

# **International Criminal Court (ICC)**

## **BaMUN CONFERENCE**

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## **The Prosecutor versus Rodrigo Roa Duterte**

### **Presidents:**

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## Background information:

The Philippines is a country in Southeast Asia that first declared independence in 1946. In 2001, Vice President Gloria Macapagal-Arroyo became President of the Philippines following the impeachment trial of former President Joseph Estrada on charges of corruption. During her presidency, Arroyo was also accused of corruption, which led to her resignation in 2010.

Internally, the Philippines has faced significant challenges of corruption and long-standing conflict with the Moro ethnic minority (a Muslim-majority ethnic group that form the largest non-Christian population in the Philippines and comprise about 6.5% of the country's total population). There has also been conflict between Christian and Muslim Filipinos. Externally, the Philippines and several neighbouring states have ongoing territorial disputes with the People's Republic of China.

Rodrigo Duterte served as the 16th president of the Philippines from 2016 to 2022, and was also a former mayor of Davao City, where he earned the nickname 'the punisher' for his controversial crime-fighting tactics. His election for the presidency was earned by a landslide electoral victory in which he received 6.6 million more votes than his nearest opponent. On the eve of his election victory, Duterte told a crowd of more than 300,000 people that: "If I make it to the presidential palace, I will do just what I did as mayor. You drug pushers, holdup men, and do-nothings, you better get out because I'll kill you.". During his first term in office, more than 6,000 people were killed according to his agenda of the 'war on drugs'. The killings were carried out by 'death squads', which official government figures from 2022 report more than 12,000 Filipinos killed, a majority of whom were in poverty. However, human rights organisations estimate the number to be between 12,000 and 30,000. Duterte and other senior officials instigated and falsified evidence to justify the unlawful killings. Human rights organisations and the Roman Catholic officials condemned the killings, which Duterte responded by accusing the church of corruption and sexual abuse. Furthermore, he later responded to the criticism by Western governments by strengthening relationships with Russia and China.



The ICC prosecutor alleged that Rodrigo Duterte, as head of the Davao Death Squad, Mayor of Davao City, and subsequently President of the Philippines, bears criminal responsibility for the crimes against humanity of murder, as defined under Article 7(1)(a) of the Rome Statute. The prosecutor's assessment was that these acts were not isolated incidents but rather widespread and systemic attacks directed on the civilian population. A key aspect of the prosecutor's perspective is the assertion of the ICC's continued jurisdiction over the crimes committed, and that Philippine's withdrawal of the Rome Statute does not limit the ICC's jurisdiction within the timeframes the state was part of it. The initial official response of the Philippines government, under President Ferdinand Marcos Jr., revealed reservations about the ICC's jurisdiction, and non-compliance, stating that the Philippines 'will not cooperate', even considering the ICC as 'a threat' to the state's sovereignty.

## Past international action:

**2017:** UN High Commissioner for Human Rights and UN Special Rapporteurs expressed concern over reports of extrajudicial killings in the Philippines

**2018:** The Philippines formally notified the UN of its withdrawal from the Rome Statute, effective March 2019. Despite this withdrawal, the ICC retains jurisdiction over alleged crimes that occurred while the Philippines was still a State Party.

**2018-2020:** The ICC Office of the Prosecutor conducted a preliminary examination to determine whether crimes against humanity had been committed, and opened up an investigation, describing the situation as "a widespread and systematic attack against the civilian population took place pursuant to or in furtherance of a State policy."

**2020:** UN human rights offices released reports highlighting thousands of killings in the anti-drug campaign and noting concerns about impunity.

**2021:** ICC Pre-Trial Chamber I authorized a formal investigation into the situation in the Philippines. On May 24th 2021, the ICC Office of the Prosecutor formally requested authorization from the Chamber to begin an investigation into alleged crimes committed in the Philippines during the government's "war on drugs" campaign, covering the period from 1 November 2011 to 16 March 2019. The request was made public on 14 June 2021, and on 15 September 2021, the Chamber approved the initiation of the investigation.

**On 18 July 2023,** after the Philippine authorities requested a deferral of the investigation, which led to a temporary suspension of investigative activities, the ICC Appeals Chamber issued a ruling confirming that the Prosecution could resume its investigation into the situation in the Philippines.

**2023-2024:** Several ICC State Parties, including the Netherlands and Canada, reaffirmed support for ICC jurisdiction over crimes allegedly committed while the Philippines was a member.

**2025 (March):** Based on the evidence presented, the ICC issued an arrest warrant for Rodrigo Duterte in March 2025 after having found reasonable grounds to believe he bears responsibility for the crime against humanity of murder. He was arrested at Ninoy Aquino International Airport in Pasay on March 11th and transported by plane to the ICC headquarters in the Hague.

**2025 - current:** He made his first appearance in the Pre-Trial Chamber of the ICC on March 14th 2025 to confirm his identity and be informed of the alleged crimes. The confirmation of charges hearing is set to begin on September 23rd 2025, which will determine if there is sufficient evidence to establish substantial grounds to believe that he has committed the crimes he is suspected of. Thereon, if the charges are confirmed (totally or partially), the case will be transferred to the Trial Chamber, where the trial will occur.

## Useful vocabulary:

Rome Statute: The founding treaty of the ICC, outlining its jurisdiction, functions, and structure. It grants the Court jurisdiction over four main categories of crimes: genocide, crimes against humanity, war crimes, and the crime of aggression.

Crimes Against Humanity: Serious violations such as murder, torture, or persecution committed as part of a widespread or systematic attack directed at civilians.

Arrest Warrant: A legal order compelling states to detain and surrender a suspect to the ICC.

Pre-trial Chamber: A judicial division of the ICC that authorizes investigations and confirms charges before trial.

Trial Chamber: A judicial division of the ICC that conducts the actual trial, hears evidence from the prosecution and defense, and renders judgments.

Jurisdiction: The Court's legal authority to hear and decide a case; it includes territorial, temporal, and personal jurisdiction.

Complementarity Principle: The ICC only acts when national legal systems are unwilling or unable to genuinely investigate or prosecute crimes.

Command Responsibility: The legal doctrine that holds superiors responsible for crimes committed by subordinates if they knew or should have known and failed to prevent or punish them.

Indirect Co-perpetration: A form of liability where an individual contributes to a crime through control over an organization or policy that leads others to commit offenses.

## Stakeholders

Actor/Stakeholder	Key Arguments Against ICC Jurisdiction	Key Arguments For ICC Jurisdiction
Duterte's Legal Team	Philippines' withdrawal from the Rome Statute in 2019; Infringement on national sovereignty; "Kidnapping" narrative.	Crimes committed while the Philippines was a member state (before withdrawal).
ICC Prosecutor		Crimes against humanity warrant international intervention; Principle of complementarity not genuinely satisfied by the Philippine justice system; Jurisdiction retained for crimes committed before withdrawal. <sup>4</sup>
Philippine Government	Initial rejection based on sovereignty; Later cooperation framed as compliance with Interpol request.	
Vice President Sara Duterte	Blatant affront to national sovereignty; Insult to Filipino independence.	

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