

# STATE OF THE DIGITAL NATION:

The Digital Rights Report 2020

FOUNDATION FOR MEDIA ALTERNATIVES



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## ABOUT THIS REPORT

This report is a documentation of what transpired in 2020, specifically how human rights were impacted by technology and digital innovations in the Philippines. The year 2020 was definitely unique given the COVID-19 pandemic, which brought about tremendous change throughout the globe. Effects from the pandemic as well as other events, be it a natural disaster like the Taal eruption to the destructive typhoon Ulysses or man-made crisis such as the ABS-CBN shutdown and the infodemic, really made the year that was a particularly challenging year for many.

And this is why it is crucial that Filipinos, who have come to rely on the Internet and technology for work, school, connecting with loved ones, getting life-saving information this pandemic, will need to be aware of their rights as digital citizens. While this report does not aim to be the end-all and be-all of digital rights, we hope to make this a way to raise awareness of the Philippines' digital environment and the issues and innovations that impact us not only online, but also offline. It may seem simplistic to say that “digital rights are human rights” but this is the message we want many Filipinos to understand.



In a nutshell, our objectives in writing this report are:

- To document the current events and issues which affect digital rights (and human rights) in the Philippines
- To see the trends and themes in specified key areas of digital rights and issues
- To raise awareness on emerging issues as seen in the scoping or the trends

We structured the report by beginning with an overview of the digital environment in the Philippines in 2020 before delving into the impact of technology on human rights: the key events, challenges and accomplishments, then a forecast of 2021 and 2022.

These are divided into the following key thematic areas:

- Internet Access
- Gender and Information and Communications Technologies (ICTs)
- Privacy and Data Protection
- Freedom of Expression

This report is based on the Foundation for Media Alternatives' (FMA) monitoring of situations where technology impacted human rights in the country. It covers the months of January to December 2020, and the analysis and scoping is conducted using secondary resources such as news articles, press releases and reports. These reference materials were selected based on the subject matter and also on their credibility. We also included inputs based on the meetings, activities, and discussions with partners and stakeholders on digital rights issues, challenges, and accomplishments.

Lastly, we provided a forecast of what we think are the emerging events and challenges due to technology in 2021.

## OVERVIEW OF 2020: THE PHILIPPINES' DIGITAL ENVIRONMENT

The Philippines was first connected to the World Wide Web in March of 1994<sup>1</sup> and we have never looked back since then. Fast forward to the present, an estimated 67% of the total population or around 73 million out of 108 million Filipinos are connected to the internet, while a whopping 173.2 million Filipinos are online via their mobile phones,<sup>2</sup> according to the Digital 2020 report of Hootsuite and We are Social.

In the same report, it was stated that all of the internet users in the country are on social media, mostly accessing social media through a mobile device (98%).<sup>3</sup> Globally, Filipinos are the heaviest internet users spending an average of 10 hours per day on the internet, wherein 4 hours of this are spent on social media - particularly in Facebook, YouTube, FB Messenger, Instagram and Twitter.<sup>4</sup>

If we compare the statistics from pre-pandemic times to what happened in 2020, there has indeed been a rise in the number of people going online not only in the Philippines, but globally. To say that the coronavirus disease 2019 (COVID-19) pandemic has disrupted our way of life is to put it mildly, as immense changes throughout different aspects of our day-to-day living—from pivoting to working and studying from home, travel restrictions, lockdowns and more—have been the theme of the year.

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<sup>1</sup>Miguel Paraz, "Developing a Viable Framework for Commercial Internet Operations in the Asia-Pacific Region: The Philippine Experience," web.archive.org, January 3, 2016, [https://web.archive.org/web/20160103124914/https://www.isoc.org/inet97/proceedings/E6/E6\\_1.HTM](https://web.archive.org/web/20160103124914/https://www.isoc.org/inet97/proceedings/E6/E6_1.HTM).

<sup>2</sup>Simon Kemp, "Digital 2020: The Philippines," DataReportal – Global Digital Insights, February 18, 2020, <https://datareportal.com/reports/digital-2020-philippines>.

<sup>3</sup>Kemp, Digital 2020: The Philippines.

<sup>4</sup>Kemp, Digital 2020: The Philippines.

**Globally, Filipinos are the heaviest internet users spending an average of 10 hours per day on the internet, wherein 4 hours of this are spent on social media - particularly in Facebook, YouTube, FB Messenger, Instagram and Twitter.**



In the Philippines, the COVID-19 pandemic has brought numerous challenges to a country already overwhelmed with many social problems—many of which relate to the lack of access to basic services. It has been apparent that we do not have the adequate capacity for arresting the spread of the virus through more effective methods such as contact tracing, maintaining efficient information systems and coordinative structures, continued and aggressive testing, among others. Instead, the imposition of government actions which are not health-oriented but are more of security and peace and order methods had unintentional effects such as the contraction of the economy and an impending eradication of any recent gain in poverty reduction efforts.

We also saw how the pandemic brought to light challenges and issues in the digital front, such as the increasing digital divide where limited connection to the Internet due to either low quality and/or high costs hampered the access to crucial information or even being able to work or study. In fact, [a study by SurfShark in 2020](#) indicated that Filipinos, with an average take-home pay, will need to work around 7 hours and 19 minutes to pay for the cheapest broadband connection.<sup>5</sup> A [2020 Digital Quality of Life Index](#) ranked the Philippines 82nd in terms of internet affordability out of 85 countries.<sup>6</sup>

For fixed broadband, the Philippines has an average download speed of [32.37 megabits per second \(Mbps\)](#)<sup>7</sup>, which puts it at around 100th place in global rankings. Meanwhile, Thailand and Singapore rank in the top three, with 220Mbps and 247Mbps, respectively. The irony is that fixed broadband plans in these two countries [cost about the same](#) as the Philippines, based on a report by The World Bank<sup>8</sup>. Besides its snail-paced speeds, Internet connectivity in the Philippines is also among the costliest in the world.

Our ICT development is also constrained due to antiquated laws such as the Public Service Act that either constrict market competitiveness and attractiveness or hamper actual construction of necessary infrastructure. E-governance also needs to be improved as physical movement is restricted and skeletal workforces are recommended in order to stop the spread of COVID-19; yet there is still a need for business and operations to continue for survival. According to the [UN E-governance Knowledgebase](#), the Philippines ranked 77 out of 193 countries in the e-governance development index, and 57 out of 193 in the e-participation index in 2020<sup>9</sup>.

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<sup>5</sup>Katharina Buchholz, "Infographic: How Many Hours of Work Pay the Internet Bill?," Statista Infographics, February 23, 2021, <https://www.statista.com/chart/24262/internet-affordability-ranking/>.

<sup>6</sup>Digital Quality of Life Index 2020, "Digital Quality of Life Index 2020, 2020, <https://surfshark.com/dql2020-slides.pdf>.

<sup>7</sup>Speedtest Global Index - Monthly Comparisons of Internet Speeds from around the World, "Speedtest Global Index, February 2020, <https://www.speedtest.net/global-index#fixed>.

<sup>8</sup>Philippines Digital Economy Report 2020: A Better Normal under COVID-19: Digitalizing the Philippine Economy Now, "2020, <http://documents1.worldbank.org/curated/en/796871601650398190/pdf/Philippines-Digital-Economy-Report-2020-A-Better-Normal-Under-COVID-19-Digitalizing-the-Philippine-Economy-Now.pdf>.

<sup>9</sup>EGOVKB | United Nations > Data > Country Information, "UN E-Governance Knowledgebase, 2020, <https://publicadministration.un.org/egovkb/en-us/Data/Country-Information/id/134-Philippines>.

Despite the influx of e-commerce in 2020 as businesses shifted online (ube pandesal and sushi bake anyone?), our actual performance in the United Nations Conference on Trade and Development (UNCTAD) Business-to-Consumer (B2C) E-commerce Index 2020 study states that we slipped 10 notches down in 2020—from 86th to 96th out of 152 countries.<sup>10</sup> The study measures the readiness of countries to engage in and benefit from e-commerce, based on factors such as access to secure internet servers, reliability of postal services and infrastructure, and the portion of their population that uses the internet and has an account with a financial institution or a provider of mobile money services.

Contact tracing efforts also created new issues as to how personal data and information are being stored and secured by the implementers, as well as how it has become a way to enforce digital state surveillance. The proliferation also of apps and ecommerce sites during this time also comes with both benefits and risks or issues, such as the data breaches of loan sharing apps and the increase of online scams and phishing attacks.

Even the emergency law called “Bayanihan to Act as One” or Republic Act 11569 meant to help the country to tackle the pandemic and its effects had problematic sections that curtail free speech and was used to silence critics. Major blows to our freedom of expression and press freedom with the passage of the controversial Anti-Terrorism Act of 2020 or Republic Act No. 11479, the ABS-CBN shutdown, and the continued filing of cyberlibel cases against CEO Rappler Maria Ressa and former reporter Reynaldo Santos, Jr. We also saw how gender-based violence continued to rise during the pandemic, with alarming cases of women being harassed at checkpoints, to proliferation of “sextortion” and the sharing of videos and photos without consent and more.

These events, challenges and issues in the Philippines’ digital sphere will be further explored and examined in the succeeding chapters.

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<sup>10</sup>Bernie Magkilat, “PH Slips 10 Notches in Global E-Commerce Index,” Manila Bulletin, February 18, 2020, [https://mb.com.ph/2021/02/18/ph-slips-10-notches-in-global-e-commerce-index?utm\\_source=Internet\\_Society\\_Philippines&utm\\_medium=social&utm\\_campaign=Competition](https://mb.com.ph/2021/02/18/ph-slips-10-notches-in-global-e-commerce-index?utm_source=Internet_Society_Philippines&utm_medium=social&utm_campaign=Competition).

## PHILIPPINE ICT REGULATORY BODIES

In 2016, the Department of Information and Communications Technology (DICT) was established as the "primary policy, planning, coordinating, implementing, and administrative entity of the Executive Branch of the government that will plan, develop, and promote the national ICT development agenda. Attached to the DICT is the National Privacy Commission (NPC) also established in 2016, as well as the National Telecommunications Commission (NTC). Prior to the establishment of the DICT, all ICT policy and Internet governance matters were handled under the ICT Office under the Department of Science and Technology (DOST), even as the NTC was under the Office of the President. In specific sectoral cases, ICT-related concerns are also within the purview of national bodies such as the Philippine Commission on Women (PCW), the National Council on Disability Affairs (NCDA); and the Department of Health (DOH) (i.e., for e-health).<sup>11</sup>

Each of the government agencies have programs and projects that aim to improve the digital environment of the country. DICT has the Free Wi-Fi for All program, which is in fulfillment of the mandates of Republic Act 10929 or the Free Internet Access in Public Places Act. The program aims to provide free Internet connectivity in public places across the country to enhance the people's access to information and opportunities, and to be empowered to participate in the digital economy.<sup>12</sup> Currently, the DICT was able to launch 8,145 sites in various national government agencies, hospitals, public schools, state universities and colleges, airports and terminals, and other public places nationwide.<sup>13</sup> Other noticeable plans and programs by the DICT include the EGovernment Masterplan 2022 (EGMP) to harmonize and ensure interoperability among ICT-related resources, programs and projects across the government<sup>14</sup>; the National Broadband Plan which will serve as a blueprint in the acceleration of the deployment of fiber optic cables and wireless technologies thereby improving the Internet speed in the country<sup>15</sup>; and the National Cybersecurity Plan of 2022 which will serve as a roadmap for ICT stakeholders to secure their online environment and the government's strategy to safeguard the ICT environment of the country.<sup>16</sup>

<sup>11</sup>Mandate, Powers and Functions | DICT, Department of Information and Communications Technology, 2018, <https://dict.gov.ph/about-us/our-mandate/>.

<sup>12</sup>Five Provinces in One Day: Free Wi-Fi for All Accelerates, Department of Information and Communications Technology, March 6, 2020, <https://dict.gov.ph/five-provinces-in-one-day-free-wi-fi-for-all-accelerates/>.

<sup>13</sup>Free Wi-Fi for All Hotspots, GOVPH, March 23, 2021, <https://freepublicwifi.gov.ph/livehotspots/>.

<sup>14</sup>E-Government Masterplan 2022, DICT, 2019, <https://dict.gov.ph/ictstatistics/wp-content/uploads/2020/03/EGMP-2022.pdf>.

<sup>15</sup>National Broadband Plan: Building Infrastructures for a Digital Nation, DICT, 2017, "E-Government Masterplan 2022," DICT, 2019, <https://dict.gov.ph/ictstatistics/wp-content/uploads/2020/03/EGMP-2022.pdf>.

<sup>16</sup>National Cybersecurity Plan 2022, DICT, July 2019, <https://dict.gov.ph/wp-content/uploads/2019/07/NCSP2022-rev01Jul2019.pdf>.

The DICT has several attached agencies:

- The Cybercrime Investigation and Coordinating Center (CICC), which was created upon the approval of Republic Act 10175 or the Cybercrime Prevention Act of 2012, is chaired by the DICT Secretary. Following RA 10844, the CICC is one of the agencies hereby attached to the DICT for policy and program coordination, and shall continue to operate and function in accordance with the charters, laws or orders creating them, insofar as they are not inconsistent with this Act. All powers and functions related to cybersecurity including, but not limited to, the formulation of the National Cybersecurity Plan, establishment of the National Computer Emergency Response Team (CERT), and the facilitation of international cooperation on intelligence regarding cybersecurity matters are transferred to the Department.<sup>17</sup>
- The NPC is the country's privacy watchdog; an independent body mandated to administer and implement the Data Privacy Act of 2012, and to monitor and ensure compliance of the country with international standards set for data protection.<sup>18</sup>
- The NTC is also tasked to regulate the installation, operation and maintenance of radio stations both for private and public use. (Radio Control Law, Act No. 3846, as amended), as well as to regulate and supervise the provision of public telecommunications services (Radio Control Law, Act No. 3846, as amended and Public Telecommunications Policy Act of 1995, RA No. 7925). Other functions include to manage the radio spectrum (Radio Control Law, Act No. 3846, as amended and Public Telecommunications Policy Act of 1995, RA No. 7925) and to regulate and supervise radio and television broadcast stations, cable television (CATV) and pay television (EO No. 546 and EO No. 205).<sup>19</sup>

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<sup>17</sup>"Cybercrime Investigation and Coordinating Center (CICC)," DICT, accessed March 23, 2021, <https://dict.gov.ph/cybercrime-investigation-and-coordinating-center-cicc/>.

<sup>18</sup>"National Privacy Commission," National Privacy Commission, 2019, <https://www.privacy.gov.ph/>.

<sup>19</sup>"National Telecommunications Commission," National Telecommunications Commission, 2019, <https://ntc.gov.ph>.



There are laws and policies pertaining to the Internet and digital environment in the Philippines to help the country keep abreast with the developments in technology. Some of these laws include, among others, the E-Commerce Act of 2000 (RA 8792), the Anti-Child Pornography Act of 2009 (RA 9775), the Anti-Photo and Video Voyeurism Act of 2009 (RA 9995), the Data Privacy Act of 2012 (RA 10173), the Cybercrime Prevention Act of 2012 (RA 10175), the Expanded Anti-Trafficking in Persons Act of 2012 (RA 10364) and the Safe Spaces Act (RA 11313). There are also a number of executive issuances related to legacy telecommunications regulation by the NTC.

The country also adopts generally accepted principles of international law as part of the law of the land. A Bill of Rights as enshrined in the 1987 Philippine Constitution promotes the rights of all individuals as embodied in the United Nations (UN) Universal Declaration of Human Rights. The Philippines is a long-time member of the UN (since 1945) and has ratified eight of the nine core international human rights instruments. Accordingly, it is duty-bound to observe the rights, as enshrined in such international legal instruments.





## KEY THEMATIC AREAS

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This report is divided into four thematic areas: Internet access, gender and ICTs, privacy and data protection, and freedom of expression. We have grouped the events, issues, and challenges from our monitoring and research into each area.

## INTERNET ACCESS

### The digital divide in the Philippines

If before the COVID-19 pandemic the Internet was already considered crucial, nowadays it has become a necessity. Being connected is an act of survival: With the Internet you can get lifesaving information, be able to work and study, and achieve a higher quality of life. There is strong evidence in the international development sphere that Internet access is a key driver of economic growth. According to [the World Economic Forum<sup>20</sup>](#), each additional 10% of internet penetration can lead to a 1.2% increase in per capita GDP growth in emerging economies. The National Economic and Development Authority (NEDA) stressed the need for robust broadband infrastructure as a critical component in building a competitive workforce and enabling participation in the global market, and high-speed broadband Internet and coverage throughout the country can provide Filipinos with better access to economic opportunities.

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<sup>20</sup>Ben Shenglin et al., "Digital Infrastructure: Overcoming Digital Divide in Emerging Economies," G20 Insights, December 10, 2020.

But despite the opportunities and benefits of having a progressive and updated digital environment, the Philippines still experiences a vast digital divide or inequality. And the COVID-19 pandemic put these stark disparities in access into the spotlight, especially when home quarantine measures were issued and workers, families and individuals relied on Internet connectivity to communicate with the outside world, work or study, and conduct commercial transactions. A digital divide prevents societies from harnessing the full benefits that information and communication technologies can deliver.

In a PEW research study<sup>21</sup> conducted in 2020, two statistics stood out the most. First, the country has the 4th highest differential when it comes to internet use by age. 94% of 18- to 29-year-olds use the internet, at least occasionally, or own a smartphone. For the 50-plus crowd, the number is 36%, which makes for a percentage differential of 58. The second distinctive statistic is the disparity of internet users by educational attainment: Some 86% of those with higher education, defined by the study as those who finish secondary education and above, use the internet, at least occasionally or have a smartphone; while it is 44% for those in the lower education bracket. The 42-point difference puts the country on the 5th highest spot.

The study also reported 70% of Filipinos said they use the internet or have a smartphone; 66% of said they use social media sites; and 60% said they own a smartphone, with the survey's median for smartphone use at 70%.<sup>22</sup>

**But what is jarring is that 40% of Filipinos, 52% of public schools, and 57% of households nationwide who are not connected to the Internet.**<sup>23</sup>  
**Many communities struggle just to get a stable 3G signal, which is definitely not enough to use for work or study. There are news reports on how students need to go up their corrugated iron roof in order to get a decent signal, or they have to trek up a mountain to take their online classes and submit requirements.**<sup>24</sup>

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<sup>21</sup>Shannon Schumacher and Nicholas Kent, "8 Charts on Internet Use around the World as Countries Grapple with COVID-19," Pew Research Center, April 2, 2020, <https://www.pewresearch.org/fact-tank/2020/04/02/8-charts-on-internet-use-around-the-world-as-countries-grapple-with-covid-19/>.

<sup>22</sup>Schumacher and Kent, 8 Charts on Internet Use around the World as Countries Grapple with COVID-19.

<sup>23</sup>Kyle Chua, "Outdated Policy Hindering Improvement of PH Internet – Experts," Rappler, August 6, 2020, <https://www.rappler.com/technology/features/outdated-policy-hindering-improvement-philippine-internet>.

<sup>24</sup>Reuters, "Scaling Roofs and Mountains, Filipino Students Battle to Take Online Classes," Interaksyon, January 7, 2021, <https://interaksyon.philstar.com/trends-spotlights/2021/01/07/183184/scaling-roofs-and-mountains-filipino-students-battle-to-take-online-classes/>.

A member of the House of Representatives said in December 2020 that the Philippines ranked the “second slowest” in internet speed among the 10-member Association of Southeast Asian Nations (ASEAN), and 110th among 139 countries.<sup>25</sup> A study by SurfShark in 2020<sup>26</sup> indicated that Filipinos, with an average take-home pay, will need to work around 7 hours and 19 minutes to pay for the cheapest broadband connection. A 2020 Digital Quality of Life Index<sup>27</sup> ranked the Philippines 82nd in terms of internet affordability out of 85 countries.

These findings paint a picture of how inaccessible, expensive, and inadequate the Internet is for Filipinos. And it does not affect only individual or personal Internet usage, as the long-standing challenges in ICT were also revealed in the manual distribution of the Social Amelioration Program (SAP), the contact tracing fiasco, and in how almost all our government services are manually processed. According to the UN E-governance Knowledgebase<sup>28</sup>, the Philippines ranked 77 out of 193 countries in the e-governance development index, and 57 out of 193 in the e-participation index in 2020<sup>29</sup>. E-governance, which would have been an immense help to citizens in a public health crisis that restricts mobility among others, is not quite there yet.

E-government solutions must be complemented with other policy reforms<sup>30</sup>, particularly the amendment of outdated laws related to national security and privacy, and other sectoral policies incompatible with e-government solutions. Also, the country must overcome the institutional legacies of archaic rules and systems in managing the government bureaucracy, which is typically rigid and passive<sup>31</sup>.

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<sup>25</sup>Delon Porcalla, “Philippines Internet ‘Second Slowest’ in Asean, Ranks 110th Worldwide,” Philstar.com, December 28, 2020, <https://www.philstar.com/headlines/2020/12/28/2066612/philippines-internet-second-slowest-asean-ranks-110th-worldwide>.

<sup>26</sup>Buchholz, Infographic: How Many Hours of Work Pay the Internet Bill?.

<sup>27</sup>Digital Quality of Life Index 2020.

<sup>28</sup>UN E-Governance Knowledgebase, 2020.

<sup>29</sup>UN E-Governance Knowledgebase, 2020.

<sup>30</sup>Aubrey Tabuga et al., “Innovating Governance: Building Resilience against COVID-19 Pandemic and Other Risks,” PIDS (September 2020), <https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsdps2023.pdf>.

<sup>31</sup>Aubrey Tabuga et al., Innovating Governance: Building Resilience against COVID-19 Pandemic and Other Risks.

Before when the country still utilized dial-up connections, there were more than 300 independent Internet service providers (ISPs) in the country. But as this changed to digital subscriber lines (DSL) and wireless services, the market slimmed down to two main competitors: PLDT and Globe. A third is on its way, DITO, a telco composed of Dennis Uy's Davao-based enterprise and a state-owned Chinese company<sup>32</sup> that took two decades to reach this point, and does not change the fact that the market is still monopolized and lacks competition. In 1995, the government implemented the Public Telecommunications Policy Act of the Philippines<sup>33</sup>, supposedly to improve the country's public telecommunications networks. It was intended to promote a "healthy competitive environment...with the end in view of encouraging their financial viability while maintaining affordable rates."<sup>34</sup> However, it also required operators to build 400,000 telephone lines<sup>35</sup>, which experts say is expensive, unprofitable, and outdated<sup>36</sup> as an investment, discentivizing new players to enter the market.

Not only that, telecommunications is considered a public utility and in the Philippines, public utilities must be owned, operated, and controlled by Filipino citizens or corporations that are at least 60% Filipino-owned<sup>37</sup>. This makes it difficult for foreign players to enter the market. At the same time, the government also treats the internet as a value-added service<sup>38</sup>. This means suppliers are free to provide the service on their own terms. The Internet would need to be identified as a basic service<sup>39</sup> for the government to regulate it.

<sup>32</sup>"DITO," Dito.ph, 2020, <https://www.dito.ph/>.

<sup>33</sup>"RA 7925 - 'Public Telecommunications Policy Act of the Philippines,'" Philippine Board of Investments, February 20, 2018, [https://www.google.com/url?q=https://boi.gov.ph/sdm\\_downloads/ra-7925-public-telecommunications-policy-act-of-the-philippines/&sa=D&source=editors&ust=1616476080899000&usq=AOvVawOoJOp-36hky3hCpi-YmR5p](https://www.google.com/url?q=https://boi.gov.ph/sdm_downloads/ra-7925-public-telecommunications-policy-act-of-the-philippines/&sa=D&source=editors&ust=1616476080899000&usq=AOvVawOoJOp-36hky3hCpi-YmR5p).

<sup>34</sup>RA 7925 - 'Public Telecommunications Policy Act of the Philippines,'" Philippine Board of Investments.

<sup>35</sup>"PHILIPPINE LAWS, STATUTES and CODES - CHAN ROBLES VIRTUAL LAW LIBRARY," www.chanrobles.com, accessed March 23, 2021, <https://www.chanrobles.com/republicactno7925rules.htm#.YC4GcM8zbFo>.

