



**BROKEN
CHALK**

Submission to the United Nations OFFICE OF THE HIGH
COMMISSIONER FOR HUMAN RIGHTS

CALL FOR INPUT | SPECIAL PROCEDURES

Freedom of Opinion and Expression to the Philippines.

Submitting Organization: **BROKEN CHALK**

January 2024

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Broken Chalk is an Amsterdam-based non-governmental organisation (NGO) committed to addressing human rights violations in the education sector. It was established in October 2020. A multinational team of dedicated human rights advocates collaborates extensively on researching violations in every corner of the world.

The organisation's primary activities include removing obstacles to education, promoting peace and tranquillity in society through intercultural tolerance, preventing radicalism and polarisation, and eliminating educational opportunity gaps across different demographics.

Broken Chalk works hard in advocacy and lobbying on behalf of these educational victims, engaging with international organisations to prompt action. Additionally, the volunteers and interns working remotely worldwide at Broken Chalk prepare comprehensive reports for international organisations, stakeholders, and governments, highlighting human rights violations in education. These reports aim to draw attention to the often-overlooked aspects of human rights violations, providing stakeholders with a complete understanding and calling for the international community to act in cases where conflict halts access to education and endangers civilians' lives. This approach ensures that awareness is raised and necessary actions are taken to address these violations. Broken Chalk is genuinely international, achieving a local and global perspective in its work.

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National Normative Framework

The Philippines, deeply committed to upholding human rights, has meticulously crafted a comprehensive national normative framework governing freedom of opinion and expression. This report will thoroughly examine various facets of this framework, particularly emphasizing its educational dimensions.

National laws and Regulations:

The constitutional guarantee of freedom of opinion and expression, enshrined in Article III, Section 4, is further fortified by Republic Act No. 386, the Civil Code.¹ This legal foundation establishes a robust platform for safeguarding individual rights. The Education Act 1982, encapsulated in Batas Pambansa Bilang 232², significantly underscores the nation's commitment to education as a fundamental human right.³ Collectively, these legal pillars provide a robust framework for exercising these essential rights.

The constitutional guarantee forms the bedrock of citizens' freedom of expression, bolstered by the Civil Code and the Education Act. These laws collectively create a legal tapestry that protects individual liberties and emphasizes education's centrality in the national ethos.

Regulations for Education:

The K-12 Basic Education Program, as articulated in Republic Act No. 10533, stands as a foundational structure for ensuring universal access to quality education.⁴ The vigilant observance of the Department of Education (DepEd) ensures that educational standards are not only maintained but are also adapted to foster inclusivity across diverse demographic profiles.⁵

The K-12 program, overseen by DepEd, serves as a dynamic instrument in ensuring that education is not only accessible but also attuned to the needs of diverse learners.⁶ The regulatory framework is a testament to the Government's commitment to providing an inclusive and equitable educational experience.⁷

¹ Constitution of the Philippines, Art. III, Sec. 4; Republic Act No. 386, Civil Code. Available at: <https://www.officialgazette.gov.ph/constitutions/the-1987-constitution-of-the-republic-of-the-philippines/the-1987-constitution-of-the-republic-of-the-philippines-article-iii/>

² Which translates to "National Law Number" in English. It is commonly used as a prefix for the numbering of laws enacted by the Batasang Pambansa, the former national legislative body of the Philippines during the martial law era under President Ferdinand Marcos.

