

Transitional Justice Fact Sheet: Philippines

Background

Two long-running insurgencies in the Philippines took root during the repressive years of the Marcos-era Martial Law regime (1972-1986)—one by the communist movement and one by the Bangsamoro. Peace negotiations with both the communist movement and the Bangsamoro have been ongoing since 1975.

The communist movement in the Philippines known as the CPP-NPA-NDF, comprises three major units: the Communist Party of the Philippines or CPP (the political unit); the New People's Army or NPA (the armed unit); and the National Democratic Front or the NDF (represents the CPP-NPA in peace talks with the government). During the early to mid-1990s, the movement embarked on an internal "purge" where they killed hundreds of their fellow members on allegations of being deep penetrating agents of the state.

The "People's Power" Revolution in 1986 ousted the dictator Ferdinand Marcos and brought euphoria to a nation besieged with much suffering. Such suffering could have been the foundation for confronting the past and building a lasting peace, but the new President, Corazon Aquino, and succeeding administrations, failed to adequately address transitional justice issues. Justice and reconciliation for victims lacked a clear framework for addressing issues of poverty, and discrimination, so that the people must still contend with the same socio-economic and political inequalities suffered in the past. Presenting themselves as engineers of the new democracy, martial law architects managed to undermine efforts at democratic reforms to ensure total amnesty for perpetrators who lived without remorse and accountability for their past atrocities.

Since returning from a five-year exile in Hawaii (1986-1991), the Marcos family is now back in power. The Supreme Court allowed the dictator's body to be buried in the "Graveyard of Heroes"; Marcos' wife, Imelda, was elected to the House of Representatives; the son, Ferdinand Jr., is a Senator; and one daughter, Imee, is the Governor of Ilocos Norte Province.

In 2016, Rodrigo Duterte won the presidency in a landslide victory. Since then, he has embarked on a deadly "War on Drugs" that has resulted in the deaths of thousands, mostly poor small-time drug dependents and drug pushers. He has also declared Martial Law in the Mindanao region after violent clashes erupted between government forces and a rebel group there in May 2017.

Transitional justice remains a challenge for the Philippines. There is a need to join efforts in the fields of truth-seeking, criminal accountability, reparations, and institutional reform on a national level, accompanied by reconciliation initiatives by various sectors of civil society at regional and local levels. While in general conflicts are being managed and resolved through various processes, these initiatives have not fully addressed the root causes and effects that continually ignite their repetition. They have not changed people's perception of the problems, nor healed broken relationships that breed dissent and conflict among individuals and groups, and between the people and the government. They have not led to the renewal of structures that govern the citizenry, nor have they led to a change in the people who govern and lead those structures. The Philippines has become a cycle of perpetual violence rooted in the legacy of the past.