<sup>36</sup>Victoria Elliot and Andrew Deck, "Duterte's Vicious War against Telecom Operators," Rest of World, November 2, 2020, <https://restofworld.org/2020/duterte-dito-and-the-duopoly/>.

<sup>37</sup>Mara Cepeda, "House Passes Bill Allowing 100% Foreign Ownership of Public Utilities," Rappler, March 10, 2020, <https://www.rappler.com/nation/house-bill-3rd-reading-allowing-full-foreign-ownership-public-utilities>.

<sup>38</sup>Filane Mikee Cervantes, "Solon Urges Dito to Take 30% Mobile Internet Market Share," Philippine News Agency, January 4, 2021, <https://www.pna.gov.ph/articles/1126254>.

<sup>39</sup>Rappler, "Telcos to Explain Expensive but Slow Internet at NTC Hearing," Rappler, October 20, 2014, <https://www.rappler.com/business/ntc-public-hearing-internet-speed>.

**The country's regulatory landscape also makes it difficult for ISPs to put up the necessary infrastructure. A single cell site can take as much as eight months to build<sup>40</sup>, with much of that time spent securing government permits.**

In a meeting between the President Duterte and Globe president Ernest Cu<sup>41</sup>, the latter explained that the red tape and bureaucracy causes a Catch-22 scenario between the government and the private companies. Maybe the Department of Interior and Local Government (DILG) and the Anti-Red Tape Authority (ARTA) could review the licensing and permitting requirements of local government units (LGUs) and national government agencies (NGAs) to avoid unnecessary delays.

Another layer of complication is the Philippine topography: According to data from the American Chamber of Commerce and Industry<sup>42</sup>, the Philippine archipelago has around 18,000 telecom towers<sup>43</sup> as compared to Vietnam's 90,000, and the country would need 50,000 more for optimal coverage, but laying down underground fiber optics across seas and putting up towers in far-flung areas will entail a much larger investment for a telco here. Telcos in other countries may have spent the same amount for much larger and more assured returns.<sup>44</sup>

Globe and Smart, PLDT's wireless communications arm, announced their plans to launch 2,000 new cell sites or towers each in 2021<sup>45</sup>. A Globe subsidiary closed a \$2 million investment<sup>46</sup> with Singapore-based space tech startup Transcelestial Technologies, which uses wireless laser communication technology in lieu of cell towers and other physical infrastructure. The move is said to address the last-mile and global bottleneck issues that telcos face in the Philippines.

<sup>40</sup>Miguel Camus, "Takeover of Telcos Possible, but Costly for Virus-Hit PH," INQUIRER.net, July 30, 2020, <https://business.inquirer.net/303993/dutertes-telco-takeover-threat-compounds-red-tape-woes-200-days-to-get-permits>.

<sup>41</sup>Julie Aurelio, "Globe President Meets Duterte; Blames Red Tape for Lack of Cell Tower," INQUIRER.net, August 1, 2020, <https://newsinfo.inquirer.net/1315134/globe-president-meets-duterte-blames-red-tape>.

<sup>42</sup>Bernie Cahiles-Magkilat, "Open Access Bills Remain Languishing in Congress," Manila Bulletin, July 18, 2020, <https://mb.com.ph/2020/07/18/open-access-bills-remain-languishing-in-congress/>.

<sup>43</sup>James Barton, "Philippines Overhauls Tower Sharing to Boost Coverage," Developing Telecoms, June 11, 2020, <https://www.developingtelecoms.com/telecom-business/telecom-regulation/9639-philippines-overhauls-tower-sharing-to-boost-coverage.html#:~:text=Between%20Globe%20and%20Smart%20there>.

<sup>44</sup>Barton, Philippines Overhauls Tower Sharing to Boost Coverage.

<sup>45</sup>Arjay Balinbin, "Globe, PLDT-Smart to Roll out 4,000 Cell Sites | BusinessWorld," Bworldonline.com, December 23, 2020, <https://www.bworldonline.com/globe-pldt-smart-to-roll-out-4000-cell-sites/>.

<sup>46</sup>Aika Rey, "Singapore's Space Tech Startup Enters PH Market for High-Speed Internet," Rappler, February 19, 2021, [https://www.rappler.com/business/singapore-space-tech-startup-transcelestial-enters-philippine-market-deliver-high-speed-internet utm\\_medium=Social&utm\\_campaign=Echobox&utm\\_source=Facebook&fbclid=IwAR2\\_IdDYxKT\\_FFvXKHtgRMxTYwpIXA3PCeWNFwqpxdctdIr\\_bejn5aj\\_EFO#Echobox=1613715220](https://www.rappler.com/business/singapore-space-tech-startup-transcelestial-enters-philippine-market-deliver-high-speed-internet utm_medium=Social&utm_campaign=Echobox&utm_source=Facebook&fbclid=IwAR2_IdDYxKT_FFvXKHtgRMxTYwpIXA3PCeWNFwqpxdctdIr_bejn5aj_EFO#Echobox=1613715220).

Yet despite the current situation of the ICT infrastructure and regulatory environment, another aspect that should also be taken into consideration is the lack of technological skills among leaders, employees, citizens, and the marginalized; the lack of qualified IT developers or managers; and the lack of interoperability or shared standards and compatible infrastructure across government agencies. These are factors too that add to the Philippines' digital divide.

**With these issues in regulation and policies put in the limelight, Congress is looking into several bills<sup>47</sup> that aim to open up the playing field, such as the Open Access in Data Transmission Act<sup>48</sup> and Better Internet Connection Act<sup>49</sup>. These bills, if passed, would make it easier for investors<sup>50</sup> to enter the market and set up their own networks, and ideally let the industry flourish.**

The Open Access bill will liberalize the industry, allow more players to build and operate broadband networks, promote infrastructure sharing and make spectrum management more transparent and fair. These changes in the market structure will lower costs for users and spur the construction of needed broadband infrastructure in schools, local hospitals, village halls and homes.<sup>51</sup>

The Senate Committee on Public Services has endorsed for approval the Better Internet Act<sup>52</sup> which seeks to improve Internet services in the country. Under the bill, the NTC shall require telecommunication entities and ISPs to “extend and expand the service coverage of fixed and mobile Internet in all unserved and underserved areas in the Philippines within three years” which would be determined by the DICT<sup>53</sup>. It also proposes speed thresholds for the services: 10 Mbps for fixed broadband and 5 Mbps for mobile broadband in highly urbanized areas and 5 Mbps and 3 Mbps for fixed and mobile broadband, respectively, in all other cities. For rural areas, a minimum speed of 3 Mbps for fixed and 2 Mbps for mobile was set<sup>54</sup>.

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<sup>47</sup>Bernie Cahiles-Magkilat, “PCCI Urges Duterte to Issue EO to Fast Track Internet Coverage,” Manila Bulletin, September 9, 2020, <https://mb.com.ph/2020/09/09/pcci-urges-duterte-to-issue-ee-to-fast-track-internet-coverage/>.

<sup>48</sup>Miguel Camus, “Group Backs Open Access Bill: Time to Liberalize ICT Industry,” INQUIRER.net, June 4, 2020, <https://business.inquirer.net/299087/group-backs-open-access-bill-time-to-liberalize-ict-industry>.

<sup>49</sup>Vanne Elaine Terrazola, “Senate Panel OKs Bill Requiring Minimum Internet Connection Speed,” Manila Bulletin, September 19, 2020, <https://mb.com.ph/2020/09/19/senate-panel-oks-bill-requiring-minimum-internet-connection-speed/>.

<sup>50</sup>Camus, Group Backs Open Access Bill: Time to Liberalize ICT Industry.

<sup>51</sup>Camus, Group Backs Open Access Bill: Time to Liberalize ICT Industry.

<sup>52</sup>Terrazola, Senate Panel OKs Bill Requiring Minimum Internet Connection Speed.

<sup>53</sup>Terrazola, Senate Panel OKs Bill Requiring Minimum Internet Connection Speed.

<sup>54</sup>Terrazola, Senate Panel OKs Bill Requiring Minimum Internet Connection Speed.



In May 2020, the Digital Economy Taxation Act<sup>55</sup> was filed in Congress. The legislation seeks to impose a 12 percent value-added tax (VAT) on digital advertisements, internet-based subscriptions, and transactions made on e-commerce platforms. Facebook and Google advertisements would be subject to the proposed tax, while platforms including Spotify and Netflix would also be affected. Imposing taxes on digital services may raise about P29 billion in annual revenues for the government, as part of the country's efforts to recover from the adverse impact of COVID-19 and in anticipation of the increasing digitization of the economy<sup>56</sup>.

The Philippine Chamber of Commerce and Industry (PCCI) has urged President Duterte to issue an executive order on Satellite Access Liberalization<sup>57</sup> to effect immediate expanded Internet coverage and improve connectivity in the country. The proposed EO should take effect while the bills related to Internet access and ICTs are still pending at the legislative level.

Aside from policy changes, an advocacy group in April 2020<sup>58</sup> advocated the use of portable cell sites that can be deployed immediately to provide more bandwidth to areas experiencing slower internet connectivity. Portable cell towers, or cell sites on wheels<sup>59</sup>, are often used by telcos to restore service in areas affected by natural calamities. The Better Broadband Alliance (BBA) said that these so-called cell sites on wheels can help provide more bandwidth to people who need it<sup>60</sup>.

Independent ISPs are also calling on telcos to reduce their fees for upstream connection. Joel Dabao, president of the Philippine Cable TV Association, said that many independent ISPs who operate in the provinces can already offer their clients speeds of up 100 Mbps, but the upstream connectivity to companies such as PLDT and Globe is not cheap, and this prevents the independent ISPs from offering affordable high bandwidth plans<sup>61</sup>.

If these legislative plans do pan out, Filipinos might not have to suffer from poor Internet service or disconnection—and every Juan bridges the digital divide.

<sup>55</sup>Joey Sarte Salceda, "Digital Economy Taxation Act of 2020," Pub. L. No. HB 6765 (2020), [https://congress.gov.ph/legisdocs/basic\\_18/HB06765.pdf](https://congress.gov.ph/legisdocs/basic_18/HB06765.pdf).

<sup>56</sup>Genshen Espedido and Beatrice Lafora, "Digital Service Tax Could Generate P29B in Revenues | BusinessWorld," BusinessWorld, May 20, 2020, <https://www.bworldonline.com/digital-service-tax-could-generate-p29b-in-revenues/>.

<sup>57</sup>Magkilat, PCCI urges Duterte to issue EO to fast track Internet coverage.

<sup>58</sup>ABS-CBN News, "Group Bats for 'Cell Sites on Wheels', as COVID-19 Lockdown Slows down Internet," ABS-CBN News, April 16, 2020, <https://news.abs-cbn.com/business/04/16/20/group-bats-for-cell-sites-on-wheels-as-covid-19-lockdown-slows-down-internet>.

<sup>59</sup>ABS-CBN News, "Globe Restores Service in Borongan with 'Cell Site on Wheels,'" ABS-CBN News, November 20, 2013, <https://news.abs-cbn.com/business/11/20/13/globe-restores-service-borongan-cell-site-wheels>.

<sup>60</sup>ABS-CBN News, Group Bats for 'Cell Sites on Wheels', as COVID-19 Lockdown Slows down Internet.

<sup>61</sup>ABS-CBN News, Group Bats for 'Cell Sites on Wheels', as COVID-19 Lockdown Slows down Internet.





## GENDER AND ICT

### Overview of online gender-based violence in the Philippines

As people turn to the internet for work, school, and social activities, existing inequalities are also revealed in how people access and experience digital spaces. Women and young girls still continue to face violence perpetrated with the use of ICTs, which shows how online spaces are part of the continuum of gender-based violence (GBV) that has long disproportionately affected women and young girls offline. Through the online platform Take Back the Tech!<sup>62</sup> FMA has been able to map reports coming from the media and from individuals on online gender-based violence in the Philippines since 2012.

**Online gender-based violence (OGBV) ranges from hate speech and harassment to sextortion, privacy breaches, and identity theft, among others. Such acts are couched under Association for Progressive Communications' definition of OGBV which are “acts that are committed, abetted or aggravated, in part or fully, by the use of ICTs, such as phones, the internet, social media platforms, and email.”**

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<sup>62</sup>Take Back the Tech, “Philippines Take Back the Tech!,” [ph.tbtt.apc.org](http://ph.tbtt.apc.org), accessed March 23, 2021, <http://ph.tbtt.apc.org/mapit/>.

"acts that are committed, abetted or aggravated, in part or fully, by the use of information and communication technologies (ICTs), such as phones, the internet, social media platforms, and email."

- ASSOCIATION FOR PROGRESSIVE COMMUNICATIONS

# Online Gender-based Violence (OGBV)

2020 PHILIPPINES REPORT

01 JAN 2020 - 15 DEC 2020



## FAST FACTS

### Most common OGBV



**Taking photo/video without consent** (40.77%)



**Sharing and/or disseminating private information** (33.85%)



**Abusive comments** (28.46%)

More manifestations of OGBV:

- Threats of violence/blackmail (19.23%)
- Deleting, changing, or faking personal data (18.46%)
- Repeated harassment (17.69%)
- Monitoring & tracking (9.23%)
- Accessing private data (6.92%)

There is a **165% increase** in cases

From **49** reports (2019) to **130** reports (2020)

### Most common devices and platforms used

**Mobile phone** (65.38%)

**Facebook** (50.00%)

**Online Chats** (32.32%)



**Age of survivor** **18-30 years old** (59.32%)



**Location based in National Capital Region** (46.15%)

- Central Visayas (13.08%)
- N/A location (10%)

**Survivor Strategies** **56 reported to law enforcement**

- Investigation initiated by prosecutor (25.38%)
- Sought the help of state offices specialized in VAW (24.62%)

### Harm faced



**emotional harm** (85.38%)



**sexual harm** (60.00%)



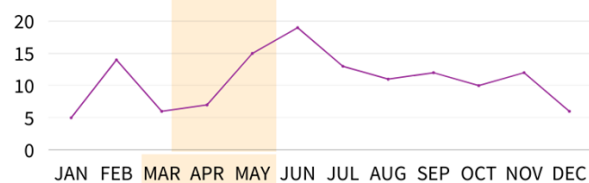
**harm to reputation** (35.58%)



**In 6 out of 10 reports, the perpetrator is a stranger to the victim-survivor.**

- 42.31% know their aggressor
- In 40.77% of the reports, groups of people were involved.

### Reports of OGBV increased during ECQ period\*



\*ECQ (and modified ECQ) was implemented in Luzon island and later in select Luzon regions (including NCR) from March 16 to May 31, 2020.



Take Back the Tech! is a collaborative campaign that calls on all ICT users - especially women and girls - to take control of and use any technology at hand (messaging, websites, phones, etc.) for activism against gender-based violence.



FMA is a non-profit NGO in the Philippines seeking to democratize information and communication systems for citizens and communities.

In 2020, FMA mapped 130 media-sourced reports—a 165% increase from last year's total of 49 cases and the highest number of cases since FMA officially started data mapping in 2015. The most prevalent cases that we observed were taking photo/video without consent (40.77%), sharing and/or disseminating private information (33.85%), and abusive comments (28.46%).

There were also reported incidents on:

- Threats of violence/blackmail (19.23%)
- Deleting, changing, or faking personal data (18.46%)
- Repeated harassment (17.69%)
- Monitoring & tracking (9.23%)
- Accessing private data (6.92%), and
- Others such as disinformation and solicitation of sexual acts (5.38%)

A mobile phone (65.38%) is the most common device used in perpetrating OGBV with Facebook (50%), and online chats (32.32%) as the widely used platforms. Videos (23.08%) and webcams (19.23%) were also among the technology used. OGBV was also mapped in other social networks (13.08%) such as Instagram and undisclosed web networks in cases of online sexual exploitation of children (OSEC). Aside from these, other devices and platforms (10.77%) were also used such as Google Drive, Zoom, PCs, and photo manipulation applications.

Women aged 18-30 years old (59.32%) and underaged girls (37.69%) are the most affected along with women aged 31-45 years old (10.77%).

National Capital Region (NCR) has the most incidents of OGBV with 60 reports followed by Central Visayas with 17 reports while 10% of the incidents mapped had no information on location available. OGBV was also reported in Central Luzon (9.23%) and Region 4A (composed of Cavite, Laguna, Batangas, Rizal and Quezon or CALABARZON). OGBV incidence appears higher for regions that are more connected. Based on the latest available data provided by NTC and Philippine Statistics Authority (PSA)<sup>63</sup> on number of cell sites in the Philippines, number of ISP per region<sup>64</sup>, and number of households with access to personal computers and cellphones<sup>65</sup>, the top regions are consistently NCR, CALABARZON, Region 3 (Central Luzon), and Region 7 (Central Visayas). In addressing concerns on work from home setup and e-learning, the DICT likewise boosted the Free Wi-Fi for All in 2020<sup>66</sup> which adds to Filipinos' growing opportunities to the Internet across the regions. This expansion could grant more women the platforms to report their experiences. However, in the same convenience, this may also allow aggressors to use their connectivity in carrying out their violent agenda online.

In about 6 out of 10 cases (66.92%), the perpetrator is a stranger to the victim-survivor. In 87 cases (42.31%), the perpetrators are someone the survivor knows while 53 reports (40.77%) indicate that a group of people are involved in perpetrating the online abuse.

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<sup>63</sup>Foundation for Media Alternatives, "Access to Internet per Region | Piktochart Visual Editor," create.piktochart.com, 2018, <https://create.piktochart.com/output/52393018-access-to-internet-per-region>.

<sup>64</sup>Freedom of Information Philippines, "eFOI - Electronic Freedom of Information - Request," eFOI - Electronic Freedom of Information, January 6, 2021, <https://www.foi.gov.ph/requests/aglzfVmb2ktcGhyHQsSB0NvbnRlbnQIEE5UQy0xMTQ5OTA0OTcwOTgM>.

<sup>65</sup>Freedom of Information Philippines, "Number of Households with Internet Access per Municipality/City/Province," eFOI - Electronic Freedom of Information, June 6, 2020, <https://www.foi.gov.ph/requests/aglzfVmb2ktcGhyHQsSB0NvbnRlbnQIEFBTQ5OD03Njg4OTM4NzkM>.

<sup>66</sup>DICT. *Five Provinces in One Day: Free Wi-Fi for All Accelerates*.

Survivors face emotional harm (85.38%), sexual harm (60%), and harm to reputation (35.58%). In 37 cases, women faced or experienced physical harm, invasion of privacy (13.85%), and limited mobility (7.69%).

Out of the 130 reports, 56 were reported to law enforcements and investigations were initiated by prosecutors in 33 cases. Survivors also sought the help of State offices specialized in violence against women (VAW) (24.62%). Others reported to the provider/platform (21.54%) and confronted the aggressor (20%). There were 10 reports (7.69%) of perpetrators being brought to trial.

While cyberviolence against women is higher, overall reports of GBV appeared to be in a downward trajectory during the lockdown period based on the cases reported to the Philippine National Police (PNP).

**There were 1,383 total reported cases of various forms of gender-based violence in January 2020<sup>67</sup> which then lowered to 804 reports in March 15 to April 30, 2020. However, reports increased again in June with PNP logging up to 2,246 reports of domestic violence against women<sup>68</sup>. This follows the pattern in several countries<sup>69</sup> where cases of GBV rise during times of crisis.**

<sup>67</sup>Pia Ranada, "During Coronavirus Lockdown: Abused Women, Children More Vulnerable," Rappler, May 9, 2020, <https://www.rappler.com/newsbreak/in-depth/during-coronavirus-lockdown-abused-women-children-more-vulnerable>.

<sup>68</sup>Neil Jayson Servallos, "PNP: Domestic Violence, OSEC Complaints Surge as Lockdown Eased," Philstar.com, June 20, 2020, <https://www.philstar.com/headlines/2020/06/22/2022648/pnp-domestic-violence-osec-complaints-surge-lockdown-eased>.

<sup>69</sup>Emma Graham-Harrison, Angela Giuffrida Helena Smith, and Liz Ford, "Lockdowns around the World Bring Rise in Domestic Violence," The Guardian, March 28, 2020, sec. Society, <https://www.theguardian.com/society/2020/mar/28/lockdowns-world-rise-domestic-violence>.





## 2020 Wave: Steep rise, evolving forms

OGBV continues to grow and even at an alarming rate in 2020. The first half alone saw a 30% increase from the previous year<sup>70</sup>. From 49 cases, the number grew to 64 in June 2020.

**By December 15, 2020, FMA mapped a total of 130 media-sourced reports—a 165% growth from last year's total of 49 cases. This is also the highest number since FMA officially started data mapping in 2015.**

Reports of OGBV also increased during the enhanced community quarantine (ECQ) period<sup>71</sup>. ECQ and modified ECQ were implemented in Luzon island and later in select Luzon regions (including NCR) from March 16 to May 31, 2020<sup>72</sup>. Reports remained elevated after May 31, 2020 which follows the pattern across multiple countries that GBV cases grow during periods of crisis.

ICTs are being maximized to put COVID-19 measures in place and monitor viral transmission, disseminate information, and continue work, business, classes, and social lives. However, as technology is being developed to cater to human welfare amid the pandemic, the shift to online spaces has likewise given way to increasing and evolving forms of OGBV too.

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<sup>70</sup>Foundation for Media Alternatives, "#HijaAko and What the Current Data Map on Online Gender-Based Violence in the Philippines Is Telling Us," Foundation for Media Alternatives, July 10, 2020, <https://fma.ph/2020/07/10/hijaako-and-what-the-current-data-map-on-online-gender-based-violence-in-the-philippines-is-telling-us/>.

<sup>71</sup>Darryl John Esguerra, "LIST: What Constitute ECQ, GCQ, and 'Modified' ECQ Areas?," INQUIRER.net, May 12, 2020, <https://newsinfo.inquirer.net/1273571/fwd-list-difference-between-ecq-modified-ecq-gcq>.

<sup>72</sup>SunStar Manila staff, "Timeline: Covid-19 in the Philippines," Sunstar, May 12, 2020, <https://www.sunstar.com.ph/article/1856059/Manila/Local-News/Timeline-Covid-19-in-the-Philippines>.

For one, OSEC tripled during the lockdown period in the Philippines<sup>73</sup>. Parents and guardians are among the perpetrators who continue to force children, including young girls, to perform sexual acts within the confines of their homes. Of the 130 OGBV cases, 21.53% were OSEC cases. These were mostly reported from the NCR and Central Visayas. Various factors are at play in OSEC. Among these are the increased use of devices and internet as families remain largely at home, the ability to speak English and communicate to foreign customers, and the continuous search for income especially amid crisis when families are at risk of socioeconomic disadvantage<sup>74</sup>.

**Compliance with COVID-19 protocols does not fully translate to safety for women. Contact-tracing measures were taken advantage of to breach women's privacy. Out of nine reports of data privacy violations, three were of women's phone numbers in contact tracing forms being used by perpetrators to pursue them for personal reasons.**

In 2020, cases of abusive comments still remain a challenge that platform providers and authorities need to address. Women who take their grievances on social issues to platforms such as Twitter and Instagram usually experience body-shaming, discriminatory remarks, and violent threats. Aggressions have been targeted at women who have relatively huge following such as female celebrities Liza Soberano<sup>75</sup> and Angel Locsin<sup>76</sup>, singer Kaie Pangilinan<sup>77</sup>, and Colourette CEO Nina Ellaine Dizon<sup>78</sup>.

<sup>73</sup>Lian Buan, "Reports of Sexual Abuse of Children Triple during Lockdown," Rappler, May 26, 2020, <https://www.rappler.com/nation/doj-blames-telecoms-reports-sexual-abuse-children-triple-coronavirus-lockdown>.

<sup>74</sup>World Hope International, "OSEC: A Modern Face of Human Trafficking," World Hope International, October 2020, [https://reliefweb.int/sites/reliefweb.int/files/resources/OSEC%20-%20MODERN%20FACE%20OF%20TIP\\_8.5-11.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/OSEC%20-%20MODERN%20FACE%20OF%20TIP_8.5-11.pdf).