³ Education Act of 1982, Batas Pambansa Blg. 232. Available at: <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/2/13524>

⁴ K-12 Basic Education Program, Republic Act No. 10533. Available at: <https://www.officialgazette.gov.ph/2013/05/15/republic-act-no-10533/>

⁵ Republic of the Philippines-Department of Education. (2022). Available at.: https://www.deped.gov.ph/wp-content/uploads/2022/05/DO_s2022_024.pdf

⁶ Llego, M.A. (2022). DepEd Inclusive Education Policy Framework. Available at: <https://www.teacherph.com/deped-inclusive-education-policy-framework/>

⁷ Llego, M.A. (2022). DepEd Inclusive Education Policy Framework. Available at: <https://www.teacherph.com/deped-inclusive-education-policy-framework/>

Policies on Freedom of Opinion and Expression in Education:

The participatory approach to policy formulation sets the Philippines apart. Stakeholders, including students and educators, actively contribute to creating guidelines.⁸ This inclusive strategy aligns with democratic principles, creating a framework that resonates with the very values it seeks to uphold.⁹

The participatory policy-making approach, crucial for ensuring the voices of those directly impacted by educational policies are heard, is exemplified in recent initiatives in the Philippines. During the COVID-19 pandemic, the Department of Education engaged in consultative processes with various stakeholders, including teachers, parents, and students, to formulate guidelines for flexible learning modalities. In response to the challenges posed by the pandemic, these participatory efforts aimed to gather insights and experiences from those directly affected. Feedback from educators and families influenced decisions on remote learning methodologies, assessment strategies, and the provision of resources. This inclusive approach not only recognised the diverse needs of stakeholders but also fostered a sense of shared responsibility in navigating the complexities of education during challenging times.

Right to Information:

The Freedom of Information (FOI) Executive Order (2016) is crucial in promoting transparency. However, assessing the awareness among children regarding this right is paramount. Additionally, evaluating the accessibility of information tailored to children's comprehension levels is imperative for effective implementation.

The FOI Executive Order is a milestone in ensuring governmental transparency. However, its effectiveness hinges on widespread awareness, especially among children, who need information tailored to their understanding. This evaluation is crucial to closing gaps in accessibility and ensuring the meaningful exercise of the right to information.

Regulations on Disinformation and Hate Speech in Education:

While the national normative framework addresses disinformation and hate speech, there is a pressing need for enhanced enforcement within educational institutions. Identifying vulnerable groups, particularly students, is critical in formulating targeted interventions in the Philippines. The impact of hate speech within educational institutions is evident across various dimensions. Female students face online harassment affecting their mental well-being, while ethnic minorities encounter discriminatory language, hindering their sense of belonging. Incidents of religious prejudice contribute to tensions, and political polarisation undermines healthy discourse. Age-based discrimination negatively impacts students' experiences. An in-depth assessment of the impact of hate speech is crucial for designing effective measures, ultimately fostering a secure and inclusive educational environment. The framework's efficacy in combating disinformation and hate speech requires intensified

⁸ Policy Development & Planning Bureau. (2023). Strengthening Community Participation in the Development, Implementation and Monitoring of Local Development Programs and Project. Available at: [https://pdpb.dswd.gov.ph/2023/02/policyanalysis2022cdd/#:~:text=In%20the%20Philippines%2C%20the%20CDD,Up%20Budgeting%20\(BuB\)%20program.](https://pdpb.dswd.gov.ph/2023/02/policyanalysis2022cdd/#:~:text=In%20the%20Philippines%2C%20the%20CDD,Up%20Budgeting%20(BuB)%20program.)

⁹ Policy Development & Planning Bureau. (2023). Strengthening Community Participation in the Development, Implementation and Monitoring of Local Development Programs and Project. Available at: [https://pdpb.dswd.gov.ph/2023/02/policyanalysis2022cdd/#:~:text=In%20the%20Philippines%2C%20the%20CDD,Up%20Budgeting%20\(BuB\)%20program.](https://pdpb.dswd.gov.ph/2023/02/policyanalysis2022cdd/#:~:text=In%20the%20Philippines%2C%20the%20CDD,Up%20Budgeting%20(BuB)%20program.)

implementation within educational institutions, emphasising the need to prioritise security and inclusivity for all students.

