

This Q&A aims to address the disinformation surrounding the International Criminal Court (ICC) proceedings in the case of Rodrigo Duterte and to clarify key aspects related to the Court's jurisdiction, his arrest, concerns about victims' safety, and other relevant issues. It seeks to ensure victims have access to accurate information, enable them to make informed decisions about their engagement and participation. Some of the questions discussed remain under consideration by ICC judges. This Q&A does not intend to speculate or make legal arguments regarding these matters, but rather to explain what the issues are.

What is the ICC case against Duterte?

In 2016, Rodrigo Duterte, a long-time mayor of Davao City, was elected President of The Philippines, following an electoral campaign based on a tough-on-drugs agenda. Within the first six months of his presidency, police or unknown armed attackers had killed about 7,000 Filipinos suspected or perceived to be selling, buying, or using drugs. By the end of his presidential term, the Philippine government officially acknowledged only 6,248 deaths linked to the drug campaign,¹ with the actual death toll estimated by human rights groups to be significantly higher.²

In February 2018, the Office of the Prosecutor (OTP) of the ICC announced that it would conduct a preliminary examination into the situation in The Philippines.³ In March 2018, The Philippines sent a written notification of withdrawal from the Rome Statute.⁴ In September 2021, the Court granted the Prosecutor's request to proceed with the investigation into crimes committed in the context of Duterte's 'war on drugs' between 1 November 2011 and 16 March 2019.⁵

In March 2025, Duterte was arrested by Philippine authorities based on an arrest warrant issued by ICC judges and surrendered to the custody of the Court.⁶ Duterte is accused of committing crimes as a "co-perpetrator" together with other persons, although it is not known the OTP has sought or will ever seek arrest warrants for any of those people.⁷

1 Rappler, Duterte's War on Drugs: The First Six Months.

2 Al Jazeera, Families of Duterte's drug war victims grieve, seek justice in Philippines, 13 March 2025.

3 ICC, Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on opening Preliminary Examinations into the situations in the Philippines and in Venezuela, 8 February 2018.

4 ICC, ICC Statement on The Philippines' notice of withdrawal: State participation in Rome Statute system essential to international rule of law, 20 March 2018.

5 ICC, Situation in The Philippines: ICC Pre-Trial Chamber I authorises the opening of an investigation, 15 September 2021.

6 ICC Pre-Trial Chamber I, Warrant of Arrest for Mr Rodrigo Roa Duterte, 7 March 2025.

7 ICC, Public redacted version of "Prosecution's urgent application under article 58 for a warrant of arrest against Rodrigo Roa DUTERTE", 10 February 2025, ICC-01/21-80-US-Exp, ICC-01/21, par. 11, 13 March 2025.

How are disinformation campaigns impacting victims' participation?

Duterte's arrest has been hailed as a historic moment for victims of the crimes committed in the context of the 'war on drugs' and their families. Challenging the long-standing climate of impunity, his arrest marks the first time the ICC is prosecuting an Asian Head of State.⁸ It is a crucial first step on the path towards justice and accountability after years of tireless efforts by victims, their families, and civil society.⁹

However, Duterte's arrest was immediately followed by wide-scale and organised efforts to spread disinformation about the ICC, the case against Duterte, and his arrest, challenging the validity of the arrest and the proceedings.¹⁰ Even the personal social media accounts of ICC Judge Iulia Antoanella Motoc, the Presiding Judge of the Pre-Trial Chamber that issued the arrest warrant, were targeted by threats and comments linked to the disinformation campaign.¹¹ The reach of the false information is further amplified by individuals who genuinely believe this misinformation is accurate and spread it to others.

This disinformation and misinformation are already directly impacting the wellbeing of victims and risks harming their ability to exercise their rights before the Court, including their right to participate in the ICC proceedings:

- First, the disinformation campaign and online harassment against the victims and their families have negatively impacted their mental well-being and is causing retraumatisation.
- Second, the coordinated disinformation campaign targeting the media, the ICC, and other institutions limits victims' access to critical and reliable information about their rights and ways they can participate in the Court's proceedings.
- Third, the continued attacks on the ICC's credibility risk discouraging victims who had placed their hopes in the ICC from engaging with the Court such as through its outreach activities, applying to participate in the proceedings through a lawyer or providing information about the crimes they suffered.