<sup>75</sup>ABS-CBN News, "Liza Soberano's Camp Denounces Red-Tagging of Actress," ABS-CBN News, October 20, 2020, <https://news.abs-cbn.com/entertainment/10/22/20/liza-soberanos-camp-denounces-red-tagging-of-actress>.

<sup>76</sup>ABS-CBN News, "Distraught Angel Locsin on Being Red-Tagged — People I Help Could Be Accused, Too," ABS-CBN News, October 31, 2020, <https://news.abs-cbn.com/news/10/31/20/distraught-angel-locsin-on-being-red-tagged-people-i-help-could-be-accused-too>.

<sup>77</sup>Kaia Malig, "Frankie Pangilinan Urges Authorities to Focus on 'Real Cases of Sexual Assault and Rape' as NBI Probes Rape Threat," GMA News Online, June 23, 2020, <https://www.gmanetwork.com/news/lifestyle/healthandwellness/743876/frankie-pangilinan-urge-authorities-to-focus-on-real-cases-of-sexual-assault-and-rape-as-nbi/story/>.

<sup>78</sup>Bea Cupin, "Following 'Boycott' Call, Colourette Cosmetics Raises P1.6M for Ulysses Relief," Rappler, November 17, 2020, <https://www.rappler.com/life-and-style/style/colourette-cosmetics-raises-funds-typhoon-ulysses-relief>.



Cases that fall under 'taking photos and/or videos without consent' manifest in various ways. Photo-grabbing together with photo manipulation and false information are often seen in growing incidents of disinformation<sup>79</sup> that are affecting "women with intersecting identities" as described by UN Women<sup>80</sup> (2020). Women who hold both public and political life are often the targets of such. Multiple counts of disinformation follow Vice-President Leni Robredo and youth representative Sarah Elago, both of whom have had false information on them spreading online that say they support or are armed communist rebels ("red-tagging"). Out of 25 reports of deleting, changing, faking personal data, photos, or videos, 32% involved disinformation against female public figures and personalities.

Photo voyeurism goes beyond just the acquisition and circulation of photos. Another 25% were cases under faking of photos that were 'morphing'. One case involved a woman from Cebu<sup>81</sup> who was messaged by a stranger threatening to release her nude photos but the materials were photos of naked bodies with her face edited on them. A beauty queen<sup>82</sup> also sought the help of authorities to track and take down a circulating video of her edited to appear as if she were nude.

Video conferencing applications are also among those reported to have been used to perpetrate violence. 'Zoom-bombing' cases<sup>83</sup> heightened women's vigilance. Reports surfaced of Zoom meetings and Google Classroom sessions interrupted with flashes of lewd images.

The rising and evolving cases of OGBV are telling of the gender-based violence that needs to be continuously addressed. COVID-19 and its impacts only affirm that crisis response should always include gender-responsive measures. ICTs should also be taken into account as the same inequalities are pushed to online spaces. Manifestations of sexist culture and misogyny arise even in online platforms and in such national emergencies as COVID-19, gender-based violence spikes as people take to the digital world and carry with them the patriarchal attitudes that have long existed offline.

<sup>79</sup>Celine Isabelle Samson, "VERA FILES YEARENDER: Red-Tagging Online Ramps up as Anti-Terror Law Takes Effect in 2020," VERA Files, December 26, 2020, <https://verafilms.org/articles/vera-files-yearender-red-tagging-online-ramps-anti-terror-la>.

<sup>80</sup>UN Women, "ONLINE VIOLENCE AGAINST WOMEN IN ASIA: A MULTICOUNTRY STUDY," UN Women, November 2020, <https://asiapacific.unwomen.org/-/media/field%20office%20seasia/docs/publications/2020/12/ap-ict-vawg-report-7dec20.pdf?la=en&vs=4251>.

<sup>81</sup>Rappler, "Cebu Cops Nab Criminology Student for Threatening to Post Girl's Nude Pics," Rappler, January 21, 2020, <https://www.rappler.com/nation/cebu-cops-arrest-criminology-student-threatened-post-nude-photos>.

<sup>82</sup>Jeffrey Damicog, "Catriona Gray Seeks NBI Help on Fake Photos," Manila Bulletin, July 21, 2020, <https://mb.com.ph/2020/07/21/catriona-gray-seeks-nbi-help-on-fake-photos/>.

<sup>83</sup>Jane Kingsu-Cheng, "PARENTS BEWARE: Zoombombers Insert Obscene Materials into Grade School Online Class," Manila Bulletin, September 18, 2020, <https://mb.com.ph/2020/09/18/parents-beware-zoombombers-insert-obscene-materials-into-grade-school-online-class/>.

## Snapshots: On the sexist marketing of online sellers

First published in the Foundation for Media Alternatives website on September 23, 2020<sup>84</sup>

In July 2020, an online shop named ‘Toyo ni Misis’ opened via Facebook. Toyo is a Filipino word for soy sauce. In Filipino slang, it also means moody, emotional or indecisive (‘tinotoyo’) – a term commonly used to describe one’s ‘temperamental’ girlfriend and women in general. The local startup business, which sells chili garlic sauce, originally used a cartoon of an angry woman and captioned variants of its products in phrases that were perceived to be poking fun at domestic violence<sup>85</sup>.

The mild variant was originally captioned “Kaya pa sa lambing” (roughly translating to “Can be swayed by endearment”)<sup>86</sup>. The spicy variant was captioned “Masarap tirisin” (“Satisfying to crush”) while the extra hot variant originally went by “Sarap sapakin” (“Satisfying to hit”).

The shop’s creative use of a uniquely Filipino banter as a marketing strategy instantly became viral. However, while some said it was a “great product branding” and commended their creativity, others demanded they change their messaging.

Users reiterated that to gag about hitting one’s wife or partner glosses over the gravity of domestic violence. While it may not be a visible occurrence, the 2017 National Demographic and Health Survey<sup>87</sup> confirms that spousal violence or intimate partner violence is the most common form of violence for women aged 15-49 years old. Several reactions online also explained how such attitudes toward women and women’s issues can have serious implications. When such notions about women being ‘temperamental’ are thrown around as a laughable occurrence, calls for help on matters that heavily impact women—such as domestic abuse—can fall to deaf ears and shrugged off as a mere inconvenience rather than an emergency.

<sup>84</sup>Foundation for Media Alternatives, “On the Sexist Marketing of Online Sellers,” Foundation for Media Alternatives, September 23, 2020, <https://fma.ph/2020/09/23/on-the-sexist-marketing-of-online-sellers/>.

<sup>85</sup>Jeline Malasig, “Soy Sauce Seller Explains Marketing Choices, Which Others Read as Promoting Domestic Violence,” Interaksyon, July 30, 2020, <https://interaksyon.philstar.com/trends-spotlights/2020/07/30/173983/toyo-ni-misis-soy-sauce-post-domestic-violence-sexism/>.

<sup>86</sup>Patricia Baes, “The Story behind the Viral Post of Online Seller ‘Toyo Ni Misis,’” SPOT.PH, July 29, 2020, <https://www.spot.ph/eatdrink/the-latest-eat-drink/83030/toyo-ni-misis-toyomansi-facebook-post-viral-a3284-20200729>.

<sup>87</sup>Philippine Statistics Authority, “One in Four Women Have Ever Experienced Spousal Violence (Preliminary Results from the 2017 National Demographic and Health Survey) | Philippine Statistics Authority,” PSA.gov.ph, March 26, 2018, <https://psa.gov.ph/content/one-four-women-have-ever-experienced-spousal-violence-preliminary-results-2017-national>.

Two years prior, a parody online shop was also called out when it advertised “tomboy (na mataba) items” (“fat lesbian items”)<sup>88</sup>. Photos of fashion items such as slippers, silver necklace, and graphic tees were compiled in an album with the caption that labeled the items as typically worn by a tomboy (lesbian). It was not long until online users raised their eyebrows over the ad. While some found it witty, many users barraged the Facebook page for seemingly mocking the lesbian community.

Another shop<sup>89</sup> has been using memes for their publicity, in this case, with the use of sexually suggestive images particularly shots that resemble (if not are entirely from) pornography. Sexism, objectification and toxic masculinity have always been used as advertising and marketing strategies<sup>90</sup>. Both men and women are sexualised in order to promote and sell products. The milk tea store is one of those who appear to be using the same strategy to grab people’s attention and increase product visibility through social media.

In a study<sup>91</sup> of gender representation in Philippine advertising, researchers have observed that the lack of online regulation provides social media advertisers the liberty of experimenting with gender depictions, which can fall between progressive to heavily stereotyped.

As highly accessible platforms for engagement, social media platforms are the best option for small-time sellers who want exposure with little to no cost. However, its social nature and laidback regulation becomes the same mechanism that allows for the circulation of offensive content.

Add to this the personalization of algorithms that make advertising more targeted to specific people and it is not unlikely that there may be derogatory ads and images in circulation that still remain ‘relevant’ to some online users but don’t appear in feeds of the audience who can call those out.

<sup>88</sup>Jane Camino, “Anna’s Online Store Gets Called out over the LGBT Offensive Jokes,” DailyPedia, March 5, 2018, <https://www.dailypedia.net/2018/03/annas-online-store/>.

<sup>89</sup>Nak Nam Fu-Cha, “Nak Nam Fu-Cha Facebook Page,” Facebook, June 17, 2019, <https://www.facebook.com/NakNamFuChaPH/>.

<sup>90</sup>Hanna Andersson and Emilia Schytt, “Sexism in Advertising a Qualitative Study of the Influence on Consumer Attitudes towards Companies,” (, May 2017), <https://www.diva-portal.org/smash/get/diva2:1105334/FULLTEXT01.pdf>.

<sup>91</sup>Fernando Paragas et al., “Gender Representation in Philippine Advertising,” Investing in Women Asia (, April 2020), <https://investinginwomen.asia/wp-content/uploads/2020/04/Gender-in-Ads-Full-Report.pdf>.

The Department of Trade and Industry (DTI) continues to eye the regulation<sup>92</sup> of online sellers as they continue to grow<sup>93</sup>.

The intention is mainly to protect consumers from counterfeit and streamline the process for e-commerce complaints.

Beyond business transactions however, state regulation of online spaces will require a more in-depth examination that will raise numerous concerns on digital rights issues, such as data privacy, and even gender.

The polarizing nature of ‘controversial’ topics is encouraging of conversations inasmuch as it attracts backlash. While some sellers may not be intentional, others however appear to deliberately bank on such virality to promote their business. Filipino sellers have been using online spaces to their advantage and “creative” attempts at marketing can mirror the culture that they go by offline—one that can perpetuate archaic and patriarchal biases that continue to subjugate women. Male-gaze-dominated memes, captions that trivialize women’s experiences, and jokes that poke fun at abuse are microaggressions that normalize the larger system<sup>94</sup> of violence against women. Beyond laws, clearly there are still a number of Filipino online users who have been ingrained with patriarchal notions and find it difficult to take women’s experiences seriously, reducing their dignity to a milk tea worth of a meme.

As women and young girls continue to use ICT, all the more that online platforms should be held to a standard of quality. The internet, while a vast network that is useful for marginalized groups, is not exactly safe as it is also a space where violence can be committed and further pushes women to the margins. Citizens play a huge role in the fight for a VAW-free Internet<sup>95</sup> and so do institutions and platform providers. In pursuing online safety while making the internet a productive tool, the experiences of women and young girls should be upheld and used to create a digital world that is empowering for everyone.

<sup>92</sup>Janine Peralta, “DTI Seeks Law Regulating Online Selling,” CNN Philippines, December 19, 2019, <https://cnnphilippines.com/news/2019/12/12/dti-law-regulating-online-selling.html>.

<sup>93</sup>ABS-CBN News, “Online Business Name Registration Soars during Quarantine Period: DTI,” ABS-CBN News, September 8, 2020, <https://news.abs-cbn.com/business/09/08/20/online-business-name-registration-soars-during-quarantine-period-dti>.

<sup>94</sup>Commission of Human Rights in the Philippines, “CHR Philippines Facebook Page,” Facebook, June 16, 2020, <https://www.facebook.com/chr.govph/posts/2888683894581470>.

<sup>95</sup>Foundation for Media Alternatives, “FMA Calls for #VAWFreetheInternet,” Foundation for Media Alternatives, November 27, 2020, <https://fma.ph/2020/11/27/fma-calls-for-vawfreetheinternet/>.

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<code>file:///</code> URL, the "next"  
" role="button">Sign up today</a></pre>
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## PRIVACY AND DATA PROTECTION

Filipinos nowadays are becoming more aware of their privacy and are increasingly becoming concerned as to how their personal data is being used. In 2020, over 67% of Filipino Internet users expressed this concern, according to the We Are Social Digital 2020 Report.<sup>96</sup>

And this concern is warranted, as our personal data could be used in a myriad of ways, such as to discriminate, to steal our identities that can lead to financial loss, to discredit and smear one's reputation, and more. With the COVID-19 pandemic, there are even more concerns than ever due to contact tracing efforts, digital and social media surveillance under the guise of health, the rollout of PhilSys and the national ID, increase of phishing, web defacements and hacking incidents, and the infringement of minor's privacy due to the switch to online learning.

In this chapter we discuss the main events and issues with regards to digital privacy and data protection in the country.

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<sup>96</sup>Kemp, "Digital 2020: The Philippines.

## A contact tracing conundrum: The Philippines' digital contact tracing response<sup>97</sup>

The World Health Organization (WHO) declared on January 30, 2020 that COVID-19 is a Global Public Health Emergency of International Concern (PHEIC), and also called countries to prepare for containment which includes active surveillance, early detection, isolation, case management, and contact tracing to prevent the spread of the virus. On March 11, 2020, the WHO declared COVID-19 as a pandemic, and on March 12, 2020 President Duterte raised the national code alert for COVID-19 to Code Red Sublevel 2. Several days after, the President announced the creation of a National Task Force for COVID-19 (the Inter-Agency Task Force for the Management of Emerging Infectious Diseases or IATF) in order to adopt a holistic approach in addressing COVID-19 in the country.

**As indicated in the DOH Memorandum 2020-0189 released on April 17, 2020, contact tracing is considered as one of the main public health interventions for COVID-19 response and is the responsibility of the whole government. Contact tracing is defined in the memorandum as “the identification, listing, and follow-up of persons who may have come into close contact with a confirmed COVID-19 case. Contact tracing is an important component in containing outbreaks of infectious diseases.”<sup>98</sup>**

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<sup>97</sup>Jamael Jacob, “INCOGNITO | What's up with Our Contact Tracing Apps?,” Newsbytes.PH, November 28, 2020, <https://newsbytes.ph/2020/11/28/incognito-whats-up-with-our-contact-tracing-apps/>.

<sup>98</sup>Francisco Duque, III, MD, MSc, “Department of Health Memorandum 2020-0189,” April 17, 2020, <https://doh.gov.ph/sites/default/files/health-update/dm2020-0189.pdf>.



It was also identified in the memorandum that the DOH through the Epidemiology Bureau (EB) “shall provide guidelines and oversight for all contract tracing activities” and the external agencies engaged in the COVID-19 response shall comply with their specific roles and corresponding operational guidelines issued by the National Task Force for COVID-19 response. In the same memorandum, section III-F stipulates “In order to ensure that the data privacy rights of the patient/data subject are respected and that the data or information processed are protected, the provisions on data privacy under Republic Act No. 11332 or the Mandatory Reporting of Notifiable Diseases and Health Events of Public Health Concern Act, the provisions of the Data Privacy Act of 2012, its Implementing Rules and Regulations (IRR) and other issuance of the NPC shall be strictly complied with. The aforementioned law, rules and issuances shall also govern in case disclosure shall be made by the DOH and other agencies involved in the contact tracing to third parties.<sup>99</sup>”

In this section, we will be looking into contact tracing via contract tracing apps. These are apps that users can download on the device they commonly use (usually mobile phones). If a person has the coronavirus or suspects they have it, they can self-report using the application. Using bluetooth wireless signals, it would then “tell” other phones using the application if that the phone’s user has been in close proximity to a potential coronavirus patient within a given timeframe, allowing them to self-report on the app and seek medical attention as well.

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<sup>99</sup>Duque, Department of Health Memorandum 2020-0189.



Design and the technology used may vary among apps and platforms but the core service is the same: the apps are used to monitor where the virus is spreading and alert people immediately if they are in danger of having been infected and infecting others. The specifics will likely depend on the group making the app, but Apple and Google are working towards a joint system where the contact tracing app would work and track phones on either operating system<sup>100</sup>. Ideally, such a system could replace manual contact tracing, in which a patient is interviewed to get more information on where they have been, when they went there, and with whom they have interacted with.

In a resolution dated April 22, 2020<sup>101</sup>, the IATF adopted StaySafe.ph<sup>102</sup> as the government’s “official social-distancing, health-condition-reporting, and contact tracing system,” subject to “continued compliance with relevant cybersecurity, data privacy, and confidentiality laws” as well as guidelines issued by its Sub-Technical Working Group on ICT. The app and website is developed and managed by PLDT-backed Multisys Technologies Corporation.<sup>103</sup>

A guidance document pertaining to COVID-19 technologies came out two days before the IATF endorsed StaySafe.ph: On April 20, 2020 the NPC issued a Public Health Emergency Bulletin<sup>104</sup> wherein it expressed its support for digital technologies. The document featured nothing more than boilerplate “requirements” that can be sourced from any data privacy law (i.e., an app must be: inclusive and trusted; clear about its legitimate purpose; transparent in its use of personal data; proportional in its data collection; secure, etc.)<sup>105</sup>. There was no mention of consequences if an app fails to live up to the conditions.

<sup>100</sup>Guillaume Lavallee, “Apple and Google Team up on Virus ‘Contact Tracing’ by Smartphone,” Rappler, April 11, 2020, <https://www.rappler.com/technology/apple-google-team-up-virus-contact-tracing-smartphone>.

<sup>101</sup>Francisco Duque III and Karlo Alexei Nograles, “Resolution No. 27: RECOMMENDATIONS RELATIVE TO THE MANAGEMENT OF THE CORONAVIRUS DISEASE 2019 (COVID-19) SITUATION,” April 20, 2020, <https://iatf.doh.gov.ph/wp-content/uploads/2021/02/IATF-Resolution-No.-27.pdf>.

<sup>102</sup>StaySafe Philippines, “Stay Safe — Stay Healthy. Stay Safe.” staySAFE.ph, 2020, <https://www.staysafe.ph/>.

<sup>103</sup>Multisys Technology Corporation, “Multisys Technologies Corporation,” multisyscorp.com, 2019, <https://www.multisyscorp.com/>.

<sup>104</sup>National Privacy Commission, “NPC PHE BULLETIN No. 3: Collect What Is Necessary. Disclose Only to the Proper Authority.,” National Privacy Commission, March 19, 2020, <https://www.privacy.gov.ph/2020/03/npc-phe-bulletin-no-3-collect-what-is-necessary-disclose-only-to-the-proper-authority/>.

<sup>105</sup>National Privacy Commission, NPC PHE BULLETIN No. 3: Collect What Is Necessary. Disclose Only to the Proper Authority.

What could possibly qualify as the first regulatory policy came two days after the StaySafe.ph endorsement. On April 24, 2020 the NPC and the DOH issued a joint circular<sup>106</sup> that required all COVID-19 ICT solutions and technologies to be registered with the Commission and to follow the minimum standards of the DICT and the health department, including the latter’s COVID-19 surveillance and response protocols and data requirements<sup>107</sup>. Since this regulatory policy was disseminated two days after the IATF already endorsed StaySafe.ph, it is not clear if the app is registered with the NPC, or if the app also follows the minimum standards set by the DICT and the DOH. In fact, DICT only released weeks after, through a circular on May 29, 2020,<sup>108</sup> the said guidelines of its vetting and evaluation process for all “ICT services, products, and applications for government use in addressing the COVID-19 situation.”<sup>109</sup>

In reviewing DICT’s evaluation protocols, it is far from ideal and does not really inspire a lot of confidence. The circular says the procedure will be informed by a “framework of ICT best practices and standards” consisting of five main components: (1) ICT service management; (2) project management; (3) enterprise architecture; (4) cybersecurity; and (5) data privacy. It points to a confusing “Checklist of Vetting Requirements” found in a spreadsheet file, without providing additional guidance as to how the document should be navigated. In the portion of the file that takes up data privacy, a term (i.e., privately identifiable information) that is not recognized in the local data protection landscape is used, suggesting the document is inspired by or was taken from a US source. The document gives little else and simply says data privacy compliance review and clearance will be given either by the Data Protection Officer of the agency expected to use the app, or the NPC. It is not clear or known what standards and procedures they will use and follow. The policy also notes that the DICT may impose additional requirements or ask for more submissions.

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<sup>106</sup>Francisco Duque III and Raymund Liboro, “Joint Memorandum Circular No. 2020-0002: Privacy Guidelines on the Processing and Disclosure of COVID-19 Related Data for Disease Surveillance and Response,” April 24, 2020, <https://doh.gov.ph/sites/default/files/health-update/jmc2020-0002v1.pdf>.

<sup>107</sup>Duque and Liboro, Joint Memorandum Circular No. 2020-0002: Privacy Guidelines on the Processing and Disclosure of COVID-19 Related Data for Disease Surveillance and Response.

<sup>108</sup>Gregorio Honasan II, “Department of Information and Communications Technology Circular No. 009,” May 29, 2020, [https://dict.gov.ph/wp-content/uploads/2020/06/Department\\_Circular\\_No\\_009\\_Guidelines\\_for\\_Departmental\\_VettingEvaluation.pdf](https://dict.gov.ph/wp-content/uploads/2020/06/Department_Circular_No_009_Guidelines_for_Departmental_VettingEvaluation.pdf).

<sup>109</sup>Honasan, Department of Information and Communications Technology Circular No. 009.

When June 2020 came, the IATF issued resolution no. 45<sup>110</sup> providing specific instructions for the official turnover of StaySafe.ph to the government. The resolution mentioned that a Memorandum of Agreement (MOA) must be executed between the developer and DOH regarding the donation and use of the app. The contract must take up the app’s source code and issues like data ownership and intellectual property. Then, the resolution says DOH must accept the app only after the DICT and NPC have already certified that the donation is “technically feasible and secure, ...the systems are compatible, and that the arrangement is compliant with data privacy laws.”<sup>111</sup>

Additional conditions included:

- The app must be able to perform the functions of two separate apps. Specifically, as a: (1) Bluetooth digital contact tracing; and (2) a frontend application system for LGUs.
- The app must be limited to collection of data.
- All data in the app database must be migrated to COVID-Kaya database (owned by DOH).
- The developer has 30 days to comply with the directives.

**Aside from these being additional conditions, these are conditions being imposed almost two (2) months after the government had endorsed the app. This raises a lot of questions as there are no responses or answers as to what will happen if DICT or NPC refuses to issue a certification, or even what will happen if the “official” contract tracing app—with a lot of personal information collected by the time of the release of the resolution—fails to meet the stipulated conditions.**

Further adding confusion to the situation is DICT stating that it would defer to the guidance of the IATF on the selection of the country’s “official” contract tracing app. It is apparent that there is no institution or agency accountable within the government’s regulatory framework for the contract tracing ecosystem.

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<sup>110</sup>Francisco Duque and Karlo Alexei Nograles, “Inter-Agency Task Force for the Management of Emerging Infectious Diseases Resolution No. 45,” June 10, 2020, <https://officialgazette.gov.ph/downloads/2020/06jun/20200610-IATF-RESOLUTION-NO-45.pdf>.

<sup>111</sup>Duque and Nograles, Inter-Agency Task Force for the Management of Emerging Infectious Diseases Resolution No. 45.

It seems that the task force jumped the gun and signed the MOA without any technical vetting by either the DICT or the NPC. NPC commissioner Raymund Liboro admitted on June 5, 2020 in a news report<sup>112</sup> that the agency's Data Security and Compliance Office was still not done assessing the app, two months after it became the government's official contact-tracing and health-reporting app. Eliseo Rio, Jr., a former DICT undersecretary also claimed in social media on June 7, 2020<sup>113</sup> that the app was still a work in progress at that time, and while it is a health monitoring app with a location tracker, it has no contact-tracing capability and just generates a database of cellphone numbers with their location.