Freedom of the Media

Despite the efforts to ensure freedom of the press and to provide the Philippines with a network of independent channels of communication, the reality shows that there is still a long way to go. In order to undo many years of censorship and weaponising media, the Philippines has to uphold its legislation and ensure the protection of the press in practice. In the Constitution, articles 4 and 11 ensure protection against any interference with the freedom of the press, aligning its national policy on communication with this principle.¹⁰ However, in practice, the safety of journalists and the role of the press and the media is endangered mainly by the Government's attempts to control the narrative.

In order to provide a brief background of the situation, the Philippines has struggled with the safety of journalists for decades. In 2009, 32 reporters were massacred in Maguindanao. They were accompanying a local politician on his way to present his candidacy when they were ambushed and killed.¹¹ The Government set up a Presidential Task Force on Media Security in 2016. However, as with many other initiatives undertaken by the country, it has proven powerless under the nationwide system of media weaponisation.

Rodrigo Duterte, the former President – widely referred to as a dictator – played a significant role in the detriment of the freedom of the press during his six years of presidency. During his term in 2020, Congress did not renew the license of the ABS-CBN network, which included numerous radio stations and TV channels, causing a significant setback in the safe environment the Philippines had been trying to build for journalists. One of the most common practices is called "red tagging", which traces back to the colonial era and the Cold War. It consists of branding journalists with opinions that are not favourable to the Government as subversive, making them legitimate targets for arrest and derived actions. One of the most notorious examples of this practice during the Duterte mandate was the case of the Nobel Peace Prize laureate Maria Ressa, who was in charge of the online outlet Rappler. In a powerful statement, the legal counsel alleged that "*cyber libel is now the first option in case of disagreement on reporting*".¹² Another common practice of the Government is to use the press to expose an alleged conspiracy to overthrow the President, targeting those who dissented with or exposed the regime. The level of fear is such that some journalists have even acknowledged that they engage in "self-censorship", where they are prevented from sharing certain news for fear of retaliation.

The newly elected President, Ferdinand "Bong Bong" Marcos Jr, made vows during his presidential run to uphold the law on freedom of the press in the Philippines. Although the journalists agree that Marcos Jr's approach is more consensual, killings of journalists are still occurring – 3 since he took office – and, more importantly, the ABS-CBN, which was shut down under Duterte, has still not been

¹⁰ Filipinas 1987, Constitution. Available at:

https://www.constituteproject.org/constitution/Philippines_1987?lang=es

¹¹ Reporters Without Borders (2019). "*Ten years after the massacre of 32 reports. Philippine justice on trial*". Available at: <https://rsf.org/en/ten-years-after-massacre-32-reporters-philippine-justice-trial>

¹² Lian Buan (2021). "*Court orders arrest of Maria Ressa, Rambo Talabong over Benilde thesis theory*". Available at: <https://www.rappler.com/nation/court-orders-arrest-of-maria-ressa-reporter-rambo-talabong-over-benilde-thesis-story/>

reinstated on its usual capacity¹³, online harassment reached an all-time high during the election period, and many media outlets could not display articles that recalled the atrocities that Marcos Jr.'s father had committed. Even public domain websites and information, such as the Presidential Museum and Library, could not display information related to this period.¹⁴ The most recent data registered 75 attacks and threats against media workers from June 30, 2022, to April 30, 2023.¹⁵

¹³ Reporters Without Borders. Available at: <https://rsf.org/en/country/philippines>

Katherine Dailey (2023). "*Philippines: Press freedom remains under strain under Marcos Jr. administration*". Available at: <https://ipi.media/philippines-press-freedom-remains-under-strain-under-marcos-jr-administration/>

¹⁴ Freedom House. Available at: https://freedomhouse.org/country/philippines/freedom-net/2022#footnote8_b8cjowm

¹⁵ Melinda Quintos de Jesus (2023). "*State of Media Freedom in the Philippines*". Available at: <https://pcij.org/article/10122/2023-state-of-press-freedom-in-the-philippines>

Internet Freedom

As pointed out by UNICEF already in 2016, the Philippines is the epicentre of the live-stream sexual abuse trade¹⁶, where the rate of the country is 80% of children at risk. In 2022, there were 1.3 billion attempts to access child sexual abuse content registered.¹⁷ With the peak of these crimes experienced during the COVID-19 pandemic, it is safe to state that these statistics have not been reduced and are far from being where they were expected.

