, arrest or charge individuals based on their sexual orientation or gender identity, including Article 200 (on grave scandal), Article 201 (on offenses against decency and good customs), Article 202 (on vagrancy), Article 226 (on acts of lasciviousness) and Article 340 (on corruption of minors).

3.47 Community attitudes can be challenging. Pride events, while held openly, attract protests. Polling about same-sex marriage suggests that about 60 per cent of Filipinos are opposed, though that number has been declining in recent years. Young people are generally more accepting of LGBTI people. In general, the Catholic Church is more accepting of LGBTI people than evangelical churches.

3.48 Public figures openly criticise LGBTI people: the popular and influential Senator, Manny Pacquaio (also a famous boxing champion), told local media that couples in same-sex partnerships are ‘worse than animals’.

3.49 During his election campaign, Duterte made public comments in favour of increasing LGBTI rights but is yet to implement any policies in support of this. No national anti-discrimination legislation exists, however discussions about such a provision have been taking place for over 20 years. In the meantime, 19 local government units have enacted their own anti-discrimination ordinances and the Department of Social Welfare and Development has issued a memorandum allowing LGBTI personnel to wear their preferred uniforms based on their gender identity.

3.50 It is difficult to generalise on how LGBTI people are treated in family contexts. DFAT is aware of reports of some relatives disowning LGBTI relatives or forcing them to undertake sexual conversion therapy, especially in Chinese-Filipino families where the eldest male child may expect to forgo his inheritance if he is gay. Sources told DFAT that societal discrimination is not necessarily based on socio-economic position, and poor families in rural areas are often more accepting, particularly if the LGBTI family member contributes financially. DFAT understands that this acceptance does not extend to LGBTI individuals living in the ARMM who would likely hide their LGBTI status or move away.

3.51 Lesbians are represented by a small number of NGOs, but lesbian issues are generally not widely discussed in Filipino society. Lesbians, in general, do not face day-to-day harassment or discrimination, however this may be on the basis that they are not open about their sexuality or because lesbian issues are not widely discussed or understood.

3.52 Transgender people are more likely to experience harassment than other LGBTI people. This is more likely to involve street - based harassment on an isolated basis rather than organised hate campaigns. A transgender woman, Geraldine Roman, was elected to congress in 2016, the first transgender woman to hold that position. Gender reassignment surgery is not illegal but it is not widely available and is expensive. Under the Clerical Error Law of 2001 it is illegal for a transgender person to change their sex on their birth certificate. Local LGBTI NGOs reported that transgender students have been prevented from wearing their preferred uniform.

3.53 LGBTI people may move to metropolitan areas, particularly Manila, which has a vibrant LGBTI community, to escape discrimination. LGBTI people who live in the south, especially in Muslim areas, are especially likely to relocate.

3.54 DFAT assesses that lesbian, gay, bisexual and intersex people face a low level of official discrimination (apart from restrictions on same-sex marriage and related discrimination) and a low level of

societal discrimination on a day-to-day basis. This is not strongly correlated with socio-economic status or geographic location, except for LGBTI people living in the ARMM who have a moderate risk of social and official discrimination and violence. Transgender people face a moderate risk of violence and discrimination in all parts of the country.

## Children

3.55 The Philippines remains a leading destination for child sex tourism and cyber-based paedophile rings. Making money through child pornography is sometimes resorted to by the very poor. The law prohibits child pornography but the minimum age of sexual consent is 12 years old, which is among the lowest in the world.

3.56 Under Muslim personal law, Muslim boys may marry at 15 and girls may marry when they reach puberty. Child marriage is reported, particularly in the south of the country among Muslim communities, but has also been reported in Metro Manila. The legal minimum age for marriage for both men and women is 18 years and anyone below 21 years must have permission from their parents to marry. In conservative families and communities, girls that become pregnant may be forced to marry the father of the child.

3.57 Children may work from the age of 15 years and the law limits the number of hours that children can work. In practice, child labour is widely reported. Children have been involved in dangerous mining work. According to Human Rights Watch, children have also been involved in diving for gold in polluted tailings dams in remote areas, which is particularly injurious to their health and safety. Indigenous children are particularly vulnerable to labour exploitation.

3.58 DFAT is not aware of social or official discrimination against children. DFAT assesses that children who live in poverty or in conflict-afflicted areas face a moderate risk of violence and exploitation.