**Privacy advocacy groups and organizations also raised issues regarding the StaySafe.ph app, citing that there are dangerous permissions (which means that it involves the access of personal data like contacts and short message service or SMS messages, or system features such as camera and location) that requests for more data than needed- something that is borderlining spyware<sup>114</sup>.**

A report from CitizenLab<sup>115</sup> mentioned that the app collects geolocation data and stores this in a central online database, and that the option for users to register using their Facebook accounts gives the app access to identifiable information that is beyond what is necessary for contact tracing.

Many other apps, including other COVID-19 response apps, make use of similar permissions. In a review of such apps, the Data Protection Excellency Network (DPEX)<sup>116</sup> identified StaySafe as having “excessive permissions.” DPEX is a Southeast Asian organization that does research in data privacy practices. Its analysis of Southeast Asian contact-tracing singled out the Philippines for using a 3rd party developer. Most apps they analyzed were developed by government bodies.

<sup>112</sup>Pia Ranada, “Borderline Spyware: IT Experts Raise Alarm over Duterte Admin Contact-Tracing App,” Rappler, June 8, 2020, <https://www.rappler.com/newsbreak/in-depth/borderline-spyware-information-technology-experts-alarm-stay-safe-app>.

<sup>113</sup>Miguel Camus, “Ex-DICT Usec Rio Says He Was Eased out of Govt after Pointing out StaySafe.ph App Limitations,” INQUIRER.net, June 7, 2020, <https://business.inquirer.net/299358/ex-dict-usec-rio-says-he-was-eased-out-of-govt-after-pointing-out-staysafe-ph-app-limitations>.

<sup>114</sup>Ranada, “Borderline Spyware: IT Experts Raise Alarm over Duterte Admin Contact-Tracing App.”

<sup>115</sup>Palleon Lin et al., “Unmasked II: An Analysis of Indonesia and the Philippines’ Government-Launched COVID-19 Apps,” The Citizen Lab, December 21, 2020, <https://citizenlab.ca/2020/12/unmasked-ii-an-analysis-of-indonesia-and-the-philippines-government-launched-covid-19-apps/>.

<sup>116</sup>Data Protection Excellence Network, “About Us | Data Protection Excellence (DPEX) Network,” DPEX, 2021, <https://www.dpexnetwork.org/about-us/>.

Aside from that, the literature on StaySafe.ph is vague as to how long the app will be keeping the data. The app's privacy notice<sup>117</sup> contains this sentence: “We will keep your information for as long as necessary unless you request the deletion of your information, after which these will be securely deleted. However, we may retain your information when required by law.”<sup>118</sup> This notice does not indicate a clear deadline as to how long the app will retain personal information it collected, and also it is under the broad and indefinite definition of being “required by law.” This is more worrisome with the consideration that the National Bureau of Investigation (NBI), who is also in charge of building cases on individuals spreading disinformation and misinformation about the pandemic, was assigned to use StaySafe.ph for contact-tracing in order to help the DOH in contact tracing.

In July 2020, the DOH said it welcomed the development of other contact tracing apps<sup>119</sup> aimed at supporting the government response to the pandemic, as long as these undergo validation and regulation with the DICT and the NPC. It was not clear if these other contact tracing apps are expected to go through the same processes, or if they will be endorsed as well, such as SafePass<sup>120</sup>, which the IATF also endorsed<sup>121</sup>, as a “COVID-19 Prevention and Incident Management platform for all business establishments.”<sup>122</sup>

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<sup>117</sup>StaySafe Philippines, “Stay Safe – Stay Healthy, Stay Safe,” Staysafe.ph, accessed March 23, 2021, <https://www.staysafe.ph/privacy-statement/user>.

<sup>118</sup>StaySafe Philippines, Stay Safe – Stay Healthy, Stay Safe.

<sup>119</sup>Ma. Teresa Montemayor, “DOH Welcomes Development of Covid-19 Contact Tracing Apps,” PNA.gov.ph, July 5, 2020, <https://www.pna.gov.ph/articles/1108189>.

<sup>120</sup>SafePass, “SafePass,” [express.safepass.ph](https://express.safepass.ph), accessed March 23, 2021, <https://express.safepass.ph/>.

<sup>121</sup>Hannah Tabios, “DOT Endorses Free SafePass, Dine in Apps for Restaurant Businesses,” Manila Bulletin, June 5, 2020, <https://mb.com.ph/2020/06/05/dot-endorses-free-safepass-dine-in-apps-for-restaurant-businesses/>.

<sup>122</sup>Tabios, DOT Endorses Free SafePass, Dine in Apps for Restaurant Businesses.

But in the same month the IATF through another resolution<sup>123</sup> emphasized its initial commendation of StaySafe.ph by obliging LGUs to use the contact tracing app<sup>124</sup>. The resolution stated that LGUs should issue the necessary executive order or ordinance to make this happen. A group of local and international civil society organizations wrote to the government,<sup>125</sup> asking for the release of the white paper and source code for Staysafe.ph, as well as details about its COVID-KAYA system.<sup>126</sup> This would have allowed independent experts to examine the vulnerabilities of these systems and suggest remedies designed to secure the privacy and security of their users and their data. But there was no response at all from the government regarding the request. It was not an unreasonable request, as Singapore, for instance, made the code of its TraceTogether app open-sourced as early as April 2020.<sup>127</sup>

But even without clear answers to the numerous questions and issues raised regarding contact tracing in the country, the IATF released in September 2020, through Resolution no. 70,<sup>128</sup> a call for the “training, integration, and the use” of the app and its integration “in the country’s COVID-19 response, particularly, in the response of local government units.”<sup>129</sup> At this point in time, several LGUs were starting to launch or have launched their own contact tracing apps such as the PasigPass<sup>130</sup> and SAFE Ormoc<sup>131</sup>. Yet with the unclear and confusing, if not even contradictory directives, the LGUs are also left to devise their own contract tracing efforts in order to comply with the DILG Memorandum Circular 2020-077.<sup>132</sup>

<sup>123</sup>Inter-Agency Task Force for the Management of Emerging Infectious Diseases, “OMNIBUS GUIDELINES on the IMPLEMENTATION of COMMUNITY QUARANTINE in the PHILIPPINES with Amendments as of July 02, 2020,” July 2, 2020, <https://officialgazette.gov.ph/downloads/2020/06jun/20200702-omnibus-guidelines-on-the-implementation-of-community-quarantine-in-the-philippines.pdf>.

<sup>124</sup>Inter-Agency Task Force for the Management of Emerging Infectious Diseases, OMNIBUS GUIDELINES on the IMPLEMENTATION of COMMUNITY QUARANTINE in the PHILIPPINES with Amendments as of July 02, 2020.

<sup>125</sup>Open Letter to Request Strong User Privacy Protections in the Philippines’ COVID-19 Contact Tracing Efforts | Association for Progressive Communications,” [www.apc.org](http://www.apc.org), July 13, 2020, <https://www.apc.org/en/pubs/open-letter-request-strong-user-privacy-protections-philippines-covid-19-contact-tracing>.

<sup>126</sup>COVID Kaya: A Digital Platform for COVID-19 Information Management in the Philippines,” [www.who.int](http://www.who.int), December 18, 2020, <https://www.who.int/philippines/news/feature-stories/detail/covid-kaya-a-digital-platform-for-covid-19-information-management-in-the-philippines>.

<sup>127</sup>Hariz Baharudin, “Coronavirus: Spore Contact Tracing App Now Open-Sourced, 1 in 5 Here Have Downloaded,” [The Straits Times](http://www.straitstimes.com), April 10, 2020, <https://www.straitstimes.com/singapore/coronavirus-spore-contact-tracing-app-now-open-sourced-1-in-5-here-have-downloaded>.

<sup>128</sup>Karlo Alexei Nograles, “Inter-Agency Task Force for the Management of Emerging Infectious Diseases Resolution No. 70,” September 10, 2020, <https://www.officialgazette.gov.ph/downloads/2020/09sep/20200910-IATF-RESOLUTION-NO-70.pdf>.

<sup>129</sup>Nograles, Inter-Agency Task Force for the Management of Emerging Infectious Diseases Resolution No. 70.

<sup>130</sup>CNN Philippines Staff, “Pasig Launches Online Health Monitoring, QR Code System,” [CNN Philippines](http://www.cnnphilippines.com), October 9, 2020, <https://www.cnnphilippines.com/news/2020/10/9/Pasig-Health-Monitor-QR-code-system-COVID-19.html>.

<sup>131</sup>LGU Ormoc Information Technology Division, “SAFEOrmoc v2 Registration,” [safeormoc.com](http://safeormoc.com), accessed March 23, 2021, <https://safeormoc.com/>.

<sup>132</sup>DILG, “DILG Memorandum Circular (MC) No. 2020-077,” [ulap.net.ph](http://ulap.net.ph), April 24, 2020, <http://ulap.net.ph/ulap-news/advisories/482-dilg-memorandum-circular-mc-no-2020-077.html>.



Then on November 26, 2020, the IATF again mandated the use of the Staysafe.ph among all national government agencies and offices, including LGUs.<sup>133</sup> Staysafe.ph, is supposed to be the Philippine government’s digital contact tracing app “of choice.” The task force made this clear via its Resolution no. 85,<sup>134</sup> where it also promoted the use of the platform among private sector establishments. It also “enjoined” those with their own contact tracing apps to integrate their respective systems with Staysafe.ph<sup>135</sup>. What this directive means exactly is unclear, as if one looks up the definition of the word, “enjoin,” one is informed that it could mean any one of the following: order, prohibit, or urge. Given the context, it is likely that the Resolution is referring to either the first or the third one. But system integration is not easy or simple to execute, especially with so many issues to consider—the compatibility of the affected systems for one thing—that knowing if you have a choice or not matters.

According to IATF Resolution no. 85, data collected by digital contact tracing apps must conform with the minimum data requirements set by the DOH Memorandum No. 2020-0436.<sup>136</sup> The document though refers to COVID-19-related information systems used by entities acting as surveillance units of the agency, such as “disease reporting units (DRUs) or hospitals, local epidemiology and surveillance units (LESUs), regional epidemiology and surveillance units (RESUs), and the EB.”<sup>137</sup> The memorandum is not referring to apps like Staysafe.ph, which are meant for regular government offices, business establishments, and individual users. This matters because DOH’s surveillance units are expected to submit a lot of information because these include case investigation details. The apps are only supposed to collect information necessary for authorities to conduct contact tracing.

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<sup>133</sup>CNN Philippines Staff, “Gov’t Mandates Use of StaySafe Contact Tracing App in Local, National Level,” CNN Philippines, November 27, 2020, <https://cnnphilippines.com/news/2020/11/27/StaySafe-contact-tracing-app-COVID-19.html>.

<sup>134</sup>Francisco Duque and Karlo Alexei Nograls, “Inter-Agency Task Force for the Management of Emerging Infectious Diseases Resolution No. 85,” November 26, 2020, <https://www.officialgazette.gov.ph/downloads/2020/11nov/20201126-IATF-Resolution-No.-85.pdf>.

<sup>135</sup>Duque and Nograls, Inter-Agency Task Force for the Management of Emerging Infectious Diseases Resolution No. 85.

<sup>136</sup>Francisco Duque, “Department of Health Memorandum No. 2020-0436,” October 1, 2020, <https://doh.gov.ph/sites/default/files/health-update/dm2020-0436.pdf>.

<sup>137</sup>Duque, Department of Health Memorandum No. 2020-0436.



The closest we have to a government policy prescribing data requirements for contact tracing purposes have been issuances by the likes of the Department of Labor and Employment (DOLE) and DTI<sup>138</sup>, DTI<sup>139</sup> (on its own), the Maritime Industry Authority (MIA),<sup>140</sup> and the Land Transportation Franchising and Regulatory Board (LTFRB).<sup>141</sup> Their policies essentially dictate the data fields we find in most health declaration forms.

Also in Resolution 85, the IATF created another multi-agency body called the "Data Resiliency for Ease of Access and Management" Team<sup>142</sup> or "DREAM Team," whose purpose is to "deploy, build capacity, and monitor the use of ICT solutions that are part of the official COVID-19 ICT ecosystem."<sup>143</sup> This ad hoc unit is composed of the DICT, DOH, DOST, DILG, the PNP, and the Armed Forces of the Philippines (AFP). It is not clear why law enforcement and the armed forces are part of this DREAM Team, as there is no stipulation in the Resolution regarding any possible crime prevention or national security aspect to justify the unusual composition. Also, how does the DREAM Team differ from the existing IATF sub-TWG<sup>144</sup> charged with convening and proposing ICT solutions "in the government's response to the COVID-19 situation"? This latter group is bigger, composed of the DICT, DOH, Department of Social Welfare and Development (DSWD), DOST, Department of Education (DepEd), ARTA, NPC, the National Security Council (NSC), the NTC, and other agencies the DICT, as chair, considers appropriate.

<sup>138</sup>Silvestre Bello III and Ramon Lopez, "JOINT MEMORANDUM CIRCULAR NO. 20-04-A Series of 2020 DTI and DOLE SUPPLEMENTAL GUIDELINES on WORKPLACE PREVENTION and CONTROL of COVID-19," Official Gazette (, August 15, 2020), <https://www.officialgazette.gov.ph/downloads/2020/07jul/20200815-JOINT-MEMORANDUM-CIRCULAR-NO-20-04-A-S-2020.pdf>.

<sup>139</sup>"Department of Trade and Industry Memorandum Circular No. 20-37," June 22, 2020, [https://dtiwebfiles.s3-ap-southeast-1.amazonaws.com/COVID19Resources/COVID-19+Advisories/230620\\_MC2037.pdf](https://dtiwebfiles.s3-ap-southeast-1.amazonaws.com/COVID19Resources/COVID-19+Advisories/230620_MC2037.pdf).

<sup>140</sup>Vadim Robert Empedrad, "Department of Transportation Marina Advisory No. 2020-51," June 26, 2020, <https://marina.gov.ph/wp-content/uploads/2020/07/MA-2020-51.jpg>.

<sup>141</sup>"Memorandum Circulars | LTFRB," Land Transportation and Regulatory Board, accessed March 23, 2021, <https://lfrb.gov.ph/issuances/memorandum-circulars/>. (see: Memorandum Circular Nos. 17, 18, 19, 23, 25, 26, and 51)

<sup>142</sup>"On the Data Resiliency for Ease Access and Management (DREAM) Team - Presidential Communications Operations Office," PCOO.gov.ph, November 27, 2020, <https://pcco.gov.ph/OPS-content/on-the-data-resiliency-for-ease-access-and-management-dream-team/>.

<sup>143</sup>PCOO, On the Data Resiliency for Ease Access and Management (DREAM) Team - Presidential Communications Operations Office.

<sup>144</sup>Inter-Agency Task Force for the Management of Emerging Infectious Diseases, "Resolution No: 19: RECOMMENDATIONS RELATIVE to the MANAGEMENT of the CORONAVIRUS DISEASE 2019 (COVID-19) SITUATION," April 3, 2020, <https://www.officialgazette.gov.ph/downloads/2020/04apr/20200403-IATF-RESOLUTION-NO-19-RRD.pdf>.

It is also not clear how DICT's vetting/evaluation guidelines<sup>145</sup> figure into the work of the DREAM Team. Those guidelines mandate that “all ICT services, products, and applications for government use in addressing the COVID-19 situation<sup>146</sup>” must go through the agency’s vetting and evaluation. The NPC, alongside the DOH, also issued a Circular<sup>147</sup> requiring “all ICT solutions and technologies used for collection and processing of personal health information of COVID-19 cases and/or identified close contacts<sup>148</sup>” to be registered with the Commission.

**With all the contract tracing apps out there, can we assume that all of the apps were vetted and approved? There is currently no list of approved contract tracing apps in any of the government’s websites, so it is only by taking the word of the LGUs or other entities who have created the apps do we all assume that they are vetted.**

A big question is how Filipinos should treat all the other government-endorsed apps like SafePass<sup>149</sup> (IATF, Department of Tourism or DOT), Trazer (Philippine Ports Authority),<sup>150</sup> and Traze (Civil Aviation Authority of the Philippines, Bureau of Immigration).<sup>151</sup> These are on top of the growing list of LGU-specific systems, and even those being created by private companies, as can be seen in this list.<sup>152</sup> It is not unusual nowadays for a citizen to have more than 3 contact tracing apps in their devices, all of them getting personal information and collecting it “somewhere” such as the scenario described in this opinion piece.<sup>153</sup> Despite a growing list of around 12 LGU-created contact tracing apps, there are only a few which can be used across cities.

<sup>145</sup>Gregorio Honasan II, “Department of Information and Communications Technology Circular No. 009,” May 29, 2020, [https://dict.gov.ph/wp-content/uploads/2020/06/Department\\_Circular\\_No\\_009\\_Guidelines\\_for\\_Departmental\\_VettingEvaluation.pdf](https://dict.gov.ph/wp-content/uploads/2020/06/Department_Circular_No_009_Guidelines_for_Departmental_VettingEvaluation.pdf).

<sup>146</sup>Honasan, Department of Information and Communications Technology Circular No. 009.

<sup>147</sup>Francisco Duque III and Raymond Liboro, “Department of Health and National Privacy Commission Joint Memorandum Circular No. 2020-002: Privacy Guidelines on the Processing and Disclosure of COVID-19 Related Data for Disease Surveillance and Response,” (April 24, 2020), <https://doh.gov.ph/sites/default/files/health-update/jmc2020-0002v1.pdf>.

<sup>148</sup>Duque III and Liboro, Department of Health and National Privacy Commission Joint Memorandum Circular No. 2020-002.

<sup>149</sup>Francisco Duque III and Karlo Alexei Nograles, “Inter-Agency Task Force for the Management of Emerging Infectious Diseases Resolution No. 42,” June 1, 2020, <https://www.officialgazette.gov.ph/downloads/2020/06jun/20200601-IATF-RESOLUTION-NO-42.pdf>.

<sup>150</sup>Marites Paneda and Philippine Information Agency, “PPA Launches TRAZE Contact Tracing App,” PIA.gov.ph, September 21, 2020, <https://pia.gov.ph/news/articles/1053784>.

<sup>151</sup>Raymond Carl Dela Cruz, “Contact Tracing App Mandatory in Airports Soon: CAAP,” [www.pna.gov.ph](http://www.pna.gov.ph), October 28, 2020, <https://www.pna.gov.ph/articles/1120001>.

<sup>152</sup>Gelo Gonzales, “LIST: Coronavirus Contact Tracing Apps in the Philippines,” Rappler, April 14, 2020, <https://www.rappler.com/technology/features/coronavirus-contact-tracing-apps-philippines>.

<sup>153</sup>Abet De la Cruz, “Lima Singko: How Many Contact Tracing Apps Are out There? – the Manila Times,” [www.manilatimes.net](http://www.manilatimes.net), December 2, 2020, <https://www.manilatimes.net/2020/12/02/opinion/columnists/topanalysis/lima-singko-how-many-contact-tracing-apps-are-out-there/803716/>.

If we go back to the original objectives of contact tracing apps, we also need to emphasize that the requirement of a unified contact tracing application needs a critical mass of adoption of the contact tracing system to happen first. What this means is that a significant enough number of people must download the application and understand how to use it, and report their status accordingly- in fact, for significant success to happen it needs at best 40% (or even less, as explained in this [MIT article](#)<sup>154</sup> and in this [CNBC write-up](#))<sup>155</sup> of the population to adopt a particular contact tracing initiative. This is a system of reporting that assumes you have a base that is under a technological have versus a have-not. StaySafe and most other contact tracing apps in the country depend on having a smartphone and mobile data.

And it is not only the contact tracing efforts that should be the limelight of the response, but it actually is supposed to sit within a framework with other health-focused responses such as widespread testing and providing adequate healthcare. This lack of a definitive action plan from the government is then forcing LGUs, private companies, and tech groups to operate on their own, rather than having each effort working towards one unified system, in order to comply but not really achieve the main goal of mitigating the spread of the virus in the country.

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<sup>154</sup>Patrick Howell O'Neill, "No, Coronavirus Apps Don't Need 60% Adoption to Be Effective," MIT Technology Review, June 5, 2020, <https://www.technologyreview.com/2020/06/05/1002775/covid-apps-effective-at-less-than-60-percent-download/>.

<sup>155</sup>Ryan Browne, "Why Coronavirus Contact-Tracing Apps Aren't yet the 'Game Changer' Authorities Hoped They'd Be," CNBC, July 3, 2020, <https://www.cnbc.com/2020/07/03/why-coronavirus-contact-tracing-apps-havent-been-a-game-changer.html>.

On December 3, 2020, the IATF released Resolution no. 87<sup>156</sup> which has sweeping provisions requiring “all establishments”, including government offices, private offices, hotels, business establishments and public transportation units, to adopt the so-called Safety Seal that will be visible within their premises. The Safety Seal certification can be obtained by establishments by using the StaySafe.ph app.<sup>157</sup> Without any response to concerns raised over the contact tracing plan (including the very clear clamor for actually a sound plan as to how the contact tracing ecosystem in the country should be), the government adds on to the increasing number of requirements all other stakeholders should comply with but which does not really add any value.

Aside from StaySafe.ph, we also need to talk about COVID-KAYA app, which was developed jointly<sup>158</sup> by the Philippines’ DOH-EB, WHO, and Dure Technologies, a technology company with offices in Switzerland and India,<sup>159</sup> in coordination with the DICT. COVID-KAYA was designed for local government units (or barangays), hospitals, and laboratories to submit and view<sup>160</sup> COVID-19 cases, contacts, and patient information. The platform is intended to be used by health workers and administrators, but not by the general public. An earlier version of the app had no “register” functionality for users to sign up independently, but a version that was released on September 30 includes the register functionality.<sup>161</sup>

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<sup>156</sup>Francisco Duque III and Karlo Alexei Nograles, “Inter-Agency Task Force for the Management of Emerging Infectious Diseases Resolution No. 87,” December 3, 2020, <https://www.officialgazette.gov.ph/downloads/2020/12dec/20201203-IATF-Resolution-87-RRD.pdf>.

<sup>157</sup>Jamaine Punzalan, “IATF Requires All Establishments to Adopt Stay Safe Contact-Tracing App,” ABS-CBN News, December 4, 2020, <https://news.abs-cbn.com/news/12/04/20/iatf-requires-all-establishments-to-adopt-stay-safe-contact-tracing-app>.

<sup>158</sup>Genalyn Kabling, “Duterte Confident Gov’t Can Carry out COVID-19 Contract Tracing,” Manila Bulletin, July 21, 2020, <https://mb.com.ph/2020/07/21/duterte-confident-govt-can-carry-out-covid-19-contract-tracing/>.

<sup>159</sup>Devex, “Dure Technologies | Devex,” www.devex.com, 2000, <https://www.devex.com/organizations/dure-technologies-99101>.

<sup>160</sup>Jonathan Castillo, “PLDT Enterprise Enables Free Access to WHO, DOH’s COVID KAYA Tracing App,” Manila Bulletin, July 22, 2020, <https://mb.com.ph/2020/07/22/pldt-enterprise-enables-free-access-to-who-dohs-covid-kaya-tracing-app/>.

<sup>161</sup>Castillo, *PLDT Enterprise Enables Free Access to WHO, DOH’s COVID KAYA Tracing App*.

Data collected from contact tracing efforts is stored in the DOH's database, which could be accessed by contact tracers. The IATF said all data previously collected through other digital contact tracing apps used by DOH-accredited COVID-19 health facilities and LGUs should be submitted to a centralized tracing data repository, which will be linked to either COVID-Kaya or the COVID-19 Document Repository System (CDRS).<sup>162</sup>

Upon review though, COVID-KAYA does not appear to have a dedicated privacy policy. Instead, its Google Play Store page<sup>163</sup> lists a link to the WHO's Privacy Policy,<sup>164</sup> which only pertains to WHO websites (“all sites within the ‘who.int’ domain name”) and cannot be applied to the COVID-KAYA app.