Although the election of Marcos Jr. as President gave some hope to the country, his actions in this field have not been far from those taken by his predecessor, Rodrigo Duterte. The current president passed a new law establishing mandatory registration of SIM cards, forcing users to provide all their personal information, significantly constraining privacy rights.¹⁸

The spread of misinformation via the internet became more troublesome during and immediately after the election period when mobile services were restricted. At first sight, internet service is not subjected to excessive requirements, as it is categorised as a value-added service, in contrast with mobile services. However, it is still used as a tool for censorship, and its content is more regulated than its access. Most notably, journalists who operate on the internet are accused of committing libel if they show dissenting opinions or criticism of the regime.

The Libel Law is an umbrella piece of legislation covering online activity and attaches criminal charges to it, as upheld by the Supreme Court. It is defined as a cybercrime in Section 4c¹⁹ of the Cybercrime Prevention Act from 2012, doubling its penalty if the offence is committed online. The freedom on the internet is further limited by forbidding certain symbols, speeches or other representations that can be considered incitement for other crimes under Article 142.

Regarding the protection of more vulnerable groups, specific measures have been taken to protect children from the dangers of the internet. In 2016, the first bill was passed to enact the Child Internet Safety and Protection Act of 2019. In it, protection was guaranteed to those under 18 years old from materials of obscene or sexual nature, as well as those who lack value for children. Moreover, it established duties not only on the internet users but also on the internet service providers. The Government created the Child Internet Safety Council (CISC) under the Department of Social Welfare and Development (DSWD) to supervise its implementation. Broadly, it encompasses all of the infiltrated materials and imposes on them the obligation to exercise further supervisory duties.

To further emphasise the role of the internet service providers, other instruments have been enacted to highlight their role and obligations, reinforcing their accountability to create change. These recommendations have been incorporated in the two main instruments under the Philippine law: the

¹⁶ Andy Brown (2016). "Safe from harm. Tackling webcam child sexual abuse in the Philippines". Available at: <https://www.unicef.org/stories/safe-from-harm-tackling-webcam-child-sexual-abuse-philippines>

¹⁷ DigWatch (2023) "A collective effort: Philippines fights online child sexual abuse". Available at: <https://dig.watch/updates/a-collective-effort-philippines-fights-online-child-sexual-abuse#:~:text=In%202022%2C%20the%20Philippine%20Congress,institutions%20to%20block%20the%20material.>

¹⁸ Bagio Midland Courier (2021). "Safer Internet to protect Filipino children". Available at: <https://www.baguiomidlandcourier.com.ph/safer-internet-to-protect-filipino-children/>

¹⁹ Eighteenth Congress of the Republic of the Philippines (2016). An Act providing internet safety and protection for children. Available at: <http://legacy.senate.gov.ph/lisdata/3082927768!.pdf>

Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (“Anti-OSAEC law”).²⁰

²⁰ ICMEC (2022). “*Hope for a Safer Internet: How the Philippines is Protecting Children Through Proactive Legislation*”. Available at: <https://icmec.medium.com/hope-for-a-safer-internet-how-the-philippines-is-protecting-children-through-proactive-legislation-ebabda635d3e>

Freedom of Expression of Specific Groups

Freedom of expression in the Philippines is a crucial human right that demands attention, particularly when considering religious groups, indigenous peoples and selected marginalised communities. In this concise examination, we will concentrate on minority religious groups, the Lumad indigenous community, and the LGBTQ+ community to explore challenges and potential solutions for freedom of expression.