## 4. COMPLEMENTARY PROTECTION CLAIMS

### ARBITRARY DEPRIVATION OF LIFE

#### Extra-Judicial Killings and the Anti-drug Campaign

4.1 During his election campaign, Duterte promised to eliminate drug dealers and drug users. Following his election, he launched an anti-drug campaign, 'Oplan Tokhang', implemented by the Philippine National Police (PNP) whereby drug users and pushers are encouraged to 'surrender' to authorities or risked being killed. As of the end of 2017, an estimated 1.9 million people had surrendered to police. Police have a network of informants and police have conducted campaigns in which they visit suspects' houses and 'encourage' them to cease drug activities.

4.2 According to the US Department of State, between January and the end of September 2017, media reports listed more than 900 fatalities in police operations suspected to be connected with the government's anti-drug campaign. Estimates of the number of fatalities vary, and some civil society groups and media outlets put the number much higher. Some of these killings may be carried out by vigilante groups or be related to other kinds of crime. However, many cases involve corpses holding handwritten notes that identify them as drug users, or telling others not to use drugs, which police attribute to vigilantes. Police investigations of claims of extra-judicial killings have often not been thorough. However, three police officers who were filmed killing an unarmed teenager in an anti-drug operation in August 2016 were convicted in 2018.

4.3 Some of the drug pushers who have surrendered have been detained. Users who have surrendered have largely been released but are expected to undergo a rehabilitation process. Some large drug rehabilitation centres have been built and the effectiveness of these centres is variable.

4.4 Suspected drug users may be forced to take drug tests. These tests used to be conducted by police, but are now taken by Drug Enforcement Agency agents. Tests have previously been conducted in schools, but this practice has reportedly ceased. There may be quotas for these tests and relatives and neighbours may provide samples to disguise the drug use of their relatives.

4.5 Drug 'watch lists' containing the names of suspected drug users and pushers have been created by barangay officials and the police. They may not always be in the form of a written list, and they are generally not vetted or investigated. The drug lists are not confidential; many communities know who in their neighbourhood is on the list and lists are sometimes leaked. Some people use bribes or personal connections to have people with whom they have a personal dispute listed as drug suspects. DFAT is aware of reports that lists may allegedly also be associated with quotas of people to test, arrest or kill for drug use. According to the US Department of State, some individuals named on these published lists have subsequently been killed by police or suspected vigilantes.

4.6 People accused of drug crimes may have difficulty accessing legal representation. Many lawyers are reluctant to take on those cases. The indigent, subject to strict means-testing, may have access to a

government funded lawyer, but these services have capacity and funding constraints (see [Access to Justice](#)).

4.7 The families of victims of extrajudicial killings are often affected by stigma. Children whose parents have been killed are particularly affected. Local NGOs report that some women and children whose fathers or husbands have been killed may be forced into sex work or crime having lost their source of family income.

4.8 DFAT assesses that poor people who are suspected methamphetamine users and pushers face a high risk of violence, including death, from both the Philippine National Police and vigilantes. The existence of drug ‘watch lists’ and the ease of obtaining these lists would make it difficult to avoid being targeted.

## Enforced or Involuntary Disappearances

4.9 The Philippines has a history of politically-motivated disappearances, including during periods of martial law in the Marcos period. The UN Working Group on Enforced or Involuntary Disappearances reported 625 cases of unresolved disappearances in the Philippines between 1980 and May 2016. The Philippines has undertaken to investigate allegations of enforced disappearances, but the only major investigation has been the case of Major General Jovito Palparan for his alleged involvement in the abduction of two activists in 2006, for which he was found guilty.

4.10 DFAT assesses that enforced disappearances are not currently occurring in the Philippines.

## DEATH PENALTY

4.11 In 2006, the Philippines abolished the death penalty when it signed the *Optional Protocol to the International Covenant on Civil and Political Rights*. However, President Duterte stated his desire to reinstate the death penalty after he came to power in June 2016. In March 2017, the House of Representatives voted in favour of a death penalty bill (217 yes, 54 no and one abstention). The first draft of the bill included 21 crimes punishable by death. The final bill included only drug-related offences. At the time of writing, the death penalty bill remained with the Justice and Human Rights Committee in the Senate.

4.12 There is no evidence to suggest a risk of double jeopardy whether in relation to the death penalty or any other crime. That is, a person convicted of a crime in another country would not be tried again upon their return to the Philippines for the same crime.