COVID-KAYA also requests dangerous permissions such as the measurement of a user's geolocation coordinates, the use of the camera, and access to shared files, according to CitizenLab's report.<sup>165</sup> Additionally, the report also says that the researchers found COVID-KAYA has access to read the phone's “state,” potentially allowing it access to sensitive identifying information (e.g., carrier identifier). There are also potentially too many functionalities and permissions that are beyond the app's purposes, based on its source code<sup>166</sup>. Attackers could have used the app's vulnerabilities to leak names and locations of more than 30,000 frontliners.<sup>167</sup>

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<sup>162</sup>CNN Philippines Staff, Gov't Mandates Use of StaySafe Contact Tracing App in Local, National Level.

<sup>163</sup>COVID-KAYA - Apps on Google Play, play.google.com, October 27, 2020, <https://play.google.com/store/apps/details?id=org.who.COVIDKAYA&hl=en&gl=US>.

<sup>164</sup>World Health Organization, “Privacy Policy,” www.who.int, 2021, <https://www.who.int/about/who-we-are/privacy-policy>.

<sup>165</sup>Pellaeon Lin et al., Unmasked II: An Analysis of Indonesia and the Philippines' Government-Launched COVID-19 Apps.

<sup>166</sup>Pellaeon Lin et al., Unmasked II: An Analysis of Indonesia and the Philippines' Government-Launched COVID-19 Apps.

<sup>167</sup>Art Samaniego, “DOH-Endorsed Contact Tracing Platform Leaked Data,” Manila Bulletin, November 27, 2020, <https://mb.com.ph/2020/11/27/doh-endorsed-contact-tracing-platform-leaked-data/>.

Towards the end of 2020, the contact tracing czar admits that contact tracing in the country is still weak<sup>168</sup> and no one is the least bit surprised. Also, data collected through contact tracing has been misused and mishandled, such as in the case of the pep squad coach,<sup>169</sup> in spite of repeated bulletins from the NPC.<sup>170</sup> Not only that, in a Malacañang press briefing on January 21, 2021<sup>171</sup> it was stated that a deed of donation of the data generated from StaySafe.ph is yet to be signed by the DOH. This means the health department, the government agency with a mandate to hold the data as part of its role in curbing the pandemic, has not yet received users' information from Multisys Technologies Corp.<sup>172</sup>

A year into the pandemic and it seems that our contact tracing efforts and the integrity and safety of the data is in dire need of either an overhaul or a complete restart. This comes at a time where we have over 500,000 with a daily rate of around 5,000 new cases- definitely a Herculean task for contact tracing efforts compared to when the pandemic was just starting.

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<sup>168</sup>CNN Philippines Staff, "Magalong Admits Contact Tracing in PH Still 'Weak,'" CNN Philippines, November 20, 2020, <https://www.cnnphilippines.com/news/2020/11/20/weak-coronavirus-contact-tracing-PH---.html>.  
<sup>169</sup>Rick Olivares, "NU Pep Squad Coach Cries Harassment Allegedly from Contact Tracing," Philstar.com, June 15, 2020, <https://www.philstar.com/sports/2020/06/15/2021060/nu-pep-squad-coach-cries-harassment-allegedly-contact-tracing>.

<sup>170</sup>National Privacy Commission, "NPC PHE Bulletin No. 15: Guidelines for Establishments on the Proper Handling of Customer and Visitor Information for Contact Tracing," National Privacy Commission, July 8, 2020, <https://www.privacy.gov.ph/2020/07/npc-phe-bulletin-no-15-guidelines-for-establishments-on-the-proper-handling-of-customer-and-visitor-information-for-contact-tracing/>.

<sup>171</sup>Pia Ranada, "Citizens' Data Collected by StaySafe App Still in Hands of Private Firm," Rappler, January 21, 2021, <https://www.rappler.com/nation/citizens-data-collected-by-staysafe-app-hands-of-multisys-private-firm>.

<sup>172</sup>Ranada, "Citizens' Data Collected by StaySafe App Still in Hands of Private Firm."

In moving forward though, it is imperative that the authorities in charge take the following actions with regards to digital contact tracing:

- Release the white paper and the source code of StaySafe.ph. The white paper should contain all the necessary details of the system's architecture, functions, protocols, data management and security design. The source code should be that of the deployed system; it should be complete, up-to-date, and buildable so that the system's security and privacy treatment can be independently verified. The white paper and the source code must be regularly updated along with the app.
- Provide transparency of the COVID-KAYA system regarding its architecture, functions, protocols, data management, and security design by releasing the system's white paper and source code under the open source license. The white paper should contain all the necessary details of the system's architecture, functions, protocols, data management and security design. The source code should be that of the deployed system; it should be complete, up-to-date, and buildable. The white paper and the source code must be regularly updated along with the app.



- Conduct human rights assessments, particularly a privacy impact assessment of both StaySafe.ph and the COVID-KAYA systems, as mandated by NPC Circular 2016-01, and release the results thereof to the public. A list of reviewed and vetted contact tracing apps with the corresponding white papers with the necessary details of each app (such as source codes, architecture, etc.) in accordance to the existing conditions and guidelines should also be released to inform the public as to which are safe to use and not “bogus” or worse, malicious apps.
- Follow the WHO’s Interim Guidance, ‘Ethical considerations to guide the use of digital proximity tracking technologies for COVID-19 contact tracing’, and protect the privacy of citizens in any upcoming contact tracing efforts in keeping with its international commitments to protect the fundamental human right to privacy.

# Snapshots: Privacy during public health emergencies by **Jamael Jacob**<sup>173</sup>

First published in the Foundation for Media Alternatives website on March 10, 2020

One major concern running through people’s minds is how exactly should personal data be handled during these extraordinary times. There appears to be a lot of confusion going on. In February 2020, the health department and airline companies<sup>174</sup> clashed over the latter’s supposed unwillingness to share information about their passengers. Those companies have since disputed the government’s claim,<sup>175</sup> arguing that they have, in fact, been very cooperative, especially when it came to sharing information for purposes of contact tracing.

In March 2020, police arrested a Cebu City lawyer for allegedly revealing the personal information of COVID-19 patients,<sup>176</sup> while in May 2020 the NPC was investigating the public release of a Google Drive link containing a masterlist of overseas Filipino workers (OFWs) who completed quarantine and tested negative for COVID-19<sup>177</sup> (the list has been taken down). But in July 2020 when reports of the deaths of nine drug lords in New Bilibid Prison (NBP), including the high-profile inmate Jaybee Sebastian<sup>178</sup> made the news due to speculations whether the deaths were faked or simulated, the Bureau of Corrections (BuCor) invoked the Data Privacy Act to withhold information.<sup>179</sup> This prompted the NPC to release a statement<sup>180</sup> that the “Data Privacy Act is not a cloak for denying the public’s right to know. High-profile inmates like (Jaybee) Sebastian had become public figures on account of their previous association with particular national issues in the past.”<sup>181</sup>

There have been a lot of heated debates online about the propriety of private individuals disclosing the names of people they feel might have come into contact with confirmed COVID-19 patients. And to be fair, both sides to the controversy have put forward valid arguments to serve their cause.

**Yet this is not the time to be confused with what privacy and data protection actually stand for—not when we are all confronted with the same circumstances impressed with significant public interest.**

<sup>174</sup>Joahna Lei Casilao and Llanesca Panti, “Duque Blames PAL, Cebu Pacific for Slow Contact Tracing of NCoV Cases’ Co-Passengers,” GMA News Online, February 4, 2020, <https://www.gmanetwork.com/news/money/companies/724745/duque-blames-pal-cebu-pacific-for-slow-contact-tracing-of-novel-coronavirus-cases-co-passengers/story/>.

<sup>175</sup>Ted Cordero, “NOOV THREAT: PAL, Cebu Pacific Deny Duque’s Claim They’re Not Sharing Passengers’ Info,” GMA News Online, February 4, 2020, <https://www.gmanetwork.com/news/money/companies/724784/pal-cebu-pacific-deny-duque-s-claim-they-re-not-sharing-passengers-info/story/>.

<sup>176</sup>Joahna Lei Casilao, “Cebu Lawyer Arrested for Revealing COVID-19 Patients’ Personal Info,” GMA News Online, March 28, 2020, <https://www.gmanetwork.com/news/news/regions/731728/cebu-lawyer-arrested-for-revealing-covid-19-patients-personal-info/story/>.

<sup>177</sup>Joahna Lei Casilao, “Cebu Lawyer Arrested for Revealing COVID-19 Patients’ Personal Info,” GMA News Online, March 28, 2020, <https://www.gmanetwork.com/news/news/regions/731728/cebu-lawyer-arrested-for-revealing-covid-19-patients-personal-info/story/>; <https://www.philstar.com/headlines/2020/05/22/2015783/national-privacy-commission-looking-public-release-ofws-covid-19-test-results>.

<sup>178</sup>Dona Pazzibugan and Leila Salaveria, “Deaths of High-Profile NBP Inmates Raise Questions – Sotto,” INQUIRER.net, July 21, 2020, <https://newsinfo.inquirer.net/1309591/deaths-of-high-profile-inmates-raise-questions#ixzz26qzATWfO>.

<sup>179</sup>Ruth Abbey Gita-Carlos and Raymond Carl Dela Cruz, “Data Privacy Not Applicable to Inmates Who Died of Covid: Palace,” [www.pna.gov.ph](http://www.pna.gov.ph), July 21, 2020, <https://www.pna.gov.ph/articles/1109625>.

<sup>180</sup>Lian Buan, “Data Privacy Act Not Applicable to Alleged Deaths of High-Profile Convicts,” Rappler, July 21, 2020, <https://www.rappler.com/nation/data-privacy-act-not-applicable-alleged-deaths-high-profile-convicts>.

<sup>181</sup>Buan, Data Privacy Act Not Applicable to Alleged Deaths of High-Profile Convicts.

So here are some crucial principles I hope all of us will keep in mind as we deal with this current public health crisis:

- Privacy is not an absolute right. Even under the Universal Declaration of Human Rights, what is prohibited is the arbitrary interference with such right. There will undoubtedly be times when privacy intrusions will be permitted—necessary even—especially if they are meant for the greater good. A genuine state of public health emergency would certainly qualify as one of such times.
- Data protection does not prohibit the collection and sharing of personal data. People tend to forget or at least gloss over the fact that the twin policies underpinning the country's Data Privacy Act is both the protection of privacy and ensuring the free flow of information. More than anything else, what the law does is establish a system that allows for the proper use of personal data while making sure people's privacy rights are respected. That is not supposed to lead us to a world where data sharing is dead; rather, it brings us to one where it is useful and secure at the same time.
- Consent is not always a prerequisite to lawful data sharing or disclosure. Depending on the context (i.e., who's invoking, what information is involved, and the purpose of the sharing), there are plenty of other grounds under the Data Privacy Act that could justify the sharing or disclosure of personal data. Among other things, it could actually be required by law. Take Republic Act 11332, for example. This law requires all public and private doctors, health facilities, labs, and even non-government organizations (NGOs), to immediately report to the DOH any notifiable disease they encounter. Some personal data will necessarily be included in such reports in order to facilitate contact tracing, patient interviews, and review of medical records. Only a myopic, if not misguided, interpretation of the law will lead one to think that consent is the only legal path to data processing.

- **Balance is key. During emergencies, key government agencies and first responders are expected to balance the potential harm an individual may suffer if confidential information about him or her are disclosed or shared, against the public interest in the disclosure or sharing of said information. Most of the time, public interest considerations will trump privacy rights in the event of an emergency.** Great care, though, should be observed when traversing this balancing act, particularly when public disclosures are involved. Once the information is out there, it will be impossible to take back should one later come to the realization that the disclosure was, in fact, a mistake or at least unnecessary.
- Data minimization should always be considered. Even assuming there is a legitimate basis for the disclosure or sharing of personal data, one should not take it as a blanket license to process such information. With specific objectives in mind, one has to determine the minimum amount of information that is necessary to achieve them. For instance, when making public announcements regarding the profile of Covid-19 patients, what purpose is served when the government mentions his or her religion, or whether he or she has HIV? When there is none to be found, it is best to keep such details under wraps or at least accessible only to those who really need them.

- There will be accountability in the end. To a point, one may forgive well-meaning people for being rash or overzealous when they take matters into their own hands, especially during calamities or emergencies. Still, one has to draw the line somewhere and hold people responsible when they abuse their freedoms and infringe on the rights of others and/or cause them actual harm. Take the case of private individuals who go out of their way to determine who might have come into contact with confirmed COVID-19 patients. They may think they are looking after the public welfare with their initiatives, but that does not excuse them when they post people's names in social media, chat groups, and other communication platforms, simply because they think those people may have contracted the virus. It may not immediately occur to them, but they could actually be causing more harm than good. There have already been reports of beatings in other countries because the perpetrators thought the victims looked like they came from China and could therefore be possible carriers of the virus. Imagine the worst that could happen to people you call out in public because you think they might have COVID-19, too. This is not to say, of course, that one should sit on valuable information the government could use to stem this crisis. It's just that going public may not be the right way to act on it. Why not relay the information to the proper authorities instead? Make sure it reaches the DOH or the local government, for instance. After three years of living with the specter of death haunting the President's so-called drug watchlist, you'd think we, Filipinos, would know better than to come up with a list with little to no basis, and with no conscious appreciation of what may befall those whose names are on it. Apparently, we don't. Surely, we are better than this—or at least we should be.

## Digital surveillance under the guise of health

The COVID-19 pandemic is a global public health emergency that requires a coordinated and large-scale response by governments worldwide. However, the government's efforts to contain the virus must not be used as a cover to usher in a new era of greatly expanded systems of invasive digital surveillance.

While technology can and should play an important role in the effort to save lives, such as when used to spread public health messages and increase access to health care. However, what has happened is that there is an increase in state digital surveillance powers, such as obtaining access to mobile phone location data and other key pieces of personal data, social media monitoring by the police to capture quarantine violators, among others.

**The increase in surveillance threatens the privacy, freedom of expression and freedom of association of citizens, in ways that could violate their rights and degrade the trust in public authorities, which ultimately also undermines the effectiveness of any public health response. Such measures also increases the risk of discrimination and may disproportionately harm of already marginalized communities.**

In 2020, several government agencies and LGUs came up with various tech solutions for quarantine enforcement. It is not clear though if human rights principles are integrated in the use of the technology. It is important to communicate if the use of the technology follows rights-based principles, particularly with regards to closed-circuit televisions (CCTVs) and drones being used in surveilling citizens and enforcing quarantine guidelines, and how the data is secured:

- The DILG contracted with the China International Telecommunication Construction Corporation (CITCC) to implement the Safe Philippines Project and install 12,000 surveillance cameras in the Manila metropolitan area and Davao. The system will also be equipped with advanced features such as intelligent video analytics, facial and plate recognition and video content search. The project was launched in November 2019<sup>182</sup> in Marikina, and in January 2020 Senator Leila de Lima filed a resolution calling for an inquiry into the project as it might have risks to our national security.<sup>183</sup>
- Barangay San Antonio in Pasig City equipped 73 CCTVs in the area with artificial intelligence software that allows barangay officials to monitor the movement of residents in the streets in real-time, which helps ensure that residents stay indoors and observe proper distancing and curfew.<sup>184</sup> The software features include a display of how many people are moving in certain areas, as well as a planned vehicle-counter feature. The barangay was also reported to have been planning an SMS-blasting program for advisories and announcements, in partnership with a major telco. Other local governments also increased the number of CCTVs in targeted populous public areas. In Quezon City, for example, additional cameras were installed in public markets.<sup>185</sup>
- In Cebu City, drones were deployed to monitor quarantine compliance and to “shoot videos of areas where weak points and potential areas of quarantine violations would occur.”<sup>186</sup> The drones are piloted by the Cebu City Police, whose troops are sent to the area once a quarantine violation is captured on video.

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<sup>182</sup>Anna Felicia Bajo, “DILG Launches ‘Safe Philippines’ Project in Metro Manila Cities,” GMA News Online, November 22, 2019, <https://www.gmanetwork.com/news/news/metro/716434/dilig-launches-safe-philippines-project-in-metro-manila-cities/story/>.

<sup>183</sup>Franco Luna, “Probe into Safe Philippines CCTV Project Sought,” Philstar.com, January 5, 2020, <https://www.philstar.com/headlines/2020/01/05/1982217/probe-safe-philippines-cctv-project-sought>.

<sup>184</sup>“Pasig Village Boosts Measures to Mitigate Spread of Covid-19,” [www.pna.gov.ph](http://www.pna.gov.ph), March 30, 2020, <https://www.pna.gov.ph/articles/1098189>.

<sup>185</sup>Gabriel Pabico Lalu, “Belmonte Warns Distancing Violators: Cameras Will Be Installed in Markets,” INQUIRER.net, April 21, 2020, <https://newsinfo.inquirer.net/1261980/qc-warns-physical-distancing-violators-new-cctv-cameras-will-be-installed-in-markets>.

<sup>186</sup>Christia Marie Ramos, “11 Drones Now in Cebu City to Monitor Quarantine Compliance – Eleazar,” INQUIRER.net, June 28, 2020, <https://newsinfo.inquirer.net/1298698/11-drones-now-in-cebu-city-to-monitor-quarantine-compliance-eleazar>.



While the police took to social media to monitor and surveil citizens for possible protocol violations:

- In September 2020 Police Lieutenant Guillermo Eleazar, who leads the Joint Task Force COVID Shield, announced an order for police officers to regularly monitor social media to look for evidence of violations of community quarantine protocols.<sup>187</sup> Eleazar even mentioned monitoring Facebook pages that post CCTV photos and videos of quarantine violations. Malacanang, through Presidential Spokesperson Harry Roque, also defended the PNP by saying that once a person posts on social media, that means they are waiving their right to privacy.<sup>188</sup> This developed as DILG Secretary Eduardo Año filed charges against a netizen who had attributed a false quote to him about observing physical distancing after sex.<sup>189</sup>
- The NPC Commissioner Raymund Liboro released a statement also in September 2020<sup>190</sup> saying that policemen may use social media to look into possible quarantine violation protocols, but they must recognize the data privacy rights of the public and the leads or evidence should be legally obtained. He added that the task force must provide an explanation of its method of monitoring social media posts to ease the public fear of mass and indiscriminate surveillance.<sup>191</sup> To date, there is no explanation or method explained by the task force or the police, in fact ex-PNP Chief General Camilo Cascolan downplayed the controversial initiative and said that they will only go after social media users whose posts are set for public consumption.
- Downplaying their controversial initiative to probe Filipinos for lockdown violations through social media, ex-PNP chief General Camilo Cascolan said they will only go after users whose posts are set for public consumption, or if the social media post is posted publicly.<sup>192</sup> But several government officials,<sup>193</sup> including police executives,<sup>194</sup> have been caught violating quarantine rules through their posts on social media, and only a few of them have been prosecuted.
- In response to the task force and PNP's initiative, Executive Director of the Ateneo Human Rights Center Atty. Ray Paolo Santiago said that they must show they are able to enforce quarantine measures without favoring anyone: "The move is not only an "issue of privacy" but also an "issue of due process of law. The PNP has to be able to show that it is fair and objective in applying and enforcing the law against everyone."<sup>195</sup>

<sup>187</sup>JC Gotinga, "Police to 'Regularly Monitor' Social Media for Quarantine Violations," Rappler, September 5, 2020, <https://www.rappler.com/nation/police-regularly-monitor-social-media-quarantine-violations>.

<sup>188</sup>Vito Barcelo, "Palace Defends Socmed Monitoring," Manila Standard, September 8, 2020, <https://www.manilastandard.net/news/top-stories/333555/palace-defends-socmed-monitoring.html>.

<sup>189</sup>ABS-CBN News, "Netizen Who Spread Fake News about 'Physical Distancing after Sex' Faces Raps," ABS-CBN News, September 7, 2020, <https://news.abs-cbn.com/news/09/07/20/netizen-who-spread-fake-news-about-physical-distancing-after-sex-faces-raps>.

<sup>190</sup>Richa Noriega, "NPC: Evidence of Quarantine Violations from Social Media Must Be Legally Obtained," Manila Bulletin, September 7, 2020, <https://mb.com.ph/2020/09/07/npc-evidence-of-quarantine-violations-from-social-media-must-be-legally-obtained/>.

<sup>191</sup>Noriega, NPC: Evidence of Quarantine Violations from Social Media Must Be Legally Obtained.

<sup>192</sup>Rambo Talabong, "What to Know about Camilo Cascolan, the next PNP Chief," Rappler, September 1, 2020, <https://www.rappler.com/newsbreak/iq/things-to-know-camilo-cascolan-pnp>.

<sup>193</sup>Alois Isinika, "Pangasinan Mayor's Birthday Celebration Violates Lockdown Rules," Rappler, May 14, 2020, <https://www.rappler.com/nation/pangasinan-mayor-villar-birthday-celebration-violates-coronavirus-lockdown-rules>.

<sup>194</sup>Rambo Talabong, "LOOK: Birthday Satu-Satu for NCRPO Chief Sinas amid EOC - (UPDATED) 'I Don't Think May Violation Ito,' Says Philippine National Police Chief General Archie Gamboa, Citing the Report of Major General Debold Sinas That Physical Distancing Was Supposedly Observed during the Celebration," Rappler, May 12, 2020, <https://www.rappler.com/nation/nrcpo-chief-sinas-birthday-celebration-ecq-may-2020>.

<sup>195</sup>ABS-CBN News, "PNP Told to Enforce Quarantine Measures Fairly as Cops Monitor Social Media," ABS-CBN News, September 7, 2020, <https://news.abs-cbn.com/news/09/07/20/pnp-told-to-be-fair-quarantine-mecq-ecq-monitoring-social-media-posts-for-violations>.

**The surveillance measures adopted to address the pandemic should be lawful, necessary and proportionate. They must be provided for by law and must be justified by legitimate public health objectives, as determined by the appropriate public health authorities, and be proportionate to those needs. Our government must be transparent about the measures they are taking so that they can be scrutinized and if appropriate later modified, retracted, or overturned.**

The administration must ensure that increased collection, retention, and aggregation of personal data including health data, is only used for the purposes of responding to the COVID-19 pandemic. Data collected, retained, and aggregated to respond to the pandemic must be limited in scope, time-bound in relation to the pandemic and must not be used for commercial or any other purposes. There must be every effort to protect people's data, including ensuring sufficient security of any personal data collected and of any devices, applications, networks, or services involved in collection, transmission, processing, and storage. Any claims that data is anonymous must be based on evidence and supported with sufficient information regarding how it has been anonymized.

**This public health crisis offers an opportunity to demonstrate our shared humanity. We can make extraordinary efforts to fight this pandemic that are consistent with human rights standards and the rule of law. These are extraordinary times, but human rights law still applies.**

Indeed, the human rights framework is designed to ensure that different rights can be carefully balanced to protect individuals and wider societies. We cannot allow the COVID-19 pandemic to serve as an excuse to gut an individual's right to privacy or as justification for compromising people's digital safety.



## The Philippine National ID System (PhilSys)

### Philsys rollout in 2020

Calls for the immediate implementation of the country’s national ID system, PhilSys, surfaced regularly during the onset of the pandemic in the country, with a number of government officials bringing it up<sup>196</sup> and President Duterte mentioning this in his late-night televised address<sup>197</sup> as a potentially useful tool for making the distribution of government benefits more effective and more efficient.

Mass registration was supposed to begin in June 2020, but the pandemic and the government’s own lockdown measures make any registration process nearly impossible to carry out. One lawmaker mentioned that the rollout is “untimely, impractical and burdensome for the poor.”<sup>198</sup> But still the pre-registration (Step 1) process for PhilSys pushed through on October 12, 2020,<sup>199</sup> covering around five million Filipinos from 32 provinces, namely Ilocos Sur, La Union, Pangasinan, Cagayan, Isabela, Bataan, Bulacan, Nueva Ecija, Pampanga, Tarlac, Zambales, Batangas, Cavite, Laguna, Quezon, Rizal, Albay, Camarines Sur, Masbate, Antique, Capiz, Iloilo, Negros Occidental, Bohol, Cebu, Negros Oriental, Davao de Oro, Davao del Norte, Davao del Sur, Davao Occidental, Leyte, and Tawi-tawi. Pre-registration or “Step 1” Registration includes the house-to-house collection of demographic information of low-income household heads and appointment setting.