Civil society organisations have reported that some victims who were previously interested in participating in ICC proceedings in different ways have considered withdrawing their participation as a result of online harassment, threats, and disinformation. These developments risk isolating victims from the Court and affecting their prospects for being informed about and contributing to meaningful justice and, if there is a conviction at the end of a trial, obtaining reparation.

8 Leiden University, Salvador Santino Regime in East Asia Forum: The Philippines confronts Duterte's authoritarian legacy at The Hague, 22 April 2025.

9 OMCT World Organisation Against Torture 2025, Philippines: Duterte's Arrest Marks a Historic Step Toward Justice for Victims of the 'War on Drugs', 12 March 2025.

10 Rappler, More disinformation tactics return after Duterte's arrest: Discrediting the media, 20 March 2025.

11 Inquirer, Spike in hate content seen after Duterte arrest, 18 March 2025.

Is the ICC an independent court?

The ICC is an independent international court based in The Hague, The Netherlands. It tries persons accused of international crimes, specifically war crimes, crimes against humanity, genocide, and, in certain conditions, the crime of aggression. The OTP is responsible for receiving and investigating information related to alleged crimes, and the Chambers of ICC Judges make decisions throughout, including whether an investigation can proceed, whether someone should be arrested, whether a case should proceed to trial, and later on, whether the person(s) accused are guilty of any of the crimes charged.

Victims can take part in ICC proceedings in different ways. They can send information to the Prosecutor about crimes they believe took place, asking for them to be investigated. Later, if those crimes are part of charges brought against a suspect and affected them personally, they may also apply to be recognised as victims participating in the case. This means they can be represented by a lawyer who will share their views and concerns with the Court during the legal process, from early investigations to trial, appeal, and, if the accused is convicted, reparations stages.

If they want to participate in an active case against Duterte, victims usually must fill out a standard application form. The Court's Victims Participation and Reparations Section (VPRS) can help with this process. In most cases, participating victims do not travel to the Court. A lawyer can speak for them, and they can choose their own or ask the Court for help in finding one. VPRS consults victims regarding legal representation and, based on the victims' views and concerns, makes recommendations to the Chamber on the organisation of common legal representation for victims.

For reasons of efficiency and resources, as much as feasible, one team of lawyers represents the interests of all the participating victims in the proceedings, unless there is a potential conflict of interest between different victim groups. During the trial, some victims may be asked to testify as witnesses and give evidence about what they saw or experienced. If a person accused before the Court is convicted, victims can also ask the Court to order reparations to help them recover from the harm they suffered. There is also a [Trust Fund for Victims](#) that can provide support to victims.

Since its establishment on 1 July 2002, the ICC has examined, investigated or tried 33 cases, detained 22 persons, and issued 11 convictions against alleged perpetrators of international crimes. Persons who have been convicted are usually high-ranking individuals such as leaders of armed groups in the Democratic Republic of Congo, the [former chief of the Timbuktu Islamic Police in Mali](#),¹² and the [Brigade Commander of an armed rebel group in Uganda](#).¹³

Due to the nature of the crimes falling under the jurisdiction of the ICC, the Court engages with large numbers of victims. In the case of [Dominic Ongwen](#), relating to international crimes committed in Uganda, for example, 116 witnesses and experts testified as witnesses or appeared in person before the Court, 4,905 victims were granted the right to participate in the proceedings and many more engaged in the Court's outreach activities.¹⁴

¹² ICC, [Al Hassan Case](#).

¹³ ICC, [Ongwen Case](#).

¹⁴ ICC, [Case Information Sheet](#).

In the case alleged against Duterte, it is estimated that 30,000 persons were killed in the context of the 'War on Drugs'. The Court tends to charge only a representative number of incidents and only victims of the specific killings Duterte is charged with will be eligible to participate in the case through a lawyer; however, the Court engages with affected communities more widely.