## TORTURE

4.13 The Philippines Constitution prohibits torture and the Anti-Torture Law, introduced in 2009, criminalises acts of torture. Evidence obtained through torture is inadmissible in court. The Philippines Commission on Human Rights (CHR) and the Office of the Ombudsman can investigate allegations of torture. According to figures obtained by the US Department of State, from January to August 2017, the CHR investigated 25 cases of alleged torture involving 58 victims, the majority of which were allegedly perpetrated by police and others by military and prison guards. In March 2016, a police officer was the first person convicted under the Anti-Torture Act following an incident where a bus driver was arrested and tortured at a police camp after being wrongfully accused of drug-related offences. The police officer received a two-year prison sentence and was ordered to pay damages to the victim.

4.14 DFAT assesses that there is no evidence of systematic or widespread torture. Where instances of alleged torture perpetrated by security forces or government officials occur, such practices generally reflect

low capacity, lack of training and due process in arrest and detention procedures, and poor policing methods.

## CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

### Arbitrary Arrest and Detention

4.15 Arbitrary arrest and detention is prohibited by the Constitution. The Office of the Ombudsman is able to investigate cases of arbitrary arrest and detention.

4.16 Senator Antonio Trillanes, a high-profile critic of the President, was arrested and released on bail in September 2018. Senator Trillanes, a former naval officer, was involved in an uprising against then President Arroyo and granted an amnesty by President Arroyo's successor, President Aquino. Former President Arroyo is now a member of congress and a supporter of President Duterte. Human Rights groups allege that he was arrested for political reasons. Two cases against him remain pending in trial courts at the time of writing. Trillanes also faces four criminal libel cases, based on complaints filed by President Duterte's son.

4.17 Pre-trial detention is a significant issue in the Philippines. The evidence threshold for pre-trial detention is low and due to the slow and overburdened judicial system, people spend lengthy periods in detention waiting for their case to come trial. These pre-trial periods often exceed the upper sentence for the alleged crime and detainees are sometimes released by default, before they even make it to trial.

4.18 In April 2017, the Philippines Commission on Human Rights uncovered a secret jail cell behind Police Station 1 in Tondo, an area in Manila. At least a dozen people were being held in the cell on drugs charges but their arrest notifications had not been processed, their families and lawyers had not been notified of their detention and police had allegedly demanded bribes for their release. Conditions in the cell were poor with inadequate lighting, inadequate toilet facilities (including no apparent facility able to be used by women who were detained alongside men) and inadequate ventilation (see also: [Detention and Prison Conditions](#)).

## 5. OTHER CONSIDERATIONS

### STATE PROTECTION

#### Military

5.1 The Armed Forces of the Philippines (AFP) consists of an army, navy, air force and marine corps. It reports to the Department of National Defense (DND). The AFP is engaged in domestic security operations and is most active in Mindanao due to the presence of ongoing internal conflicts there, including the martial law imposed in May 2017. The AFP is also engaged in anti-NPA missions, including in the north and south of the country.

5.2 The AFP is a professional force with clear command and control structures. It actively participates in training activities with other international forces, including Australia and the United States. The AFP has a human rights office that monitors and reviews alleged human rights violations involving the military and delivers human rights training, in conjunction with the Philippines Commission on Human Rights.

#### Police

5.3 The Philippine National Police (PNP) is structured as a national police force with specialist commands that cover geographic areas and specific kinds of crime, including child sex abuse, women and counter-terrorism operations.

5.4 Police, or off-duty police in civilian clothing, have been accused of extra judicial killings of suspected drug users. Human Rights Watch reports examples of local police conducting their own rogue operations. This may involve plain-clothed or retired police officers. Police openly admit the presence of rogue officers. There is a strong fear of the police in some communities, particularly those affected by the ‘War on Drugs’. The US Overseas Security Advisory Council has reported that the PNP is limited in its capacity to respond to victims of crime due to reasons as simple as a lack of essential equipment like response vehicles and radios.

5.5 The PNP has systemic problems with corruption and impunity, including petty corruption. Local sources report that the extent to which police are corrupt is not consistent throughout the force and that it depends on the individual officer. In October 2016, a Korean national was abducted by rogue police officers and murdered inside Police National Headquarters (Camp Crame) in Manila. The abduction was part of a kidnap-for-ransom activity orchestrated by the rogue police officers.

5.6 The PNP Internal Affairs Service (IAS) was established in 1999 as an independent body mandated to conduct inspections, investigate complaints and refer criminal cases against PNP members to the courts. The IAS commenced an investigation into 20 police officers implicated in the November 2016 killing of Albuera Espinosa, who was detained in Leyte on illegal drugs and weapons charges, but shot dead for allegedly having a firearm in his cell. The outcome of the investigation is yet to be released.