<sup>196</sup>Christia Marie Ramos, “Sotto Suggests ‘Full Blown Execution’ of National ID System,” INQUIRER.net, April 7, 2020, <https://newsinfo.inquirer.net/1255036/sotto-suggests-full-blown-execution-of-national-id-system>.

<sup>197</sup>Darryl John Esguerra, “National ID System Could Have Made Cash Aid Distribution Faster – Duterte,” INQUIRER.net, April 14, 2020, <https://newsinfo.inquirer.net/1258144/national-id-system-could-have-made-cash-aid-distribution-faster-duterte>.

<sup>198</sup>Neil Arwin Mercado, “Bayan Muna Rep Says ‘Full-Blown Execution’ of National ID System Is ‘Untimely,’” INQUIRER.net, April 8, 2020, <https://newsinfo.inquirer.net/1255847/bayan-muna-rep-says-full-blown-execution-of-national-id-system-is-untimely>.

<sup>199</sup>Darryl John Esguerra, “National ID Pre-Registration Starts Oct. 12 – PSA,” INQUIRER.net, October 6, 2020, <https://newsinfo.inquirer.net/1344299/national-id-pre-registration-starts-oct-12-psa>.

It should also be noted that the DSWD with the US Agency for International Development (USAID) also implemented on May 14, 2020 the ReliefAgad app<sup>200</sup> to speed up the process of collecting beneficiaries' data and releasing the SAP subsidies to qualified beneficiaries in the NCR. ReliefAgad will allow the DSWD and local government units to expedite capturing SAP details and provide data to expedite the disbursement of cash assistance through electronic payment systems using their smartphones. In June, the platform has accumulated over 2 million registrations from all 17 regions nationwide, and DSWD targets to collect 11.5 million more.<sup>201</sup>

According to PSA Assistant Secretary Rose Bautista, low-income households from the DSWD's Listahanan program were the initial targets of the pre-registration. There was confusion during this period as to whether the application for PhilSys was voluntary or not,<sup>202</sup> due to differing statements from the PSA Assistant Secretary Rosalinda Bautista and from Surigao del Norte Rep. Robert Ace Barbers who is the principal author of Republic Act No. 11055 or the PhilSys Act, which was signed into law by President Duterte in August 2018.

The government has allocated a total of P4.1 billion<sup>203</sup> under the proposed P4.506-trillion national budget for 2021 to fast-track the implementation of the national ID system. The expectation is that the rollout of the national ID system is to be fully implemented by 2025.

Towards the end of 2020, more than 9 million Filipinos have already completed Step 1 Registration of the PhilSys according to the PSA reports.<sup>204</sup> Step 2 Registration started in January 2021 and will be executed on a gradual, small-scale basis until April 2021. This registration step will involve the validation of supporting documents and capture of biometric information, such as fingerprints, iris scans, and front-facing photographs at registration centers. The last step of the registration or Step 3 will involve the issuance of the PhilSys Number and the physical ID (PhilID).

<sup>200</sup>DSWD Social Marketing, "DSWD Launches ReliefAgad App to Speed up SAP Processes | Department of Social Welfare and Development," [www.dswd.gov.ph](http://www.dswd.gov.ph), May 19, 2020, <https://www.dswd.gov.ph/dswd-launches-reliefagad-app-to-speed-up-sap-processes/>.

<sup>201</sup>DSWD Social Marketing, "DSWD's Relief Agad Registers 2M Beneficiaries, Targets 11.5M More | Department of Social Welfare and Development," [www.dswd.gov.ph](http://www.dswd.gov.ph), June 5, 2020, <https://www.dswd.gov.ph/dswds-relief-agad-registers-2m-beneficiaries-targets-11-5m-more/>.

<sup>202</sup>Charissa Luci-Atienza, "National ID Mandatory - Barbers," Manila Bulletin, October 4, 2020, <https://mb.com.ph/2020/10/04/national-id-mandatory-barbers/>.

<sup>203</sup>Darryl John Esguerra, "Duterte: P4.1 Billion Set aside to Fast-Track Implementation of National ID System," INQUIRER.net, August 28, 2020, <https://newsinfo.inquirer.net/1328342/fwd-duterte-p4-1-billion-et-aside-to-fast-track-implementation-of-national-id-system>.

<sup>204</sup>PhilSys Registry Office, "Philippine Statistics Authority | Republic of the Philippines," [psa.gov.ph](http://psa.gov.ph), December 17, 2020, <https://psa.gov.ph/philsys/announcements/node/163668>.

## About PhilSys

The PhilSys Act or Republic Act No. 11055 seeks to harmonize and integrate several government IDs by establishing a single national identification system for all citizens and resident aliens through the collection of basic personal information and biometric data. The primary purpose for the national ID is to provide Filipino citizens and permanent residents with government-issued photo identification.

PhilSys will be available to Filipino citizens and permanent residents 18 years old and above, and will be made available at no cost and will not have an expiration date.

The ID will contain the following information:

- Card number (this is different from the PhilSys number or Personal Serial Number)
- Full name
- Sex
- Blood type
- Date of birth
- Place of birth
- Marital status
- Photograph

Other information that will be collected may also include:

- Phone number
- Email address
- Biometric data

Upon FMA’s review of the PhilSys Act, there are positive considerations in relation to privacy and data protection:<sup>205</sup>

- **It considers as a policy the upholding and protection of human rights.**  
In its policy statement, it recognizes the need to deploy a resilient digital system that will “secure the data collected and ensure that the people’s right to privacy, confidentiality and other basic rights are at all times upheld and protected.
  
- **It somewhat acknowledges specific rights of individuals in relation to their personal data.**
  - a. **Right to be informed.** Registered persons, upon registration, must be adequately informed on how their data will be used, and how they can access their registered information and record history. An entity that wishes to have the PSN or PhilID of a person authenticated must also inform him or her about: (1) the nature of the information that may be shared; and (2) what it intends to use the information for.
  
  - b. **Right to access.** A registered person may request access to his or her registered information, including record history. However, it shall be subject to guidelines and regulations issued by the PSA. If a request can be denied, it negates the notion of a right being recognized.
  
  - c. **Right to rectification.** A registered person can request for changes or corrections in his registered information. It is worth noting, though, that the PhilSys Act itself appears to have discounted the possibility that errors are possible and that corrections may have to be made. It only mentions changes and updates.

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<sup>205</sup>Jamael Jacob, “A Civil Society Guide to the PHILIPPINE IDENTIFICATION SYSTEM,” Foundation for Media Alternatives (, 2019), <https://www.fma.ph/wp-content/uploads/2019/08/PhilSys-revised.pdf>.

- **It has provisions on consent.**

a. An entity that wishes to have the PSN or PhilID of a person authenticated must first obtain his or her consent before collecting his or her information.

b. There are only two ways by which the registered information of a person may be accessed, disclosed, collected, recorded, conveyed, disseminated, published, or used, to third parties or entities, and one of them is if the person has given his or her consent.

- **The PhilSys Act provides for offenses and their corresponding penalties, and it does prescribe some security measures.** The government assured the adoption of cybersecurity measures in the implementation of the national ID system in October 2020, during the initial rollout.<sup>206</sup> The PSA, with technical assistance from the DICT, stated that the PHP27.8 billion total budget for the implementation of PhilSys includes the protection of the data collected by registration officers. DICT Undersecretary Denis Villorente said PhilSys is a secured system which utilizes a privacy-by-design approach and will also have its own cybersecurity computer emergency response team. The IT systems will also be subject to review by independent third parties. Citizens will also be able to temporarily lock and unlock the use of their identity for online authentication purposes, which can protect them against fraud activities. PhilSys will also harness the strengths of a hybrid cloud solution<sup>207</sup> for its system integrator in order to leverage the inherent efficiency, availability and scalability of cloud while maintaining control and security safeguards by storing data that is collected under PhilSys in government data centers.

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<sup>206</sup>Lade Jean Kabagani, "Gov't Adopts Cybersecurity Measures for Nat'l ID System," [www.pna.gov.ph](https://www.pna.gov.ph/articles/1118388), October 13, 2020, <https://www.pna.gov.ph/articles/1118388>.  
<sup>207</sup>Lade Jean Kabagani, "'Hybrid Cloud Tech' to Ease PhilSys Data System Integration," [www.pna.gov.ph](https://www.pna.gov.ph/articles/1118023), October 9, 2020, <https://www.pna.gov.ph/articles/1118023>.



## Concerns regarding Philsys

A review of the Philsys Act and its IRR, raises several concerns which needs to be addressed, especially now that rollout has happened.<sup>208</sup>

- **Timing of the registration process:** Adding to the concerns on the timing of the pre-registration of the national ID is that this comes at a time when the controversial Anti-Terrorism Act of 2020 was also enacted into law. Citizens had cause to be alarmed as to whether the personal information being collected can be used as a way to surveil (“dataveillance”).<sup>209</sup> Among the information about a registered person is his or her record history, which makes it possible for the government to have a detailed record of a person’s activities, like the number of times he/she obtained benefits from a government agency, patronized a particular store or business, used a credit card, received health care, withdrew money from an ATM, borrowed a book from a public library, accessed the internet, used public transportation, etc. The government can also infer from this information that person’s travel history, shopping habits, hobbies and interests, financial status, among others.
- **There are no limitations on the collection of recorded information.** If we take a look only at the PhilSys Act as basis, the only thing limiting the size of the recorded information is the extent government agencies and the private sector will patronize the ID system, which is actually not limited at all because these entities are left with no other choice but to patronize the PhilSys. The law requires that the national ID be honored and accepted in all transactions requiring proof or verification of identity. While the current IRR prescribes a one (1) year retention period for a person’s record history, the safeguard is not in the law and can easily be removed or dispensed with by a subsequent issuance of the PSA.

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<sup>208</sup>Jacob, A Civil Society Guide to the PHILIPPINE IDENTIFICATION SYSTEM.  
<sup>209</sup>Jacob, A Civil Society Guide to the PHILIPPINE IDENTIFICATION SYSTEM.

- The PhilSys is designed not to counter mission creep, or if an ID system intended for widespread use or if the design of the system calls for the collection of greater amounts of personal data than needed for its intended purpose. In the approved IRR, no additional transaction, use, or purpose was inserted, however the fact remains that the PSA has the power to add as many possible uses for the ID as it deems necessary or desirable.
- The PhilSys also allows for the collection of an unlimited amount of biometric information. Step 2 of the registration process as mentioned by the PSA already includes the capturing of biometrics such as a full set of fingerprints, iris scans, and front-facing photographs, and there could be more as the PhilSys is designed in such a way that allows for the collection of greater amounts of personal data than needed for its intended purpose/s. While the law specifies the types of information constituting demographic data that will be collected, it contains no limitation in the collection of biometric information as the law gives PSA the authority to expand the scope of the collection of biometric information.
- It leaves the door open for the establishment of a consolidated identification system. The PhilSys Act states that the PSA shall “gradually synchronize and consolidate all existing government-initiated identification systems into one integrated and interconnected identification system”. Meanwhile, the IRR also states that the PSA must create a transition plan in order to gradually synchronize and consolidate all existing government-initiated identification systems by seeding the PSN or its derivative into the databases of all agencies into one integrated and interconnected identification system. Both provisions undermine the collection limitation principle built into the law. Currently with all the contact tracing apps (see previous section of this report) and the ReliefAgad app, one thinks of how much data is being sent out to the government and whoever else. There are no opt outs available where I can readily request for my data to be deleted. Add to this the PhilSys, it is not a far-fetched idea how dataveillance can allow anyone to create a picture of who we are, our personal details and habits, and how easy it will be to use this against us should malign actors have access.

To date, these concerns have not been clearly addressed and the PhilSys Act and its IRR remains as is.

## Other privacy and data protection related events in 2020

### Popularity of apps with dubious data privacy and dangerous permissions

**FaceApp:**<sup>210</sup> Cybersecurity experts have warned against the risks of using image manipulation tool FaceApp,<sup>211</sup> which has regained popularity in 2020 because of a feature allowing users to change the gender of a person in a picture. The Computer Professionals' Union (CPU) said in a statement: "By using this application, we grant FaceApp (and whoever they give access to their database) freedom to access our personal digital likeness and permission to use it for their purposes."<sup>212</sup> The CPU noted a provision in the terms and conditions of the mobile application that gives the company non-exclusive, royalty-free and fully paid license to use content created by users. These include photos, videos, messages, text, software and other materials that were created, posted, shared and stored using the app.

**While this access is meant solely to provide services to the users, the group cited a provision stating that FaceApp "do not control, endorse or take responsibility for any user content or third-party content available on or linked to by our services." CPU said these might include "unscrupulous individuals or parties that seek to use a person's digital likeness for nefarious purposes, from black propaganda to identity theft."<sup>213</sup>**

Cyber Security Philippines, a non-profit computer security incident response team, also warned against data mining and extraction of facial biometrics, noting that it can be used for identity theft, fraud, demolition, extortion or defamation.

FaceApp, in a statement sent to various tech websites at the time, clarified that it does not "sell or share any user data with any third parties"<sup>214</sup> and that user data is not transferred to Russia even if their core research and development team is based there. FaceApp said they also accept requests from users to remove their data, recommending that users send these requests using the mobile application.


<sup>210</sup>FaceApp - AI Face Editor," faceapp.com, accessed March 23, 2021, <https://www.faceapp.com/>.

<sup>211</sup>Janvic Mateo, "Experts Warn vs Privacy Risks of FaceApp," Philstar.com, June 21, 2020, <https://www.philstar.com/headlines/2020/06/21/2022386/experts-warn-vs-privacy-risks-faceapp>.

<sup>212</sup>Mateo, Experts Warn vs Privacy Risks of FaceApp.

<sup>213</sup>Mateo, Experts Warn vs Privacy Risks of FaceApp.

<sup>214</sup>Mateo, Experts Warn vs Privacy Risks of FaceApp.



**Online lending apps:**<sup>215</sup> Lenders operating online apps that can be installed in smartphones are prohibited from harvesting personal information, such as phone and social media contact lists, for harassing delinquent borrowers, the NPC said in Circular No. 20-01.<sup>216</sup> This is in response to numerous complaints that online lenders were illegally using personal data of clients and those of others on their contact lists, causing damage to their reputation and violating their rights as data subjects. The harassment and shaming of delinquent borrowers before relatives, friends and colleagues persist despite separate orders last year from the NPC and the Securities and Exchange Commission (SEC) to shut down errant online creditors.

Under the circular, unnecessary permissions include accessing phone contacts or email list, harvesting social media contacts, copying or otherwise saving these for use in debt collection, or to harass the borrower or his/her contacts. Access to the phone camera of the borrower is allowed only for the purpose of know-your-customer (KYC) policies. In no way shall the borrower's photo be used, the circular said, to harass or embarrass him or her in order to collect a delinquent loan. App permissions are allowed only under suitable, necessary and not excessive purposes of KYC for determining creditworthiness, preventing fraud and collecting debt.

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<sup>215</sup>National Privacy Commission, "Online Lenders Barred from Harvesting Borrowers' Phone and Social-Media Contact List, Says Privacy Commission," National Privacy Commission, October 19, 2020, <https://www.privacy.gov.ph/2020/10/online-lenders-barred-from-harvesting-borrowers-phone-and-social-media-contact-list-says-privacy-commission/>.

<sup>216</sup>Raymund Liboro, "NPC Circular No. 20-01: GUIDELINES on the PROCESSING of PERSONAL DATA for LOAN-RELATED TRANSACTIONS," National Privacy Commission, September 14, 2020, <https://www.privacy.gov.ph/wp-content/uploads/2020/10/NPC-Circular-No.-20-01.pdf>.

The circular also stipulates the following: Personal information controllers, lending and financing companies in this case, must implement reasonable and appropriate organizational, physical, and technical security measures to protect personal data. Details concerning the loan must be written in a clear language and in the most appropriate format. Borrowers must be informed if the loan processing activity involves the use of profiling, automated processing, automated decision-making, or credit rating or scoring. A separate lawful criterion must be in place pursuant to Sections 12 and/or 13 of the Data Privacy Act, should information be used for marketing, cross-selling, or sharing with third parties for purposes of offering other products or services not related to loans. Reasonable policies on retention of data must be adopted and implemented for those with denied loan applications and borrowers who have fully settled their loans. The circular said lending or financing companies and persons acting like these entities were at all times accountable for personal data under their control or custody.

The NPC observed that a month after it ordered the shutdown of 26 online lending companies in October 2020, the complaints it received from the public declined 90 percent.<sup>217</sup>

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<sup>217</sup>Liboro, NPC Circular No. 20-01: GUIDELINES on the PROCESSING of PERSONAL DATA for LOAN-RELATED TRANSACTIONS.

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## Smooth (cyber)criminals: Cybercrimes that happened in 2020

### Website attacks such as defacement and data breaches

While website hacks such as data breaches are subtle but also readily understood as threats due to the stealing of personal information and money (especially if the website is commerce related), website defacements seem to be a hack that is more of a nuisance and calls for attention—a kind of digital vandalism where attackers leave their mark for notoriety. But website defacement should be taken seriously as it brings to light the weakness of a site's security and can diminish visitors' trust in that website. Aside from the damage to the website owner's reputation, it can also result in a blacklist from Google and other search engines, which will stop the website from ranking in search results and is difficult and tedious to resolve.

**This kind of hack is unethical and illegal, and while some use it as a form of “hacktivism” to spread a certain message or ideology across (a show of force) or even for fun, it is still primarily a denial of service as the website visitors cannot use the site as intended, and therefore victimize anyone who would need the website. Also, if the attacker was able to deface the website, he or she can also potentially collect the data in the website (usernames, passwords, emails, and more).**



We listed several website attacks (data breaches and defacements) that happened in 2020, as well as instances of other kinds of cybercrime such as phishing attempts and online scams.

**Websites of various Philippine colleges and universities:**<sup>218</sup> The NPC reported a spike in data breaches among colleges and universities in July 2020, as hackers seem to target the personal information of the youth. Official websites of select educational institutions were also defaced by hackers earlier this year. Among the schools are San Beda University,<sup>219</sup> De La Salle University, Ateneo de Manila University, University of the Philippines-Manila, University of the Philippines-Visayas,<sup>220</sup> University of the Philippines-Cebu,<sup>221</sup> Cebu Normal University,<sup>222</sup> Technological University of the Philippines, De La Salle-College of Saint Benilde, University of Perpetual Help-Dalata, University of Santo Tomas-Legazpi, Central Mindanao University, Laguna State Polytechnic University and Ateneo de Iloilo.

Lisensya.info (Land Transportation Office): The NPC investigated a suspected data leak in November 2020 involving car registrations under the Land Transportation Office (LTO). In a statement, the privacy body said it is looking into the data available on lisensya.info (the site has been taken down since), which has a “Motor Vehicle Authenticator” that reveals the car make, plate and engine number, registration expiry date, and the name of the registered owner by encoding the motor vehicle file number. The website also features a “license authenticator” on its homepage. The LTO has denied any connection with the website. However, the NPC said netizens have reported that the vehicle registration data which the site provided were accurate, raising suspicions of a leak from the LTO database.

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<sup>218</sup>CNN Philippines Staff, “Privacy Commissioner Sees Spike in Data Breaches in Colleges, Universities,” CNN Philippines, July 23, 2020, <https://cnnphilippines.com/news/2020/7/23/spike-in-data-breaches-colleges-universities.html>.

<sup>219</sup>Rambo Talabong, “San Beda Student Portal Hacked, Personal Data of Thousands Stolen,” Rappler, June 7, 2020, <https://r3.rappler.com/nation/263117-san-beda-university-student-portal-hacked-personal-data-stolen>.

<sup>220</sup>CNN Philippines Staff, “UP Visayas Website down after Getting Defaced,” CNN Philippines, June 12, 2020, <https://www.cnnphilippines.com/news/2020/6/12/UP-Visayas-website-down-after-getting-defaced-.html>.

<sup>221</sup>Morexette Marie Erram, “No Personal Information of up Cebu Students, Alumni Leaked,” INQUIRER.net, June 8, 2020, <https://cebudailynews.inquirer.net/316410/no-personal-information-of-up-cebu-students-alumni-leaked#ixzz6RbOXHnqC>.

<sup>222</sup>John Stichon, “Cebu Normal University Suspends Subdomain after Anonymous Website Hack,” Rappler, June 19, 2020, <https://www.rappler.com/technology/cebu-normal-university-suspends-subdomain-anonymous-website-hack>.

**Lisensya.info (Land Transportation Office):**<sup>223</sup> The NPC investigated a suspected data leak in November 2020 involving car registrations under the Land Transportation Office (LTO). In a statement, the privacy body said it is looking into the data available on lisensya.info<sup>224</sup> (the site has been taken down since), which has a “Motor Vehicle Authenticator” that reveals the car make, plate and engine number, registration expiry date, and the name of the registered owner by encoding the motor vehicle file number. The website also features a “license authenticator” on its homepage. The LTO has denied any connection with the website. However, the NPC said netizens have reported that the vehicle registration data which the site provided were accurate, raising suspicions of a leak from the LTO database.

**Website of the National Privacy Commission:**<sup>225</sup> The NPC took its website offline on September 30, 2020, saying it was looking into an instance of website defacement. The NPC said in a Facebook post that “no personal information and sensitive personal information is stored in our website.” The site, [www.privacy.gov.ph](http://www.privacy.gov.ph), was given a black background, music, and a message in red text that read: “Hacked by XLEGION.”

**Website of the Bases Conversion and Development Authority (BCDA):** The website of the BCDA was defaced in September 2020 and the story about the Philippine government’s partnership with Facebook for high-speed broadband infrastructure was replaced with a warning asking BCDA to fix its website security.

**Subdomains of Department of Environment and Natural Resources (DENR):**<sup>227</sup> Last October 2020, multiple subdomains of DENR from Region 1 to Region 11 were attacked by hackers from Indonesia. The defacement was mirrored to Zone-H, an archive of defaced websites. The hackers slammed the website for having weak security.

<sup>223</sup>Melissa Luz Lopez, “Privacy Commission Probes Suspected LTO Data Leak,” CNN Philippines, November 11, 2020, [https://cnnphilippines.com/news/2020/11/11/Privacy-Commission-data-leak-probe-car-registrations.html?fbclid=IwAROTe-OTUUPOMFSPVJ0rCGJUPeYRjkfg7\\_vCXFm4QnpMP-NacabS6SrE3k](https://cnnphilippines.com/news/2020/11/11/Privacy-Commission-data-leak-probe-car-registrations.html?fbclid=IwAROTe-OTUUPOMFSPVJ0rCGJUPeYRjkfg7_vCXFm4QnpMP-NacabS6SrE3k).

<sup>224</sup>[lisensya.info](http://lisensya.info) (website is inaccessible already)

<sup>225</sup>Jonathan Castillo, “National Privacy Commission Website Hacked,” Manila Bulletin, October 1, 2020, <https://mb.com.ph/2020/10/01/national-privacy-commission-website-hacked/>.

<sup>226</sup>Art Samaniego, “Facebook and PH Partnership Content in BCDA Website, Defaced,” Manila Bulletin, September 30, 2020, <https://mb.com.ph/2020/09/30/facebook-and-ph-partnership-content-in-bcda-website-defaced/>.

<sup>227</sup>Christian Niel Angel, “Multiple Subdomains of DENR Gets Hacked,” Manila Bulletin, December 12, 2020, <https://mb.com.ph/2020/12/12/multiple-subdomains-of-denr-gets-hacked/>.

**Website of the Office of the Solicitor General:**<sup>228</sup> The online application database of the Office of the Solicitor General (OSG) was defaced in December 2020. The attacker, Phantom Troupe is the same group who hacked servers of PH colleges and universities to secure vulnerabilities at the start of the pandemic. The online application database website of the OSG showed the logo of the group and the message “Stop blackmailing the NTC! Give ABS-CBN provisional authority,” and the group was able to download more than nine thousand files from the server of the OSG<sup>229</sup>. Personal data compromised include transcript of records, PRC certificates of rating, resumes, certificates of eligibility, civil service certificates, PRC IDs, diplomas, training certificates, board of accountancy certificates, and other minor information that could be used to identify the owners.