What are some false claims used in the disinformation campaigns?

FALSE

THE ICC HAS NO JURISDICTION OVER CRIMES OR ACTS COMMITTED IN THE PHILIPPINES BECAUSE OF THE PHILIPPINES' WITHDRAWAL FROM THE ROME STATUTE.

TRUE

THE ICC RETAINS JURISDICTION OVER ACTS OR CRIMES COMMITTED FROM 1 NOVEMBER 2011 TO 16 MARCH 2019.

Even though The Philippines is no longer a Member State of the ICC, the Court still has the power and authority to investigate and prosecute crimes that occurred while the country was still a Member State.¹⁵ This period is between 1 November 2011 and 16 March 2019.¹⁶

The Philippines officially joined the ICC in November 2011 by becoming a State Party to the Rome Statute, the international treaty through which States created the Court. In March 2018, under the Duterte administration, the government submitted a notice to withdraw from the Rome Statute.¹⁷ This withdrawal did not immediately take effect. According to the Rome Statute, a country's withdrawal only becomes effective one year after the notice is received, unless the notification states a later date.¹⁸ The Philippines' withdrawal thus took effect on 17 March 2019. Despite the withdrawal having taken effect, the Rome Statute's provisions require that The Philippines still comply with the obligations it had during the time it was a Member State.

This also explains why the ICC Prosecutor is only investigating and prosecuting crimes committed in The Philippines between 1 November 2011 and 16 March 2019, even though similar crimes continued after those dates.

FALSE

DESPITE THE ICC HAVING JURISDICTION OVER CRIMES COMMITTED FROM 1 NOVEMBER 2011 TO 16 MARCH 2019, IT DOES NOT HAVE THE POWER TO INITIATE A CASE AGAINST DUTERTE AS THE ARREST AND PROSECUTION COMMENCED ONLY AFTER THE PHILIPPINES' WITHDRAWAL TOOK EFFECT. IN OTHER WORDS, THE ICC DOES NOT HAVE JURISDICTION OVER DUTERTE'S CASE.

TRUE

THE COURT HAS NOT SETTLED THIS QUESTION.

15 ICC Pre-Trial Chamber I, Decision on the Prosecutor's request for authorisation of an investigation pursuant to Article 15(3) of the Statute, ICC-01/21-12 15-09-2021, 15 September, 2021

16 ICC, Situation in The Philippines: Rodrigo Roa Duterte in ICC custody, 12 March 2025.

17 ICC, ICC Statement on The Philippines' notice of withdrawal: State participation in Rome Statute system essential to international rule of law, 20 March 2018.

18 Article 127, Rome Statute.

In September 2021, the ICC’s Pre-Trial Chamber I (PTC I) authorised the Prosecutor to commence a formal investigation into the situation in The Philippines. In response, the Philippine government sought to delay or halt the investigation by challenging the Court’s jurisdiction.¹⁹ The Appeals Chamber declined to issue a definitive ruling on this matter. It found that the argument had not been properly raised in the appeal and therefore did not require resolution at that stage.²⁰ Of the five judges of the ICC’s Appeals Chamber, the majority decided the Prosecutor could resume investigations. However, two judges expressed the dissenting view that, because the investigation was initiated only after The Philippines’ withdrawal from the Rome Statute had taken effect, the Court no longer retained the authority to proceed with its investigation. The reasoning of this minority of the judges was that while the preliminary examination began while The Philippines was still a State Party, the subsequent step, the investigation, was initiated too late.²¹

On 1 May 2025, the lawyers representing Duterte made a submission to the Judges of the Pre-Trial Chamber challenging the jurisdiction of the Court, raising arguments similar to those expressed by the minority (dissenting) Judges.²² This submission has been opposed by the Prosecutor²³ and by the counsel currently representing the views and concerns of the victims.²⁴

The issue has yet to be decided by the Judges.