Religious Groups:

Minority religious groups in the Philippines often encounter impediments to expressing their beliefs freely. While the Constitution guarantees freedom of religion (Article III, Section 5), specific laws targeting discrimination or safeguarding minority religious groups may vary.²¹

Indigenous Peoples - The Lumad:

The Lumad, encompassing diverse indigenous communities in the Philippines, encounter unique obstacles to their freedom of expression, exacerbated by government-backed practices such as "red-tagging." Despite the Indigenous Peoples Rights Act (IPRA) of 1997²² aiming to safeguard their rights, Lumad leaders, like Beverly Longid of Katribu, are red-tagged, facing threats and harassment. This undermines the IPRA's intent, highlighting the urgent need for the Government, particularly under President Ferdinand Marcos Jr., to cease red tagging, protect Lumad rights, and ensure the effectiveness of initiatives like the National Indigenous Peoples Education Policy Framework against such intimidation tactics²³.

Marginalised Communities - LGBTQ+ and Urban Poor:

The LGBTQ+ community and the urban poor face distinct challenges in expressing themselves freely. The SOGIE Equality Bill, though pending enactment, represents a crucial step towards recognising and protecting LGBTQ+ rights.²⁴ Urban poor communities, covered by the Magna Carta for the Poor (Republic Act No. 7279), strive for equitable expression amid economic challenges.²⁵

For example, jeepney drivers, street vendors, and small-scale entrepreneurs relying heavily on daily earnings disrupted their livelihoods during lockdowns²⁶. The suspension of public

²¹ Constitution of the Republic of the Philippines, 1987. Article III, Section 5

²² Republic Act No. 8371, Indigenous Peoples Rights Act of 1997, Philippines.5.

²³ Human Rights Watch. (2023). *Philippines: Officials "Red-Tagging" Indigenous Leaders, Activists*. Available at: <https://www.hrw.org/news/2023/01/26/philippines-officials-red-tagging-indigenous-leaders-activists>

²⁴ SOGIE Equality Bill. Available at: <http://legacy.senate.gov.ph/lisdata/3106627964!.pdf>

²⁵ Republic Act No. 7279, Magna Carta for the Poor, Philippines.

²⁶ Ranis, Rhanarie & Conquilla, Jenalyn & Buncaras, Zaira & Tus, Jhoselle. (2021). The Jeepney Drivers and their Lived Experiences During the COVID-19 Pandemic: A Phenomenological Qualitative Study in the Philippines. *International Journal Of Advance Research And Innovative Ideas In Education*. 7. 10.6084/m9.figshare.14033339.v1

transportation and restrictions on movement affected their income and limited their ability to conduct business.

Additionally, many urban low-income families in the Philippines live in densely populated informal settlements where social distancing and proper hygiene practices are challenging²⁷. This situation not only increased the risk of virus transmission but also led to increased vulnerability to economic shocks.

In this context, the economic challenges faced by the urban poor in the Philippines during and after COVID-19 affect their ability to express their needs and aspirations freely. The need for effective implementation of existing laws, such as the Magna Carta for the Poor, and ongoing advocacy becomes even more critical in addressing these multifaceted challenges. Effective implementation and ongoing advocacy are essential to address multifaceted challenges faced by the urban poor in expressing their needs and aspirations.

In conclusion, safeguarding freedom of expression for religious groups, indigenous peoples, and marginalised communities in the Philippines necessitates comprehensive legal reforms, educational empowerment, and societal awareness. Focused efforts on implementing and strengthening existing laws and introducing new initiatives will contribute to fostering an environment where diverse voices can be freely heard and respected.



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²⁷ Lau LL, Hung N, Go DJ, Ferma J, Choi M, Dodd W, Wei X. Knowledge, attitudes and practices of COVID-19 among income-poor households in the Philippines: A cross-sectional study. *J Glob Health*. 2020 Jun;10(1):011007. doi: 10.7189/jogh.10.011007. PMID: 32566169; PMCID: PMC7294392.