## Tanod

5.7 At the barangay level, a watchman role, known as a *tanod*, operates like a local police officer or security guard under the control of the barangay captain. *Tanod* do not have the authority of a police officer. They are authorised only to perform basic front-line tasks to maintain peace and order, but they do cooperate with police. Although they operate like volunteers, they do receive a stipend from the barangay budget and often carry weapons, from truncheons to guns.

## Judiciary

5.8 The Supreme Court is the highest judicial authority in the Philippines and is also the administrative body responsible for the entire judiciary. It is composed of a Chief Justice as its presiding officer and 14 Associate Justices, all of whom are appointed by the President from nominations submitted by the Judicial and Bar Councils. President Duterte has so far appointed four associate justices and could appoint at least eight more before the end of his term in 2022 as existing judges approach the mandatory retirement age of 70.

5.9 Courts, including criminal courts, have significant backlogs that may last many years. Lower level courts in particular suffer from severe resourcing issues, and vacancy rates of judgeships are higher than the national average in Mindanao and poorer provinces. Sharia courts in the ARMM (see [Islam](#)) are also affected by a lack of resources and have difficulties in attracting qualified staff.

5.10 The law provides for the right to a fair trial but the Philippine judicial system is overburdened and there are long delays before a case is heard due to lengthy and inefficient legal procedures, the large number of detainees, and a limited number of qualified prosecutors and judges and delays in appointing new judicial officers. It takes an average of five to six years to obtain a conviction, often longer for serious or complex crimes, and sentencing guidelines are either non-existent or inconsistent, which can lead to arbitrary sentences.

5.11 Public confidence in the judicial system is not high. Payments may need to be paid to various court officers, including judges, clerks, sheriffs and even court reporters. Local legal sources told DFAT that bribery may be used to speed up a trial process or secure a shorter sentence or preferred verdict. Judicial independence may also be compromised by threats of acts of violence against judges intended to sway the outcome of cases. A national law authorises local executives (governors, mayors) to pay judges allowances.

## Access to Justice

5.12 In theory, indigent defendants should be able to access a free lawyer. Several NGOs throughout the Philippines provide legal assistance to the poor. They apply strict criteria around means to pay and the type of case that they will take on. The Integrated Bar of the Philippines, a professional association with powers similar to the law societies of Australian states and territories, also has a court assistance programme. Government appointed public defenders are also available, but reportedly have capacity and funding constraints.

5.13 Legal sources told DFAT that some lawyers are reluctant to take on drugs cases for fear that allegations of being pro-drugs will be levelled against them and some legal assistance NGOs refuse to assist clients with drugs matters. In August 2018, three lawyers observing a drugs raid in Manila were arrested by police, allegedly for obstruction of justice related to their involvement in representing clients involved in drug cases.

5.14 Language barriers may also create obstacles for access to justice for people who speak minority languages. The cost of interpreters including for witnesses and lawyers may be prohibitive for poorer litigants and defendants.

## Detention and Prison Conditions

5.15 Two government departments manage prisons: the Bureau of Corrections under the Department of Justice, has responsibility for convicted detainees; and the Bureau of Jail Management and Penology under the Department of Interior and Local Government, has responsibility for all detainees in pre-trial detention, which is the bulk of the prison population. At different stages of the process, local government units and local police stations are also involved in detention.

5.16 The Philippines Commission on Human Rights (CHR) has access to all places of detention. Authorities allow appropriate access for facilities to be inspected.

5.17 Prison conditions are often poor. Overcrowding of most prisons is significant, often around 650 per cent over capacity, but differing between facilities. Prisoners reportedly sleep in shifts, or sitting or standing, because of an inadequate numbers of beds. Overcrowding exacerbates the spread of infectious diseases, including skin diseases and tuberculosis. Facilities in gaols are often poor; inadequate toilet and hygiene facilities, ventilation and natural light lead to poor health outcomes for prisoners. Crime and corruption within prisons reportedly leads to violence between prisoners and guards.

5.18 According to figures obtained by the US Department of State, over 800 people died in prisons in the first half of 2017, a death rate of 0.42 per cent. A 25 year old died in custody after being arrested during an anti-loitering campaign in June 2018. Police initially claimed that he died following breathing difficulties. However photos obtained by local media show the deceased with bruises consistent with being beaten. Photographs of his death certificate cite 'multiple blunt force trauma' and 'homicide' as the cause of death. Police are investigating the incident.

## INTERNAL RELOCATION

5.19 Filipino citizens face no legal impediments to relocating within the Philippines and DFAT assesses that Filipinos can and do freely relocate internally. Many do so for work opportunities and this is a very common practice throughout the country.