FALSE
VICTIMS SHOULD NOT PURSUE CASES BEFORE PHILIPPINE COURTS, BECAUSE IT WILL CAUSE THE ICC TO LOSE JURISDICTION.

TRUE
PROSECUTION BY THE COURTS IN THE PHILIPPINES WILL NOT AFFECT THE ICC’S JURISDICTION UNLESS THEY GENUINELY PURSUE THE SAME PERSONS FOR THE SAME CRIMES.

When deciding whether or not to proceed with a case, the ICC considers whether or not local courts are genuinely investigating and prosecuting the same person for the same crimes. The Court does not replace national justice systems and must give them primacy. It can only step in when national systems are either not investigating or prosecuting the same case that is before the ICC, or when the national system is taking action but in fact is unwilling or unable to investigate or prosecute genuinely. This is the “principle of complementarity,” which means that the ICC is intended to complement, not to replace, national criminal justice systems.

Complementarity can only prevent the ICC from trying Duterte if an investigation is brought against Duterte in The Philippines, if that case relates to substantially the same conduct as those he is charged with at the ICC, and if the Philippine authorities are not “unwilling or unable” to genuinely carry out the investigation or prosecution. The Philippines has failed to investigate international crimes committed during the ‘war on drugs’, or prosecute Duterte for his alleged involvement in those crimes. This was confirmed in January 2023 by the Pre-Trial Chamber, which ruled²⁵ that the Philippines has not been conducting concrete, genuine, and effective investigations into these crimes. Only if this situation were to change would a further assessment of complementarity succeed, and such a challenge cannot be made after a trial begins.

19 ICC, Notification of the Republic of the Philippines’ deferral request under article 18(2), ICC-01/21-14, 18, November, 2021.
20 ICC, Judgment on the appeal of the Republic of the Philippines against Pre-Trial Chamber I’s “Authorisation pursuant to article 18(2) of the Statute to resume the investigation,” ICC-01/21-77, par. 55, 18 July 2023.
21 ICC, Dissenting Opinion Of Judge Perrin De Brichambaut and Judge Lordkipanidze, ICC-01/21-77-OPI, pars. 31 - 35, 18 July 2023.
22 The Prosecutor vs. Rodrigo Roa Duterte, Defence Challenge with Respect to Jurisdiction, ICC-01/21-01/25-121, 10 May 2025.
23 The Prosecutor vs Rodrigo Roa Duterte, Public redacted version of Prosecution response to “Defence Challenge with Respect to Jurisdiction” ICC-01/21-01/25-146-Red, 9 June 2025.
24 ICC, Victims’ Observations on the Defence Challenge with Respect to Jurisdiction, ICC-01/21-01/25-145, 9 June 2025.
25 Pre-Trial Chamber I, Public Redacted Version of “Authorisation pursuant to article 18(2) of the Statute to resume the investigation” ICC-01/21-56-Red, par. 98, 26 January 2023.

Secondly, the ICC only prosecutes very few alleged perpetrators, prioritizing high-ranking individuals. Many other persons, at different levels in the hierarchy, may bear responsibility for crimes committed during the ‘war on drugs’. A small number may be accused by the ICC in the future, but many others will not.

Against this backdrop, victims should not hold back from filing complaints in The Philippines. If a few other persons are accused before the ICC in the future, the Court would make the same assessment of whether or not they are being genuinely investigated or prosecuted for the same crimes in The Philippines.

FALSE

THE ICC VIOLATED THE ROME STATUTE BY NOT ALLOWING DUTERTE TO BE BROUGHT TO PHILIPPINE COURTS BEFORE HIS SURRENDER.

TRUE

THIS HAS NOT BEEN DEFINITELY SETTLED BY THE COURT.