Transitional Justice Initiatives and Challenges

	NATIONAL LEVEL	COMMUNIST INSURGENCY	BANGSAMORO CONFLICT
TRUTH	<ul style="list-style-type: none"> • Government complacency towards truth-seeking initiatives. • School textbooks paint a rosy picture of the Martial Law era. • The government has been reluctant to open its archives for fear of possible threats to national security. The pain of truth seeking was considered too risky for a fragile democracy. 	<ul style="list-style-type: none"> • Scarce information regarding victims of the Marcos-era Martial Law, and of the internal “purge” launched by the CPP. • No full accounting by the CPP-NPA of what really happened during the internal “purge” and no efforts to reach out to victims’ families. 	<ul style="list-style-type: none"> • It took the Philippine government 28 years to realize a Transitional Justice and Reconciliation Commission (TJRC) under the auspices of negotiations with the MILF. The TJRC has brought out narratives of historical grievances of the Bangsamoro.
JUSTICE	<ul style="list-style-type: none"> • Since 1975, the government established negotiating panels for rebel groups—the CPP-NPA-NDF, MILF (Moro Islamic Liberation Front), and MNLF (Moro National Liberation Front). • The government’s lack of sensitivity to the Marcos-era martial law human rights victims results in acts of re-victimization. 	<ul style="list-style-type: none"> • The communist movement’s internal “purge” resulted in the loss of hundreds of lives of those suspected as deep penetrating agents (DPAs) of the state, something the CPP vehemently denies. • The C-N-N (Communist Party of the Philippines-New People’s Army-National Democratic Front) embodies a culture of intolerance towards those regarded with suspicion. • Many civilians/communities were caught in the middle of clashes between state forces and communist rebels and their supporters. • The government views many left-leaning human rights organizations as legal fronts or sympathizers of the CPP-NPA and, therefore, legitimate targets in the government’s war against the communist insurgency. 	<ul style="list-style-type: none"> • The MNLF and MILF grew out of decades of poverty, discrimination, marginalization, underdevelopment and state neglect of minority ethnic and religious groups. • The TJRC final report (2016) lays out comprehensive recommendations based on a listening process. However, the new administration (also 2016) said they are still studying the recommendations. • Historical injustice suffered by the Bangsamoro—including rights violations and land dispossession—was caused by three factors: deep neglect by the state, systematic violence, and a nationwide culture of impunity.

	<ul style="list-style-type: none"> • Congress established the Human Rights Victims' Claims Board (HRVCB) in 2013 to provide reparations to victims of the Marcos-era martial law violations. By December 2017, it had already distributed an initial payment to victims. Of the 75,730 applications received, 96% have been adjudicated. 	<ul style="list-style-type: none"> • The C-N-N claims to have provided reparations to the families of victims of the internal "purge". 	<ul style="list-style-type: none"> • While the Bangsamoro and other indigenous peoples of Mindanao have struggled against subjugation and colonization, the state's handling of their legitimate grievances has not resulted in justice. Various administrations have perpetuated discrimination and oppression through legal mechanisms, leading to dispossession of ancestral domains, and further the plight of the people.
<p>REPARATIONS</p>			<ul style="list-style-type: none"> • Bangsamoro demands for recognition of the right to self-determination is at the root of the Bangsamoro conflict. • The implementation of the recommendations of the TJRC Report were halted due to a change in administration.
<p>INSTITUTIONAL REFORM</p>	<ul style="list-style-type: none"> • While the majority of Filipinos ratified a new Constitution in 1987, not all provisions to guarantee non-recurrence of dictatorial rule were implemented. The new Constitution failed to dismantle the Marcos-promoted economic and political elite, and failed to support the development of a strong political party system. The military continues to enjoy political favors and remains a distinct political block. 	<ul style="list-style-type: none"> • The CPP-NPA peace process got snagged on issues of sovereignty, release of political prisoners, and CPP's inclusion in the government's "terrorist" list. When the peace talks bogged down, civil society and other third parties pressured both parties to continue with the peace talks. 	<ul style="list-style-type: none"> • The transitional justice framework, combined with a conflict transformation perspective, is key to addressing the grievances of the Bangsamoro people. The state needs to acknowledge the rights of victims and its own obligations as a means to transform conflict.

	<ul style="list-style-type: none"> • In December 2017, two HRVCB Board members were replaced without valid cause and due process after 93% of the cases filed by victims had been processed by this Board. • While extrajudicial killings (EJKs) and forced displacement also occurred in past administrations, the Duterte administration is different because the “nationalization” and “institutionalization” of its approaches have direct implications for the rule of law. This is strengthened by the government’s distrust of human rights standards and democratic institutions. • Not a single criminal court case of human rights violations against the architects of martial law has been won. • The government has no lustration policy or vetting process. • No clear electoral reforms (political dynasties take hold of regions). 		
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Sources: Philippine Case Study (ALG & AJAR) and Scoping Research of Transitional Justice Issues in the Philippines (ALG & British Embassy of Manila).



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