

9/25/24

Dear Senator ___:

We the undersigned write with concern over H.R. 8282, the so-called "[Illegitimate Court Counteraction Act](#)," and the pending markup of the bill scheduled in the Senate Foreign Relations Committee this week.

This legislation, though prompted by actions taken by the ICC Prosecutor in relation to the ICC's Israel/Palestine case, would derail all the Court's cases, a number of which the US played a role in initiating and many of which the US actively supports. This in turn would jeopardize the lives of people around the world who have cooperated with the Court as witnesses to many horrific crimes.

The concern we wish to highlight at this time is that of the ICC's investigation into extrajudicial killings in the drug war in the Philippines. This investigation probes what human rights organizations believe may exceed 30,000 killings, orchestrated by former President Rodrigo Duterte nationally, and in Davao City during years when Duterte as well as his daughter the current Vice President Sara Duterte served as Mayor. The US government has [expressed support](#) for the ICC's work on this issue as a human rights measure.

The ICC Registrar has warned that US sanctions would disconnect the Court from the global financial system, bringing all the Court's programs to a stop. One of those is the Court's witness protection programs. Among the places where the US has encouraged victims to serve as witnesses are Sudan and Libya (referred to the ICC by the UN Security Council), and Ukraine (for which Congress itself has authorized support for the investigation).

We support the Biden administration position that, regardless of how actions taken by principals of the International Criminal Court may square with a government's objectives toward allies, governments including the US should not respond with "threats or intimidation" directed at ICC officials. We believe the resourceful US government has more appropriate tools with which to pursue its foreign policy objectives.

The Philippines is a dangerous place for people taking on the former president. The former president's death squad members largely remain free, and some of them at least remain available for work. It may be a sign of this that while the number of ongoing drug war killings is fewer than at the height of the Duterte drug war, reports of them have grown by 20% over the past two years, and now exceed one per day, according to the [Dahas Program at the University of the Philippines](#).

We also note the legislation as written would allow a future administration to invoke it with regard to international justice activity involving any US ally. The Philippines, of course, is a US ally. And while Rodrigo Duterte no longer leads the government, Vice President Sara Duterte has been accused by witnesses in written submissions to the court, as has Davao Mayor Baste Duterte, and as have two current senators who served in the Duterte administration.

Should this Act be invoked with respect to the Philippines, then anyone involved with the ICC case in the Philippines could be subject to US sanctions; and anyone helping in the US could be subject to criminal penalties. The broad language used in the bill could be interpreted expansively by an administration which wished to do so, having a chilling effect on speech about atrocities alleged to have been committed by governments.

We are in a time when democracy and rule of law are being tested, and when electorates around the world are preparing to decide what the future may hold for these issues. We believe that H.R. 8282, while intended to support a US ally during a time of war, would instead serve the interests of those seeking autocracy.

For all these reasons, we hope you will vote "no" on H.R. 8282, and that the Senate Foreign Relations Committee will stop the bill at this time.

Sincerely,

Leila de Lima
Former Senator of the Republic of the Philippines

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NGO supporting advocacies of former Senator Leila de Lima

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