**Twitter account of the Pasig City Public Information Office (PIO):**<sup>230</sup> The Twitter account was hacked on April 17, 2020, but was restored immediately after. The hacker used the account to post pornographic content.

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<sup>228</sup>Art Samaniego, “Office of the Solicitor General of the Philippines Hacked,” Manila Bulletin, December 1, 2020, <https://mb.com.ph/2020/12/01/office-of-the-solicitor-general-of-the-philippines-hacked/>.

<sup>229</sup>Samaniego, Office of the Solicitor General of the Philippines Hacked.

<sup>230</sup>Cathrine Gonzales, “Twitter Account of Pasig City Info Office Hacked,” INQUIRER.net, April 17, 2020, <https://newsinfo.inquirer.net/1260250/hacking-of-pasig-city-pios-twitter-account>.

## Online scams and phishing attempts

Cyber criminals also took advantage of the shift to online banking and e-commerce solutions by preying on either vulnerable systems or by getting personal information in order to execute online scams or theft. Below are some of the common phishing and online scam events:

**GCash:**<sup>231</sup> Digital payment firm GCash said it coordinated with the National Bureau of Investigation (NBI) that led to the arrest in May 2020 of three individuals in Quezon City after they swindled money from victims, whose identities were also stolen. Law enforcers nabbed the suspects for stealing money from a number of individuals by pretending to be GCash, Grab, Lalamove, or Mr. Speedy employees. They allegedly convinced the victims that their accounts were compromised and pretended to assist them in fixing their accounts.

**Bank of the Philippine Islands (BPI) phishing attempts:**<sup>232</sup> BPI reported that it detected and took down almost 2,000 phishing sites<sup>233</sup> from March to August, when the government implemented lockdowns of various degrees. The malign actors send out malicious emails with COVID-19 themes to steal information and put up fake crowdfunding pages for supposedly personal protective equipment (PPE) donations. Most of the crimes committed involved the criminals getting users' credentials, and/or posing as clients of the banks and doing unauthorized withdrawals.

<sup>231</sup>Newsbytes.PH, "NBI, GCash Sue 3 Suspects for Cybercrime, Estafa," Newsbytes.PH, May 19, 2020, <http://newsbytes.ph/2020/05/19/nbi-gcash-sue-3-suspects-for-cybercrime-estafa/>.

<sup>232</sup>Ralf Rivas, "BPI Takes down 2,000 Phishing Sites during Pandemic," Rappler, October 13, 2020, <https://www.rappler.com/business/bpi-takes-down-phishing-sites-covid-19-pandemic>.

<sup>233</sup>Jules Matabuena, "Phishing 101: How to Spot and Avoid Phishing," Rappler, October 19, 2018, <https://www.rappler.com/brandrap/finance-and-industries/tips-to-spot-avoid-prevent-phishing>.

### **Breaches of privacy: Zoom bombing and Facebook cloning**

While Filipinos turned to Zoom and other similar web conferencing platforms for work and study due to restrictions on face-to-face gatherings, they did not anticipate uninvited participants showing up in meetings or during classes, usually to do disruptive acts such as showing pornographic images and harrasing participants. A now common term for this is “zoom bombing or raiding” which is the unwanted, disruptive intrusion generally by Internet trolls into a video-conference call. The Center of Women's Resources was in a Zoom orientation with the Gabriela National Alliance of Women in April 2020,<sup>234</sup> discussing a VAW legal clinic to respond to women vulnerable to abuses amid the ongoing Luzon-wide enhanced community quarantine, when the online attack occurred. Unknown trolls started to play vulgar sounds and draw lewd drawings in the midst of an online seminar. In the same month, business advocacy group Go Negosyo was also “raided” in an online forum held in Zoom,<sup>235</sup> and Pasig City Mayor Vico Sotto also experienced a zoom bombing incident<sup>236</sup> during his video conference with the Foreign Correspondents Association of the Philippines (FOCAP). Other instances were also described in the chapter on Gender and ICT.

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<sup>234</sup>Kaela Malig, “Trolls Hack into Women Rights Groups’ Online Seminar, Show Lewd Photos and Play Vulgar Sounds,” GMA News Online, April 22, 2020, <https://www.gmanetwork.com/news/hashtag/content/735156/trolls-hack-into-women-rights-groups-online-seminar-show-lewd-photos-and-play-vulgar-sounds/story/>.  
<sup>235</sup>Jeine Malasig, “Business Advocacy Group Gets ‘Zoom-Bombed’ during COVID-19 Video Meeting,” Interaksyon, April 23, 2020, <https://interaksyon.philstar.com/trends-spotlights/2020/04/23/167038/business-advocacy-group-zoom-bombed-during-covid-19-video-meeting/>.  
<sup>236</sup>Jannielyn Ann Bigtas, “Vico Sotto Addresses Nude Background Zoom Bombing Incident amid Conference,” GMA News Online, April 23, 2020, <https://www.gmanetwork.com/news/hashtag/content/735334/vico-sotto-addresses-nude-background-zoom-bombing-incident-amid-conference/story/>.

Digital cloning is an emerging technology which can involve the use of algorithms, audio, video and images to “recreate” your digital identity. One popular example of this is called deepfake, which can refer to manipulated videos or other digital representations produced by sophisticated artificial intelligence (AI), that create fabricated images and sounds that appear to be real. Facebook cloning, a technique wherein scammers create a fake Facebook profile by using images and other information stolen from a targeted user’s real Facebook profile, is also one type of digital cloning. This kind of cloning can be utilized for monetary theft (when the impersonator asks the friends of the targeted account to send money, for instance) or to defame and damage the victim’s reputation.

On June 7, 2020, hundreds of Filipinos discovered "cloned" Facebook accounts using the exact or near-exact version of their names.<sup>237</sup> This was initially pointed out by Tugani, a campus publication of the University of the Philippines (UP) Cebu,<sup>238</sup> and they said that they discovered accounts named after the arrested activists during an anti-terrorism bill gathering on June 5, 2020.

**This discovery has pushed several users to demand better account protection from the giant social media platform, and users harnessed their own online community to report and flag these suspicious accounts. Some users even reported up to 10 ghost accounts using their name. Fortunately, many users also reported the successful taking down of accounts just a few hours after they were reported.**

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<sup>237</sup>Raisa Serafica, "I Don't Feel Safe, Facebook: After Discovery of Ghost Accounts, Users Demand Better Account Protection," Rappler, June 7, 2020, <https://www.rappler.com/technology/i-dont-feel-safe-facebook-ghost-accounts-demand-better-account-protection>.

<sup>238</sup>Tug-ani, "Tug-Ani Facebook Page," Facebook, June 6, 2020, <https://www.facebook.com/upcebutugani/posts/4686190981406740>.







## FREEDOM OF EXPRESSION

Article 19 of the Universal Declaration of Human Rights<sup>239</sup> states: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers<sup>240</sup>” which is also echoed in the Philippine Constitution of 1987, specifically in Article III (Bill of Rights) Section 4.<sup>241</sup> “No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.<sup>242</sup>” There are reasons why the freedom of expression, or speech, and press freedom are intrinsically crucial in a democratic society: These rights help create an informed citizenry, who has the right to know what is happening and is free to think and make decisions based on credible and factual information.

With the outbreak of COVID-19, media watchdogs across the globe have noted the restricted space for free speech and press freedom, control of media being a part of the authoritarian approach to a health crisis around the world. The Philippines is no exception to this, as the “lockdown” or continued levels of quarantine throughout 2020 to control the spread of COVID-19 has also paved the way for mechanisms (legal or through other means) to further exert control and restrictions over these rights.

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<sup>239</sup>UNESCO, “Article 19,” [www.claiminghumanrights.org](http://www.claiminghumanrights.org), April 10, 2010, [http://www.claiminghumanrights.org/udhr\\_article\\_19.html#at20](http://www.claiminghumanrights.org/udhr_article_19.html#at20).

<sup>240</sup>UNESCO, Article 19.

<sup>241</sup>Official Gazette, “THE 1987 CONSTITUTION of the REPUBLIC of the PHILIPPINES – ARTICLE III | GOVPH,” Official Gazette of the Republic of the Philippines, 2019, <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/>.

<sup>242</sup>Official Gazette, THE 1987 CONSTITUTION of the REPUBLIC of the PHILIPPINES – ARTICLE III | GOVPH.

Activists in the country who are critical of the government are too easily prosecuted for ‘illegal assembly’ such as for holding placards during relief operations, as is the case for those arrested by police in Marikina,<sup>243</sup> or the overseas Filipino worker in Taiwan<sup>244</sup> threatened to be deported by the government. Even student journalists’ freedoms<sup>245</sup> are stamped on by barangay officials. The local government officials have even taken the lead in censoring posts and actions critical of the government, even if these fall within the right to free speech. Reporters have also been attacked by pro-government political activists.

And given the fear and uncertainty due to the immediate threat to life due to the pandemic, citizens tend to submit to the authorities without question. The protocol guidelines and lockdowns also complicate the usual methods of public protest. Government can then flex its muscle with little question, ensuring silence and acquiescence of the people. According to a non-commissioned national Social Weather Stations Survey (November 21 to 25, 2020),<sup>246</sup> six in 10 (or 65%) of adult Filipinos agree that it is “dangerous to print or broadcast anything critical” of President Duterte’s administration, “even if it is the truth.”<sup>247</sup> Sixteen percent of the respondents disagreed, while 18% were undecided. This gives a strong net agreement score of +49, which is a sharp increase or up by 28 points from the moderate +21 in July 2020.<sup>248</sup>

In a time of public health crisis which threatens the entire nation, a logical conclusion to be able to survive is for all stakeholders, from public to private, to work and learn together: Criticism and feedback are supposed to facilitate improvement and reducing further mistakes that could be costly, in terms of funding and of, more importantly, Filipino lives. This has been seen in the way that the private sector was able to generate much-needed PPEs and masks due to the clamor raised by health workers and amplified by the press and citizens. Reporting on the shortcomings, whether from the government or not, can prod them to do better. Good practices including consultative planning, innovative thinking, and collaborative approaches continue to shine through amidst the double standards, nepotism, corruption, censorship and red tape imposed by many government offices and public officials.

But with the current environment of fear, authoritarian-control and silence, it has become instead another “disease” to contend with, where our constitutional rights are one by one taken away.

In this chapter we explore events which tell the tale of how our freedom of expression and press freedom are threatened at risk.

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<sup>243</sup>Rambo Talabong, “10 Feeding Program Volunteers Arrested in Marikina,” Rappler, May 1, 2020, <https://www.rappler.com/nation/feeding-program-volunteers-arrested-marikina-may-2020>.

<sup>244</sup>CNN Philippines Staff, “DOLE Wants Taiwan to Deport OFW for Comments vs. Duterte,” CNN Philippines, April 25, 2020, <https://www.cnnphilippines.com/news/2020/4/25/dole-owwa-polo-ofw-taiwan-cyberlibel.html>.

<sup>245</sup>Nicole-Anne Lagrimas, “Student-Journo Claims He Was Red-Tagged, Threatened with Arrest for Criticizing Gov’t,” GMA News Online, April 6, 2020, <https://www.gmanetwork.com/news/news/regions/732856/student-journo-claims-he-was-red-tagged-threatened-with-arrest-for-criticizing-gov-t/story/>.

<sup>246</sup>Social Weather Stations, “Social Weather Stations | Fourth Quarter 2020 Social Weather Survey: Net Danger in Publishing Things Critical of the Administration Rises Sharply from +21 to +49,” [www.sws.org.ph](https://www.sws.org.ph), March 19, 2021, [https://www.sws.org.ph/swsmain/articledisplaypage/?artcsyscode=ART-20210319095324&mc\\_cid=977c0c43887&mc\\_eid=6c881db0a7](https://www.sws.org.ph/swsmain/articledisplaypage/?artcsyscode=ART-20210319095324&mc_cid=977c0c43887&mc_eid=6c881db0a7).

<sup>247</sup>Social Weather Stations, Social Weather Stations | Fourth Quarter 2020 Social Weather Survey: Net Danger in Publishing Things Critical of the Administration Rises Sharply from +21 to +49.

<sup>248</sup>Camille Elemia, “Majority of Filipinos Agree: ‘Dangerous to Print or Broadcast Anything Critical’ of Duterte Gov’t,” Rappler, August 7, 2020, <https://www.rappler.com/nation/dangerous-to-publish-anything-critical-duterte-sws-july-2020>.

## The Bayanihan to Heal as One Act

On March 25, 2020, as directed by President Duterte, Congress passed into law Republic Act 11469<sup>249</sup> or the “Bayanihan to Heal as One Act” giving the president emergency powers that would enable him to quickly respond to the COVID-19 pandemic. Before its passage though, Congress made a last-minute amendment<sup>250</sup> to the law which punishes the spreading of “fake” and alarming information.

Section 6 (f) of the law states: “Individuals or groups creating, perpetrating, or spreading false information regarding the COVID-19 (coronavirus disease 2019) crisis on social media and other platforms, such information having no valid or beneficial effect on the population, and are clearly geared to promote chaos, panic, anarchy, fear, or confusion; and those participating in cyber incidents that make use or take advantage of the current crisis situation to prey on the public through scams, phishing, fraudulent emails, or other similar acts.” These acts are punished by either 2 months in prison or up to one million pesos in fines or both.

While the provision appears to address the long-standing concern of journalists and activists over false information, which are typically circulated by paid trolling, it can also be used to curtail free speech, especially pieces of information that are critical of the government. Given its specific context and current form, Section 6 can be just as detrimental to democracy and human rights.

<sup>249</sup>Rodrigo Duterte, “Republic Act No. 11469: Bayanihan to Heal as One Act” (2020), <https://www.officialgazette.gov.ph/2020/03/24/republic-act-no-11469/>.

<sup>250</sup>Lian Buan, “Duterte’s Special Powers Bill Punishes Fake News by Jail Time, up to P1-M Fine,” Rappler, March 24, 2020, <https://www.rappler.com/nation/duterte-special-powers-bill-coronavirus-fines-fake-news>.

'False information' is not defined in any existing law, which means that its determination is left to the whims of law enforcers. The provision does not distinguish between those who passively 'like', share, comment and those who deliberately generate false content or actively discuss pieces of information that are deemed false.

And the abuses of this section can be seen in these various instances:

- In Cebu, the governor made a rapper promise before the public that he would never swear at and criticize the government's response to COVID-19 in social media.<sup>251</sup>
- A teacher and her son were arrested without warrants in General Santos City on March 27, 2020<sup>252</sup> over what local officials tagged as a "provoking" Facebook post, and they face charges of inciting to sedition and disobedience to authority.
- On April 6, Joshua Molo, the editor of the Dawn, the campus paper of the University of the East (UE), was threatened with the charge of online libel.<sup>253</sup> He posted a comment about the government's poor response to the threat of COVID-19. After a heated exchange with his former teachers on Facebook over his comment, Molo was forced by barangay officials in Nueva Ecija to publicly apologize.
- Another case is that of Bambi Beltran, a writer and business owner in Cebu who was arrested without a warrant in April 19, 2020<sup>254</sup> over a satirical Facebook post she made in relation to the COVID-19 "contamination" of Sitio Zapatera. A Cebu City court has since dismissed all charges<sup>255</sup> on May 9, 2020.

<sup>251</sup>Rosalie Abatayo, "Capitol to File Case vs Curfew-Cursing Rapper," INQUIRER.net, March 24, 2020, <https://cebudailynews.inquirer.net/296855/capitol-to-file-case-vs-curfew-cursing-rapper>.

<sup>252</sup>Rappler, "Teacher, Son Arrested without Warrant in GenSan over Facebook Post," Rappler, March 28, 2020, <https://www.rappler.com/nation/teacher-son-arrested-without-warrant-general-santos-city-facebook-post-coronavirus>.

<sup>253</sup>Samantha Bagayas, "UE Campus Journalist Forced to Apologize," Rappler, April 6, 2020, <https://www.rappler.com/nation/ue-campus-journalist-forced-apologize-criticizing-duterte-government-online>.

<sup>254</sup>Ryan Macasero, "Cebu Film Writer Arrested over Facebook Post about Coronavirus in Sitio Zapatera," Rappler, April 19, 2020, <https://www.rappler.com/nation/cebu-film-writer-arrested-coronavirus-facebook-post-sitio-zapatera>.

<sup>255</sup>Delta Dyrecka Letigio, "Cebu City Court Dismisses Charges against Bambi Beltran," INQUIRER.net, September 15, 2020, <https://cebudailynews.inquirer.net/340002/cebu-city-court-dismisses-charges-against-bambi-beltran>.



## An endangered freedom of the press


While the Philippine constitution provides for press freedom, our country remains one of the most dangerous places in the world for journalists. The Philippine Center for Investigative Journalism (PCIJ) in May 2019 said attacks and threats on the Philippine media have continued relentlessly throughout the Duterte administration,<sup>258</sup> and that there had been no major efforts by state agencies to investigate serious incidents or otherwise address the problem. A coalition of media groups reported in May that from June 30, 2016 to April 30, 2019, there were 128 documented attacks and threats against the press, including physical attacks; threats, including death threats and bomb threats; smearing journalists as conspiring against the government; “red-tagging,” or alleging that targets harbor communist sympathies or connections in order to increase harassment against them; and DDoS attacks on alternative-media sites. According to the Committee to Protect Journalists (CPJ), six journalists have been killed in the Philippines in connection with their work between 2016 and 2019.<sup>259</sup>

Together with medical workers, security personnel, sanitation workers, journalists also serve as frontliners in this pandemic, risking their lives even more as they are among the most endangered in Southeast Asia. But they are also less free. In the 2020 World Press Freedom Index, the Philippines slipped by 2 notches from last year, now at 136 in 180 countries. The threat of infection from COVID-19 is just one of many threats journalists face at this time, when their services are all the more desperately needed.

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<sup>258</sup>Freedom House, “Philippines,” Freedom House, 2020, <https://freedomhouse.org/country/philippines/freedom-world/2020>.

<sup>259</sup>Freedom House, Philippines.



One of the crucial roles journalists in the Philippines have is to fact-check and verify dubious claims—especially disinformation and misinformation—that continue to pollute the country’s information ecosystem. Because of our cognitive processes as humans, where we rather rely on information that is directly available to us and usually construct the best “story” out of partial elements, we can readily fall victim to disinformation, misinformation or malformation. Journalists—because of the rigors of living up to a code of ethics and also of being aware of these innate cognitive biases—continue to search for relevant information and verify this in order to give us correct and accurate information. This is important for us as citizens, in order to make decisions based on quality information and not on manipulated, false claims and content. In a public health crisis, this role of fact-checking and verification are even more necessary as it can be life-saving.

Aside from providing daily information, journalists also provide accurate testimonies of the political realm. What this means is that journalists make available information coming from a variety of sources, and weaves these stories into comprehensive meanings: truth telling in the face of information chaos.

In the country there are two media organizations that are members of The International Fact-Checking Network (IFCN) unit of the Poynter Institute: VERA Files<sup>260</sup> and Rappler,<sup>261</sup> both of which fact-check statements by public figures, major institutions and other widely circulated claims of interest to society. This led to Facebook tapping both organizations in April 2018 to be its Philippine partners in its worldwide fact-checking program.<sup>262</sup> Under the program, false content will appear lower on users' news feeds and lower the chances of people seeing those stories.

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<sup>260</sup>Vera Files, “Home - Vera Files,” Vera Files, September 29, 2019, <https://verafiles.org/>.

<sup>261</sup>Fact Check,” Rappler, accessed March 25, 2021, <https://www.rappler.com/section/newsbreak/fact-check>.

<sup>262</sup>Facebook Launches Third-Party Fact-Checking Program in the Philippines - about Facebook,” About Facebook, January 7, 2020, <https://about.fb.com/news/h/fact-checking-philippines/>.

Despite the necessary work journalists and media groups do for Filipinos, their dire situation was exacerbated with the onset of the pandemic: In March 2020, the IATF required media personnel to secure special media passes from the Presidential Communications Operations Office (PCOO) in order to travel through affected areas. Media groups protested the accreditation requirement as a way to exert bureaucratic control, given the constitutional provision for the protection of the press. Reporters from an alternative media group Bulatlat applied for the pass, but they were later told that applications from mainstream media outlets were being prioritized, and that they should work remotely instead due to their online status.<sup>263</sup> The PCOO also suspended responding to Freedom of Information (FOI) requests filed during the quarantine despite these being COVID-19 related and necessary for the people to know.<sup>264</sup>

At a time where information is essential, the largest TV broadcaster in the Philippines ABS-CBN was forced off the air on May 5, 2020 by the NTC,<sup>265</sup> who issued a cease and desist order against the media group. An estimate of around 11,000 people employed by the network lost their jobs and countless households are left without a source of news<sup>266</sup> because in the rural areas many relied on ABS-CBN as it was the only available news channel there.

The network, which had aired reports critical of President Duterte and drawn his ire over allegations it had failed to air his campaign advertisements, had been awaiting a franchise renewal from Congress when it was served a cease and desist order and ordered to stop its broadcasts, despite earlier being assured it could continue to operate. The franchise renewal had earlier stalled in Congress.

In a statement<sup>267</sup> signed by dozens of civil society groups, NGOs, and reporters, the PCIJ called the shutdown an “assault on media freedom” driven by Duterte’s animosity toward the network. “It is doubly despicable that it happens as our people battle a deadly pandemic, which they will need timely and accurate information to defeat,” the statement read. “To take away a network with a reach so broad there are areas where it is the only source of information could prove fatal during this plague.”<sup>268</sup>

President Duterte has repeatedly lashed out<sup>269</sup> at ABS-CBN and the prominent family that owns the network. In December 2019, Duterte repeated a threat<sup>270</sup> that the network’s franchise would end. “If you expect it to be renewed, I’m sorry,” he said. “I will see to it that you’re out.”<sup>271</sup>

<sup>263</sup>Bulatlat, “Bulatlat Denounces PCOO’s Media Discrimination and Repression amid COVID-19 Lockdown,” Bulatlat, March 22, 2020, <https://www.bulatlat.com/2020/03/22/bulatlat-denounces-pcoos-media-discrimination-and-repression-amid-covid-19-lockdown/>.

<sup>264</sup>Karol Ilagan, “Quarantine Curbs Access to Information,” Rappler, June 5, 2020, <https://www.rappler.com/newsbreak/in-depth/quarantine-curbs-access-to-information>.

<sup>265</sup>Nick Aspinwall, “Fears of Press Freedom Crackdown after Philippines Orders Largest Broadcaster off Air,” thediplomat.com, May 7, 2020, <https://thediplomat.com/2020/05/fears-of-press-freedom-crackdown-after-philippines-orders-largest-broadcaster-off-air/>.

<sup>266</sup>Ryan Macasero, “In Rural Areas of Cebu, ABS-CBN the Only Information Source for Some Families,” Rappler, May 6, 2020, <https://www.rappler.com/nation/abs-cbn-only-information-source-some-families-rural-areas-cebu>.

<sup>267</sup>ABS-CBN News, “READ: PCIJ Issues Statement of Unity to ABS-CBN amid Closure,” ABS-CBN News, May 6, 2020, <https://news.abs-cbn.com/news/05/06/20/read-pcij-issues-statement-of-unity-to-abs-cbn-amid-closure>.

<sup>268</sup>ABS-CBN News, *READ: PCIJ Issues Statement of Unity to ABS-CBN amid Closure*.

<sup>269</sup>Michelle Abad, “TIMELINE: Duterte against ABS-CBN’s Franchise Renewal,” Rappler, January 17, 2020, <https://www.rappler.com/newsbreak/tq/timeline-duterte-against-abs-cbn-franchise-renewal>

<sup>270</sup>Pia Ranada, “Duterte to ABS-CBN: Sorry, Don’t Expect Franchise Renewal,” Rappler, December 3, 2019, <https://www.rappler.com/nation/duterte-tells-abs-cbn-sorry-do-not-expect-franchise-renewal>

<sup>271</sup>Ranada, *Duterte to ABS-CBN: Sorry, Don’t Expect Franchise Renewal*.