5.20 Internal relocation options can be limited by the absence of family connections or a lack of financial resources. Internal displacement caused by natural disasters, or in Mindanao by conflict, is common and those affected face difficulties in accessing basic necessities such as shelter, food, water and sanitation, and in rebuilding livelihoods.

## TREATMENT OF RETURNEES

### Exit and Entry Procedures

5.21 The Philippines has several international ports for air and sea passengers. Border management in the Sulu Sea in the south is weak; the waters are largely unpatrolled and affected by piracy. There are also informal trading routes with Malaysia and various armed groups in Mindanao run shadow economies through these waters. According to the International Organization for Migration, ethnic Filipinos who have

lived and worked in Sabah in Malaysia, some for many years, return from Sabah to Tawi-Tawi or Zamboanga port in the south each week. In November 2016, President Duterte reached an agreement with then Malaysian Prime Minister Najib to fast-track the return of Filipinos from Sabah. Several hundred have been returned each month since, stretching Zamboanga city's already limited capacity to absorb more arrivals.

## Conditions for Returnees

5.22 Many thousands of Filipinos enter and leave the country every day, especially for work abroad. People who return to the Philippines after several years' absence are unlikely to face adverse attention on their return on account of their absence, with the exception of those involved in international crime or terrorism. Filipinos who over-stayed their work or tourist visas, or breached visa conditions in other countries are returned to the Philippines with no attention paid to them by authorities. Likewise, failed asylum seekers would be unlikely to face adverse attention as the Filipino government would not typically know the individual was a failed asylum seeker. The International Organization for Migration (IOM) assists voluntary returnees, mainly trafficking victims, and Philippines authorities cooperate with the IOM in these arrangements.

# DOCUMENTATION

## Birth, Marriage, Divorce and Death Certificates

5.23 The Philippines Statistics Authority issues birth, death, and marriage certificates.

5.24 When a child is born, the parents can apply in person or online for a birth certificate. The government promotes birth registration, and authorities immediately register births in health facilities. Births outside facilities are less likely to be registered promptly, if at all. According to the US Department of State, an estimated 2.5 million children are unregistered, mainly in Muslim or indigenous communities. Birth certificate data, particularly in the case of home births, may not be reliable. Births are classed as legitimate (if the child is conceived or born within a marriage) or illegitimate (if the child is conceived or born outside a valid marriage) which is important in determining custody rights. Mothers are always granted parental authority of illegitimate children.

5.25 Death certificates can be granted by a medical practitioner or on application by a close relative of the deceased.

5.26 All marriages since 1988 are governed by the Family Code of the Philippines/Executive Order 209. All marriages prior to 1988 are governed by the Civil Code. Muslim marriages are governed by the Code of Muslim Personal Laws/Presidential Decree No 1083.

5.27 The Family Code provides two options to legally terminate a marriage: 1) annulment or 2) a declaration of nullity of marriage. Courts sometimes issue a legal separation but the parties are still considered validly married and are not free to re-marry. Terminating a marriage is a lengthy and expensive process. It is possible to seek ways to expedite the process by paying someone who can allegedly facilitate it without the concerned parties having to appear in court, but often these documents turn out to be counterfeit when verified with the alleged issuing court. If a Filipino is married to a foreigner, then a divorce may be judicially recognised only if the divorce was initiated and obtained by the non-Filipino spouse, or after the former Filipino citizen has acquired citizenship of a country where the divorce is recognised.

## National Identity Cards

5.28 On 11 May 2017, the Congressional Committee on Population and Family Relations passed a bill to establish a national identity card system to serve as the official identity verification for each Filipino citizen. The law was signed by President Duterte on 6 August 2018 and the implementing regulations are scheduled for release by the end of 2018. The implementation of the system is yet to commence at the time of writing.

## Passports

5.29 The Department of Foreign Affairs is responsible for issuing passports in the Philippines. Biometric passports have been issued since 2009 and cost 950 peso (AUD 25) if obtained in the Philippines, and more if obtained through an embassy abroad. First time passport applicants must apply in person but renewals can be processed online. The government has recently extended passport validity from five to ten years.

## PREVALENCE OF FRAUD

5.30 DFAT assesses that it is relatively easy to create apparently genuine documentation through fraudulent means. The threshold for identity proof is low; birth certificates are of poor quality and can easily be created fraudulently to establish new identities. A recent high-profile example of fraud occurred when officials sold fake Filipino hajj passports (slightly different to regular passports) to around 1,000 Indonesians wanting to attend the hajj pilgrimage. Indonesia always exceeds its annual pilgrim quota, whereas the Philippines never meets its quota.