Article 59 of the Rome Statute sets out the procedure a State must follow when arresting and surrendering a wanted suspect to the ICC. It requires that the arrested individual be brought before a domestic court or judge to determine whether the warrant applies to the individual, whether the arrest complied with legal procedures, and whether the person’s rights have been upheld. The provision also allows the arrested person to apply for temporary release prior to surrender to the Court.²⁶

In the case of Duterte, this Article 59 procedure was not followed, prompting legal debate on the consequences of non-compliance and as to whether Article 59 was applicable to his arrest at all. These discussions generally fell under two positions:

- a. First Position - Article 59 of the Rome Statute did not need to be followed because The Philippines was no longer bound by the Rome Statute after its withdrawal. Therefore the Philippine government properly surrendered Duterte to the ICC by relying on an applicable domestic law, Republic Act 9851 (Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity), which permits a person to be transferred to the ICC when it is already conducting an investigation or prosecution;
- b. Second Position - The Rome Statute outlines a process for arrest and transfer that includes bringing the arrested person before a court in the custodial State. Since Duterte was not presented before a Philippine court, this view submits that Article 59 was not fulfilled.

The Court has addressed the interpretation of Article 59 in past decisions. In the case of Dominic Ongwen in relation to Uganda, the Court held that Article 59 does not require the custodial State to strictly follow the procedure set out there before transferring a person into ICC custody.²⁷ In that case, it was sufficient that national authorities identified Ongwen as the subject of the warrant, informed him of the existence of the warrant, and transferred him to the Court.

In another case, the Court noted that if the failure to follow article 59 results in a severe breach of the rights of the accused so as to undermine the ability to present a defence, a fair trial may no longer be possible and the case may be affected.²⁸

²⁶ Article 59, Rome Statute.

²⁷ ICC, Decision on the applicability of article 101 of the Rome Statute in the proceedings against Dominic Ongwen, par 10, 7 July 2015.

²⁸ ICC, Judgment on the Appeal of Mr. Thomas Lubanga Dyilo against the Decision on the Defence Challenge to the Jurisdiction of the Court pursuant to article 19 (2) (a) of the Statute of 3 October 2006, ICC-01/04-01/06 (OA4), par. 37, 14 December 2006.

The propriety of Duterte’s arrest and surrender is likely to come before the Court’s judges for resolution. During his [initial appearance](#) before the Court in March 2025, his legal counsel raised the issue, but the Chamber declined to make a ruling at that stage, indicating that the matter could be addressed in the proceedings leading up to the confirmation of charges hearing scheduled for September 2025.²⁹

FALSE

THE WARRANT OF ARREST ONLY ALLEGED THE KILLING OF 43 INDIVIDUALS, WHICH IS TOO SMALL TO CONSTITUTE CRIMES AGAINST HUMANITY.

TRUE

THE NUMBER OF VICTIMS IS NOT THE SOLE DETERMINING FACTOR FOR CRIMES AGAINST HUMANITY.

Duterte has been [arrested](#) for the crime against humanity of murder.³⁰ Under the [Rome Statute](#), this crime is defined as the intentional killing of “one or more persons” committed as part of a “widespread or systematic attack against a civilian population.”³¹ This means that what matters is not the number of killings charged in a particular case, but the context in which they occurred. They must form part of a broader attack on civilians that is either widespread or systematic. This broader attack will often involve large numbers of victims. The specific case might only concern a small number of them, but this can still be a crime against humanity if this smaller number of killings is part of the broader attack.

The [Elements of Crimes](#) of the ICC, the document that sets out exactly what must be proven for each crime, also make clear that even a single killing can qualify as a crime against humanity if it is committed as part of such an attack.³² It is that broader attack, not the specific number of victims, that qualifies the conduct.

In Duterte’s case, the PTC judges³³ ruled that the incidents described in the Prosecutor’s application for an arrest warrant support the finding that there are reasonable grounds to believe that there was an attack and that it was both widespread and systematic, noting that the violence took place over several years and appeared to have resulted in thousands of deaths.