Another attack on the media happened on June 15, 2020, when the Manila Regional Trial Court handed down a guilty verdict on the cyber libel case against Rappler’s CEO Maria Ressa and former reporter Reynaldo Santos, Jr. The verdict is a result of a case that is widely regarded to be the ultimate test of the Philippines’ controversial cybercrime law,<sup>272</sup> and is proof of its potential to be used for impunity, censorship, and to chill press freedom, even at a time that free speech, expression, and freedom of the press are all the more fundamental in light of a global pandemic. The guilty verdict clearly confirms that all laws – not just the cybercrime law – may be weaponized to silence dissent and prosecute the administration’s loudest critics.

Press freedom has repeatedly been affirmed<sup>273</sup> by the Supreme Court in a long line of cases, and has referred to it as a “preferred right that stands on a higher level than substantive freedom or other liabilities.<sup>274</sup>” As it is, the guilty verdict already violates this basic Constitutional principle, and is found wanting on this preference for such a fundamental freedom.

The case is just one among many others filed against Maria Ressa and Rappler within the last two years. As of December 2020, there were at least 8 active cases being tried in court against Ressa as well as Rappler's directors, a Rappler reporter, and a former researcher. On top of this, the Bureau of Internal Revenue is investigating Rappler Inc and Rappler Holdings Corporation (RHC) for alleged tax violations.

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<sup>272</sup>Lian Buan, “VERDICT PRIMER: Legal and Factual Issues in Rappler, Maria Ressa Cyber Libel Case,” Rappler, June 13, 2020, <https://www.rappler.com/nation/verdict-primer-legal-factual-issues-rappler-maria-ressa-cyber-libel-case>.

<sup>273</sup>Philstar.com, “Supreme Court Orders Gov’t to Comment on Rappler Petition vs Duterte Coverage Ban,” Philstar.com, August 14, 2019, <https://www.philstar.com/headlines/2019/08/14/1943328/supreme-court-orders-govt-comment-rappler-petition-vs-duterte-coverage-ban>.

<sup>274</sup>Philstar.com, Supreme Court Orders Gov’t to Comment on Rappler Petition vs Duterte Coverage Ban.

Civil society and media groups have repeatedly emphasized, the cyberlibel provision is an unnecessary and draconian measure<sup>275</sup> that must be deleted from the Cybercrime Prevention Act of 2012, even as libel itself should be decriminalized in the first place. Be that as it may, the Supreme Court itself has outlined a rule of preference for fines instead of imprisonment<sup>276</sup> – as imposed on Ressa and Santos – a rule of preference not at all considered in the latter’s conviction.

How does the Philippines take on these threats to media freedom? There should be emphasis that basic human rights and journalistic standards are never suspended even during a pandemic, and that a free press mindful of its responsibility is a key element in any government plan to quell the effects of a pandemic. Critical and responsive reporting has never been more needed, and journalists, writers, and advocates can only fulfill this obligation hand-in-hand with a government that takes on a similarly fair and balanced response to the pandemic, responsive to the true needs of the Filipino people.

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<sup>275</sup>Foundation for Media Alternatives, “Cybercrime & Human Rights: Justifications for Amending the Philippines’ Cybercrime Prevention Act,” Foundation for Media Alternatives, 2019, <https://fma.ph/cybercrimepaper2019/>.  
<sup>276</sup>Arellano Law Foundation, “ADMINISTRATIVE CIRCULAR NO. 9-92,” lawphil.net, 2008, [https://lawphil.net/courts/supreme/ac/ac\\_8\\_2008.html](https://lawphil.net/courts/supreme/ac/ac_8_2008.html).

## An act of terror: The Anti-Terrorism Act 2020

One major addition to the laws that add to the permanating chilling effect in our country is the sweeping Anti-Terrorism Act of 2020<sup>277</sup> which was railroaded through Congress last June 2020, and was passed into law in July 2020.

The law repealed its predecessor, the Human Security Act. It increased the powers of law enforcement and military forces to surveil and detail people on the mere basis of suspicion. It is the most contested law<sup>278</sup> in the country's recent history, with a current total of 37 separate petitions filed before the Philippine Supreme Court asking for it to be struck down for being unconstitutional.<sup>279</sup>

Some of the problematic provisions of the law allows for detention without a warrant for 24 days and gives the executive vast powers to interrogate and detain anyone it deems a terrorist. At the same time, it deprives people who have been wrongfully detained means of redress and reduces the powers of the Commission on Human Rights (CHR) as an effective foil against potential abuses of the law. These clearly violate the people's constitutional right to communications privacy and do not adhere to international human rights standards. The law, along with other proposals such as the Foreign Electronic Surveillance Act, demonstrates the clear intention of this administration to build a massive surveillance state that has little to no regard for people's civil liberties.

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<sup>277</sup>Carmela Fonbuena, "'Terror Law': The Pet Bill of the Generals," Rappler, June 5, 2020, <https://www.rappler.com/nation/terror-law-pet-bill-of-generals>.

<sup>278</sup>Eimor Santos, "Ex-vp Binay, Other Lawyers Liken Anti-Terrorism Act to Japanese Era's Kempeitai Operations," CNN Philippines, August 6, 2020.

<sup>279</sup>Santos, Ex-vp Binay, Other Lawyers Liken Anti-Terrorism Act to Japanese Era's Kempeitai Operations.

CENTERLAW<sup>280</sup> also mentioned that: "[E]ight out of nine penal provisions of the anti-terrorism law are repugnant to the Constitution for transgressing fundamental rights, including the right to freedom of speech, the right of the people to peaceably assemble and petition the government for redress of grievances, and the right to freedom of association."<sup>281</sup> Opposition leaders, rights groups, church groups and former government officials say the measure will open the door for more abuses. If we take into consideration other events such as the rollout of PhilSys, the rampant collection of personal data through contact tracing apps and platforms and other dataveillance efforts, it is no wonder that there is such concern over this law, among others, and how they could be “weaponized” against critics and dissenters. The passage of this law also bared the priorities of this government: It seems that despite a rampaging COVID-19 outbreak in the country the administration is still looking for other terrors to battle with, the militaristic-oriented measure trumps all others.

Despite the clamor to stop the passage of the Anti-Terrorism Act into law, the AFP Chief of Staff wants the use of social media regulated,<sup>282</sup> and is already looking into adding this under the IRR of the law. In the Philippines, social media is where freedom of expression is usually realized. But as can be seen with the various arrests in 2020 it has become a crime scene, scoured by law personnel for evidence of utterances which they may find illegal, but may also be valid expressions of discontent and dissent. But as the social media presence and use in the country continues to grow, one hope is that this growth is seen as an opportunity to speak up against these restrictions and to widen the space for citizens to express dissent, dissatisfaction, and a louder call for state accountability and better governance- and eventually take it offline and into real life.

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<sup>280</sup>Jon Viktor Cabuenas, “27th Petition vs. Anti-Terror Law to Be Filed by CenterLaw, Journalists on Monday,” GMA News Online, August 9, 2020, <https://www.gmanetwork.com/news/news/nation/750535/27th-petition-vs-anti-terror-law-to-be-filed-by-centerlaw-journalists-on-monday/story/>.

<sup>281</sup>Cabuenas, 27th Petition vs. Anti-Terror Law to Be Filed by CenterLaw, Journalists on Monday.

<sup>282</sup>Frances Mangosing, “PH Military Chief Wants Social Media Use Regulated through Terror Law,” INQUIRER.net, August 3, 2020, <https://newsinfo.inquirer.net/1316253/ph-military-chief-wants-social-media-use-regulated-through-terror-law>.

## Snapshots: The first infodemic of the digital age

The COVID-19 pandemic has also ushered in a ‘twin’ pandemic: a pandemic of disinformation, or an ‘infodemic,’ where false information about the virus may spread faster than the virus itself. This is made more challenging since a lot about the COVID-19 disease are uncertain, and even scientists do not profess to know everything about the virus.

An infodemic is defined by the WHO as a tsunami of information—some accurate, some not—that spreads alongside an epidemic.<sup>283</sup> If it is not managed accordingly, an infodemic can have direct negative impacts on the health of populations and the public health response by undermining the trust in science and interventions, plus hinder the cohesiveness of societies by increasing existing social inequities, stigma, gender disparity and generational rift. Although infodemics are not a new phenomenon, the volume and rapid scale-up of facts, but also misinformation and disinformation, surrounding the COVID-19 outbreak are unprecedented. Owing to the opportunities and challenges brought by new technologies and social media platforms, the infodemic that accompanies the first pandemic of the digital age is more visible and challenging than ever before.

In 2020, 94 fact-checking organizations worldwide have published over 9,464 articles debunking false and misleading claims.<sup>284</sup> These range from anything about the virus and the disease it causes to the policies that different countries implemented to curb its spread. False claims spiked in March 2020 globally, with 2,431 fact checks published worldwide. During the first half of 2020, the false content were mostly misinformation from well-meaning people – which was why the conversations then were riddled with warnings about places with false confirmed cases and false cures or home remedies<sup>285</sup> as a treatment for COVID-19. The latter half of 2020 though was full of disinformation, with the intent to mislead.

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<sup>283</sup>World Health Organization, “Managing the COVID-19 Infodemic: Promoting Healthy Behaviours and Mitigating the Harm from Misinformation and Disinformation,” [www.who.int](https://www.who.int/news/item/23-09-2020-managing-the-covid-19-infodemic-promoting-healthy-behaviours-and-mitigating-the-harm-from-misinformation-and-disinformation), September 23, 2020, <https://www.who.int/news/item/23-09-2020-managing-the-covid-19-infodemic-promoting-healthy-behaviours-and-mitigating-the-harm-from-misinformation-and-disinformation>.

<sup>284</sup>Pauline Macaraeg, “Fact-Checking: A Year of Infodemic,” Rappler, December 23, 2020, <https://www.rappler.com/newsbreak/iq/fact-checking-year-infodemic-2020>.

<sup>285</sup>Rappler, “FALSE: ‘Confirmed Cases’ of Coronavirus at PBCom Tower in Makati,” Rappler, January 24, 2020, <https://www.rappler.com/newsbreak/fact-check/confirmed-cases-coronavirus-pbcom-tower-makati>.

Starting in May, a lot of conspiracy theories about the disease<sup>286</sup> thrived. Bill Gates became more popular and was branded as the creator of the disease. There were a lot of attempts to discredit the World Health Organization<sup>287</sup> and false claims about the harm caused by masks<sup>288</sup> and vaccines cropped up around this time. Apart from these, there were also a number of false information that were attributed to authorities, in the attempt to cloud their credibility and create public distrust. In the Philippines, this seemed to be the trend.

The country is the seventh country in the world where the highest number of falsehoods spread, while in Asia, we rank first. A total of 334 fact checks about claims that circulated in the country were published from January to November 2020.

The false attribution of statements to public figures (such as fake quote cards)<sup>289</sup> was the one of the most common themes in the country. A total of 186 false and misleading claims about COVID-19 were made by authorities worldwide since January, with US President Donald Trump<sup>290</sup> leading the list. President Duterte also has had his fair share of false statements.<sup>291</sup>

Midyear in June 2020, the Philippines did not join the roster of countries who have lent their support to a UN-backed call to end an "infodemic" in the middle of the COVID-19 crisis,<sup>292</sup> which is ironic considering the legal railroading being done to penalize false information via the problematic Bayanihan To Heal As One Act and controversial Anti-Terrorism Act.

<sup>286</sup>Rappler, "[WATCH] 'Yung Totoo?: 5 Fact Check Tungkol Sa Mga COVID-19 Conspiracy Theories," Rappler, October 2, 2020, <https://www.rappler.com/newsbreak/podcasts-videos/list-fact-checks-about-covid-19-conspiracy-theories>.

<sup>287</sup>Rappler, "FALSE: COVID-19 Not Real, Bill Gates behind the Disease," Rappler, June 11, 2020, <https://www.rappler.com/newsbreak/fact-check/coronavirus-not-real-bill-gates-behind-disease>.

<sup>288</sup>Rappler, "FALSE: Prolonged Face Mask Use Causes Hypoxia, Hypercapnia," Rappler, June 5, 2020, <https://www.rappler.com/newsbreak/fact-check/prolonged-use-face-mask-causes-hypoxia-hypercapnia>.

<sup>289</sup>Rappler, "Fake Quotes," Rappler, 2020, <https://www.rappler.com/fake-quotes>.

<sup>290</sup>Rappler, "FALSE: Children Are Not Vulnerable to COVID-19 - Trump," Rappler, September 30, 2020, <https://www.rappler.com/newsbreak/fact-check/trump-response-children-not-vulnerable-covid-19>.

<sup>291</sup>Rappler, "FALSE: Gasoline, Diesel Can Disinfect Masks - Duterte," Rappler, July 21, 2020, <https://www.rappler.com/newsbreak/fact-check/gasoline-diesel-used-disinfectant>.

<sup>292</sup>CNN Philippines Staff, "PH Not yet among Countries Calling for the Stop of 'infodemic' amidst COVID-19 Crisis," CNN Philippines, June 13, 2020, [https://cnnphilippines.com/news/2020/6/13/philippines-infodemic-stop-united-nations-.html?fbclid=IwAR2gKYm8dsJ9A6jonrhQIys8kaNLT143NMZpp0a\\_w8Nz0S3LE3Y4aV1S4](https://cnnphilippines.com/news/2020/6/13/philippines-infodemic-stop-united-nations-.html?fbclid=IwAR2gKYm8dsJ9A6jonrhQIys8kaNLT143NMZpp0a_w8Nz0S3LE3Y4aV1S4).

## Operation Naval Gazing

On September 22, 2020, Facebook announced<sup>293</sup> that it had taken down a cluster of fake assets on Facebook and Instagram that it attributed to individuals in China. Facebook said several social-media accounts belonging to two networks -- one based in China, the other purportedly with "links" to individuals associated with the Philippine military and police -- were found to have violated its policies.<sup>294</sup>

The social media giant said it has removed 57 Facebook accounts, 31 pages and 20 Instagram accounts which were allegedly targeting the Philippines for "coordinated inauthentic behavior" or manipulation campaigns on the platform. This network is attributed to the Philippine military and police, and had about 276,000 followers in their pages.<sup>295</sup>

The network, the Facebook official added, was focused on local news events, domestic politics, military activities against terrorism, the Anti-Terrorism Act, criticism of communism, youth activists and the opposition, criticism of the Communist party of the Philippines and its military wing the New People's Army, and the National Democratic Front of the Philippines.

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<sup>293</sup>Nathaniel Gleicher, "Removing Coordinated Inauthentic Behavior," Facebook, September 22, 2020, <https://about.fb.com/news/2020/09/removing-coordinated-inauthentic-behavior-china-philippines/>.

<sup>294</sup>Jessica Fenol, "Facebook Removes China-Based, PH Military and Police-Linked Networks for 'Coordinated Inauthentic Behavior,'" ABS-CBN News, September 22, 2020, <https://news.abs-cbn.com/business/09/23/20/facebook-removes-china-based-ph-military-and-police-linked-networks-for-coordinated-inauthentic-behavior>

<sup>295</sup>Fenol, Facebook Removes China-Based, PH Military and Police-Linked Networks for 'Coordinated Inauthentic Behavior.'



But despite the takedown of these accounts, red-tagging or red-baiting continues to be one of the preferred forms of harassment and intimidation by the administration. Altermidya Network correspondent Frenchiema Cumpio as well as 4 other human rights leaders in Tacloban were arrested in a joint raid by the military and police in February 2020. Journalists and others also get red-tagged publicly on social media.<sup>296</sup> In April 2020, a 2013 photo of female journalists conducting a media safety training session surfaced on social media; however, the description claims that one of the photographed women, who works with ABS-CBN, actually has links with local communist groups.<sup>297</sup> Separately, police in Butuan City posted a photo that named several organizations as communist groups on Facebook, while police in Baguio named several left-wing groups as terrorists on Twitter.<sup>298</sup> These are among the many incidents of red-tagging activists, human rights defenders, journalists and community leaders.

None less than President Duterte himself called out Facebook<sup>299</sup> after the takedown of the propaganda networks in support of the administration. And like a virus, for every network taken down more and more crop up like a whack-a-mole game.

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<sup>296</sup>Rappler, "Altermidya Correspondent, 4 Human Rights Leaders Arrested in Tacloban," Rappler, February 7, 2020, <https://www.rappler.com/nation/arrest-altermidya-correspondent-human-rights-leaders-tacloban>.

<sup>297</sup>Carolyn Arguillas, "MindaNews' 2013 Photo on Media Safety Training Maliciously Used to Red-Tag Journalists in 2020," MindaNews, May 14, 2020, <https://www.mindanews.com/top-stories/2020/05/mindanews-2013-photo-on-media-safety-training-maliciously-used-to-red-tag-journalists-in-2020/>.

<sup>298</sup>Franco Luna, "PNP 'Art' Tags Activists as Terrorists amid Debate on Anti-Terrorism Bill," Philstar.com, June 8, 2020, [https://www.google.com/url?q=https://www.philstar.com/headlines/2020/06/08/2019480/pnp-art-tags-activists-terrorists-amid-debate-anti-terrorism-bill&sa=D&source=editors&ust=1616511695165000&usq=AOvVaw3mQ6hjCZys8Z\\_g8QCC-yzd](https://www.google.com/url?q=https://www.philstar.com/headlines/2020/06/08/2019480/pnp-art-tags-activists-terrorists-amid-debate-anti-terrorism-bill&sa=D&source=editors&ust=1616511695165000&usq=AOvVaw3mQ6hjCZys8Z_g8QCC-yzd).

<sup>299</sup>ABS-CBN News, "Duterte Rant vs Facebook Part of 'Media Suppression, Repression': Journalist," ABS-CBN News, September 30, 2020, <https://news.abs-cbn.com/news/09/30/20/duterte-rant-vs-facebook-part-of-media-suppression-repression-journalist>.

## WHAT'S NEXT?

Most, if not all, of the challenges outlined in this report will not be resolved with the quick snap of a finger. The resolution for each is quite long and may take many more years and numerous consultation efforts, especially since we are still experiencing the effects of the COVID-19 pandemic. But we should not delay: With the continued rise of technological innovation and advancements, we must review the programs and plans in the Philippine digital environment and reorient or redirect these with rights-based approaches. Digital rights are anchored on human rights, which does not and should not change whether a person is online or offline.

From what has transpired in 2020, there are themes or events which we think should be monitored and observed in 2021 up until 2022:

- The Philippines will start gearing up for the national elections, which will be held in early 2022. Some politicians in 2020 have advocated for postponing the national elections,<sup>300</sup> although Malacañang rejected this idea.<sup>301</sup> A solon proposed for amendments in the Voter's Registration Act in order to institutionalize an electronic voters' registration system in the country. As we enter another year into the pandemic, there is much to be observed in light of how the country will execute its national elections in a fair and just manner while still being mindful of the health protocols.

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<sup>300</sup>Gillan Ropero, "Solon Seeks 2022 Elections Postponement over Pandemic Fears," ABS-CBN News, September 24, 2020, <https://news.abs-cbn.com/news/09/24/20/philippines-2022-election-postponed-covid19-coronavirus-fears-mikey-arroyo>.

<sup>301</sup>Elmer Santos, "Palace Rejects Postponement of 2022 Elections," CNN Philippines, September 25, 2020, <https://www.cnnphilippines.com/news/2020/9/25/Palace-rejects-postponement-2022-elections.html>.


- With campaign season comes a gamut of election-related disinformation and misinformation, if the US Elections is an indication of what we can expect. In 2016 and in 2019 we saw the influence of social media platforms in the turnout of the Philippine elections, and this 2022 will be even more worrisome given that the pandemic is still raging, forcing Filipinos to stay online. We might be seeing more narratives played out via emerging technology such as deepfakes—adding to the existing information disorder—unless there are specific policies and events (such as transparency of election advertising in social media, among others) that can mitigate the onslaught of an infodemic of false and malicious content.
- Speaking of a pandemic, the Philippines is still doing poorly in its COVID-19 response as the infection rate still remains high. As vaccines also start rolling out globally and in the country, we will also see a rise in disinformation and misinformation about vaccines. Contact tracing efforts (and the applications and platforms dedicated to this) will still continue to be a challenge - especially since there seems to be no sensible plan for this. Another by-product of the pandemic is the addition to the rise of e-waste, and this should also be monitored and addressed.
- The PhilSys rollout will continue this 2021 until 2025. Privacy and dataveillance issues will still be present unless these are specifically addressed.
- The oral arguments for the Anti-Terrorism Act will continue in 2021, and this needs close monitoring, as with the creation and the implementation of its IRR.
- We will need to keep an eye on the progress of other legislative plans that can help bridge the digital divide and improve the Philippines' digital environment. Filipinos should also continue the fight against online gender based violence, especially as the quarantine continues.



## **ABOUT THE FOUNDATION FOR MEDIA ALTERNATIVES**

The Foundation for Media Alternatives (FMA) is a non-profit service institution whose mission is to assist citizens and communities – especially civil society organizations (CSOs) and other development stakeholders – in their strategic and appropriate use of the various information and communications media for democratization and popular empowerment.

Since its formation in 1987, FMA has sought to enhance the popularization and social marketing of development-oriented issues and campaigns through media-related interventions, social communication projects and cultural work. In 1996, FMA streamlined its programs and services in both traditional and new media, with a major focus on information and communications technologies (ICTs), to enable communities to assert their communication rights and defend their rights to information and access to knowledge, towards progressive social transformation.



FMA seeks to develop programs and projects that strategically address the questions of access to and equity of disadvantaged sectors in the area of information and communications – and in locating the so-called digital divide within existing socio-political divides, including gender. These involve:

- Promoting equitable partnerships for innovating connectivity and community access alternatives to assert the agenda of disadvantaged communities;
- Facilitating capacity-building sessions for CSOs in the area of ICT literacy, ICT management, online collaboration or advocacy, and secure online communications;
- Helping CSOs manage development content through appropriate tools and technologies towards building vibrant online communities and knowledge networks;
- Enhancing multi-stakeholder consensus-building on strategic information and communication agendas, via action-oriented research, constituency-building and public advocacy.

## ABOUT THE INITIATIVE FOR MEDIA FREEDOM

Enshrined in the Philippine Constitution, freedom of expression and the press have underpinned the development of a largely independent media capable of conducting high quality investigative and public interest reporting on controversial social and political subjects.

In its re-emergence following the collapse of the repressive Marcos regime, the media sector thrived while establishing a healthy tension with subsequent governments as it performed its watchdog role and cemented itself as a critical democratic institution in Philippine society. In 2020, the Philippines slipped to 136th out of 180 countries in the Reporters Without Borders World Press Freedom Index (down from its 2019 ranking of 134) due to a number of challenges: increasingly dangerous environment for journalists, information disorder, regulatory obstacles and exceptions, and weak self-governance.

Despite the myriad of challenges confronting the media sector, Internews and its partners note a number of opportunities that exist to preserve and widen the space for healthy, pluralistic, democratic discourse in the Philippines: history of holding the line, diverse coalitions in place, youth potential, and openings on self-regulation.

The Initiative for Media Freedom (IMF) is a five-year program implemented by Internews and funded by the United States Agency for International Development (USAID) with the support of the American people. Internews and its partners work collaboratively to enhance democratic governance that provides economic, political, and social inclusion and advances social stability.

As proactive stakeholders within the local information ecosystem, the IMF consortium—composed of FMA, Lyf Solutions Inc., The Peace and Conflict Journalism Network (PECOJON), Philippine Center for Investigative Journalism (PCIJ), EngageMedia, National Union of Journalists of the Philippines (NUJP), UP College of Mass Communication (UPCMC), Rappler, RIWI Corp. and Vera Files— collectively works to achieve this goal through the design and implementation of innovative, evidenced-based, mutually reinforcing activities under these three objectives:

- Improve the environment for a free press;
- Bolster capacity of media and other organizations to address disinformation; and
- Strengthen self-regulation of the media.

This Digital Rights Report falls under the first objective, specifically on understanding the issues and developing coalitions.



This report is produced by the Foundation for Media Alternatives (FMA) under the Initiative for Media Freedom (IMF), a five-year program implemented by Internews and funded by the United States Agency for International Development (USAID) with the support of the American people. The content of this report is the sole responsibility of the Foundation for Media Alternatives (FMA). It does not necessarily reflect the views of Internews, United States Agency for International Development (USAID), or the United States Government.



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