Further, the number of killings mentioned in the arrest warrant is not intended to reflect the full scope of alleged criminality. The Prosecutor does not have the means to investigate and prosecute all the crimes which occur in a situation of mass violence, and so usually suspects are charged with crimes which reflect only a “sample” of incidents. Ideally, the sample would be somewhat representative of the different types of harm experienced by victims but sometimes, cases before the ICC are criticised for not achieving this. In making a finding of whether there was a “widespread or systematic” attack, the judges can refer to other facts not directly the focus of the specific incidents investigated, but demonstrating a wider pattern of violence. In its public statement on Duterte’s arrest, the ICC confirmed that the Chamber had considered the broader pattern of violence, even though the arrest warrant focuses on a limited number of incidents.

This approach is consistent with the Court’s practice in other situations. A narrow case may be brought to make proceedings more focused and manageable, but it does not mean that the broader scale of the alleged crimes is disregarded. The focus remains on proving that those selected incidents were part of a widespread or systematic attack against civilians, which is what defines a crime against humanity.

29 ICC, Initial Appearance, ICC-01/21-01/25-T-002-ENG, page 9, lines 14 - 24, 14 March 2025.

30 ICC Pre-Trial Chamber, Warrant of Arrest for Mr Rodrigo Roa Duterte, 7 March 2025.

31 Article 7, Rome Statute.

32 Article 7 (1) (a), Elements of Crimes.

33 ICC Pre-Trial Chamber I, Warrant of Arrest for Mr. Rodrigo Roa Duterte, ICC-01/21, par. 11, 7 March 2025.

FALSE

THE CHARGES ALLEGED IN THE ARREST WARRANT LIMITED TO THE CRIMES AGAINST HUMANITY OF MURDER AND PERTAINING TO 43 KILLINGS CANNOT BE EXPANDED.

TRUE

UNTIL THE CHARGES ARE CONFIRMED, THEY MAY BE AMENDED TO INCLUDE OTHER CRIMES OR OTHER VICTIMS. HOWEVER, THIS IS UNLIKELY TO HAPPEN.

Under the ICC's legal framework, there are two ways in which the charges can be amended:

- a) The Prosecutor can continue to investigate and amend the charges before the confirmation of charges hearing that precedes a trial, as long as the defence is given due notice. The Chambers Practice Manual, issued by the ICC Judges notes that the Prosecutor may expand the factual basis of the charges beyond the warrant, and adds provisions intended to allow the defence to prepare. If the Prosecutor decides to do so, therefore, he may submit additional evidence to the Pre-Trial Chamber and request the inclusion of new charges or additional killings before the confirmation of charges hearing.
- b) The Judges themselves can decide, at the end of the confirmation hearing, to amend the charges because the evidence appears to establish a different crime, or to ask the Prosecutor to continue investigations.

All this, in theory, means the charges against Duterte could be expanded. In practice, however, this is unlikely.

It is rare for ICC judges to allow new charges to be brought after a suspect has arrived in The Hague. The Prosecutor also typically limits cases to a sample of incidents, rather than filing charges for every possible incident that may qualify as a crime. This approach helps keep proceedings focused and manageable.³⁴

In Duterte's case, the arrest warrant covers the crime against humanity of murder.³⁵ The Prosecutor had also requested the inclusion of torture and rape as crimes against humanity,³⁶ but the PTC Judges found that those allegations did not show a sufficient connection to the broader attack against civilians. As a result, they were not included in the warrant.³⁷

Although victims can submit their views through their legal representatives regarding the scope of the charges, any expansion would still depend on the Court's assessment. According to the Chambers Practice Manual,³⁸ the Prosecutor can expand the factual scope of a case up until the confirmation of charges hearing, which is scheduled for September 2025 in Duterte's case.

In the past, ICC Judges have allowed for the possibility of expanding the charges against an accused in the case of Ongwen, the Brigade Commander of an armed rebel group in Uganda. Based on the submission of the Prosecutor, this appears to have been partly due to a lengthy delay between the initial investigation carried out by the Prosecutor on which his Arrest Warrant was based and the actual arrest of Ongwen.³⁹

³⁴ ICC, Policy paper on case selection and prioritisation, 15 September 2016.

³⁵ ICC Pre-Trial Chamber I, Warrant of Arrest for Mr Rodrigo Roa Duterte, 7 March 2025.

³⁶ ICC, Public redacted version of "Prosecution's urgent application under article 58 for a warrant of arrest against Rodrigo Roa DUTERTE", 10 February 2025, ICC-01/21-80-US-Exp, par. 74 - 76, 13 March 2025.

³⁷ ICC Pre-Trial Chamber I, Warrant of Arrest for Mr Rodrigo Roa Duterte, par. 12, 7 March 2025.

³⁸ ICC, Chambers Practice Manual, par. 31

³⁹ ICC, Public redacted version of "Prosecution's Application for Postponement of the Confirmation Hearing", 10 February 2015, ICC-02/04-01/15-196-Conf-Exp, ICC-02/04-01/15, par 12 February 2015.

Therefore, while it is technically possible, given the limited time before the confirmation hearing and the Chamber’s earlier rulings, it seems unlikely that the charges will be expanded further to include other killings or other crimes such as torture and rape.

FALSE

DUTERTE COULD BE RELEASED IN THE INTERIM BEFORE TRIAL.

TRUE

THE ACCUSED MAY APPLY FOR INTERIM RELEASE BUT IT IS NOT AUTOMATICALLY GRANTED AND HAS NEVER BEEN GRANTED IN SERIOUS CASES LIKE DUTERTE’S.

Under the Rome Statute, a person subject to an arrest warrant has the right to apply for interim release before the start of trial. This right is also available to Duterte. However, the granting of interim release is not automatic. It is up to the judges of the ICC to determine whether a person’s continued detention is necessary:

- a) To ensure the person will appear before the ICC for the trial;
- b) To ensure they do not obstruct the investigation or the court proceedings;
- c) To prevent the person from continuing to commit the crimes he is accused of committing or other related crimes within the jurisdiction of the ICC.⁴⁰

On 12 June 2025, Duterte’s lawyers requested the Court to allow his conditional release, raising, among other grounds, his advanced age.⁴¹ This request has been opposed by the OTP and the victims.

While it is difficult to assess the likelihood of Duterte being granted interim release, it is worth noting that the ICC has only granted interim release in two previous cases.⁴² These cases both pertained to what are called Article 70 offences or offences against the administration of justice.⁴³

Duterte, by contrast, faces charges of crimes against humanity, one of the core crimes under Article 5 of the Rome Statute. To date, the ICC has never granted interim release to a suspect accused of Article 5 crimes.

FALSE

DUTERTE, IF CONVICTED, CAN SERVE HIS SENTENCE IN THE PHILIPPINES.

TRUE

IF DUTERTE IS CONVICTED, THE COURT WILL DECIDE WHERE HE MAY SERVE HIS SENTENCE.

Under the Rome Statute, if a defendant is convicted and sentenced to imprisonment, the ICC may choose a country from a list of countries willing to accept the convicted person. The ICC’s Rules of Procedure and Evidence require the Court to take into consideration the principle that Member States of the ICC have a shared responsibility to enforce sentences of terms of imprisonment.⁴⁴

40 Article 58, Rome Statute.
41 The Prosecutor v Rodrigo Roa Duterte, Public Redacted Version of the “Urgent Request for Interim Release”, ICC-01/21-01/25, 12 June 2025
42 EJIL:Talk!, “To Release or not to Release, that is the Question”: Detention Pending Trial at the ICC after the Gicheru Case, 8 March 2021.
43 Article 70, Rome Statute. This article addresses offences against the administration of justice, such as giving false testimony, influencing witnesses, or interfering with the Court’s proceedings. These are distinct from the core crimes under the Statute, which are genocide, crimes against humanity, war crimes, and the crime of aggression. The core crimes concern grave violations of international law involving large-scale harm to individuals or groups. In contrast, Article 70 offences relate to conduct that undermines the Court’s integrity and functions, rather than constituting atrocities themselves.
44 Chapter 12, Rules of Procedure and Evidence.

The Rome Statute does not explicitly prohibit non-States Parties from being designated as countries where defendants can serve their sentences of imprisonment. However, all individuals convicted by the ICC to date have served or are serving their sentences in countries that are parties to the Rome Statute.⁴⁵ Further, only two convicted persons have served their sentences in their home countries. In 2015, at their own request, Thomas Lubanga Dyilo and Germain Katanga were transferred to the Democratic Republic of Congo, their country of nationality, to serve their sentences.⁴⁶ The ICC Presidency granted their request for transfer to the DRC after an agreement was signed with the DRC in which it accepted that they serve the remainder of their sentence there, and agreed to allow inspection of prison conditions by the International Committee of the Red Cross.⁴⁷

It remains to be determined whether Duterte, if convicted, could serve his sentence of imprisonment in The Philippines if such a request were to be made.

FALSE

IF YOU APPLY TO PARTICIPATE IN THE PROCEEDINGS AS A VICTIM, YOUR NAME WILL BE DISCLOSED TO DUTERTE AND HIS LEGAL TEAM.

TRUE

VICTIMS REMAIN ANONYMOUS THROUGHOUT THE PROCEEDINGS.

According to the Court's practice, victims who participate in the proceedings, but do not testify as witnesses, remain anonymous to the Defence at all times. Unless the Judges decide otherwise, their names and any other identifying information are not disclosed. Under the current system used by the Court to assess victims' applications for participation (the so called 'A-B-C- system') in the proceedings through a lawyer, only those applications that raise legal questions for the Chamber to determine, specifically unclear applications falling under Group C, will be shared with the defence, but only in redacted form, meaning that all information that could identify the victims or other third parties mentioned in the form is removed. Victims' applications assessed by the Registry to be clearly within or outside the scope of the case (Groups A and B) are transmitted solely to the Judges.

A very small number of victims who are also called to testify as witnesses in an eventual trial are treated differently. Their identities will eventually be disclosed to the Defence. All testimony is given voluntarily, and once any necessary protection measures are in place.

The Court has mechanisms to protect both participating victims and witnesses, but the nature and extent of protection depends on their role in the case and the level of risk they face.

For victims seeking to participate in the proceedings through a lawyer, the VPRS anonymises application forms submitted by victims.⁴⁸ If the case proceeds to trial and the victim is not a witness, the main protection is continued redaction of their identity in any documents that are disclosed. These victims remain anonymous and are not required to appear in court. If the victim is also a witness and their identity must therefore be disclosed to the defence, stronger protection measures may be applied depending on the risks involved. These may include:

45 Individuals convicted by the ICC include Dominic Ongwen (serving sentence in Norway), Bosco Ntaganda (Belgium), Thomas Lubanga (Democratic Republic of Congo), Germain Katanga (Democratic Republic of Congo), and Ahmad Al Faqi Al Mahdi (United Kingdom). Source: ICC, Cases.

46 ICC, Thomas Lubanga Dyilo and Germain Katanga transferred to the DRC to serve their sentences of imprisonment, 19 December 2015.

47 ICC The Presidency, Decision designating a State of enforcement, ICC-01/04-01/06, 8 December 2015, p. 4, 8 December 2015.

48 ICC, Information for Victims.

- Testifying anonymously or in closed (non-public) sessions;
- Psychosocial support; and
- Protective measures for family members;
- Relocation to a safer location or country in extreme cases.

FALSE

IF SARA DUTERTE IS ELECTED PRESIDENT, SHE CAN NEGOTIATE WITH THE ICC TO DROP THE CHARGES AND STOP THE PROCEEDINGS AGAINST DUTERTE.

TRUE

THE ICC IS AN INDEPENDENT JUDICIAL BODY AND IS NOT SUBJECT TO POLITICAL CONTROL OR NEGOTIATION.

The ICC is an independent court whose mandate is exclusively judicial, not political. Its decisions are based on the Rome Statute, its Rules of Procedure and Evidence and international legal principles. These decisions are rendered by independent and impartial judges. The judges, in applying these rules, must not be swayed by political interference from The Philippines, other countries, or other actors or persons.

The ICC's legal framework is designed to ensure that everyone prosecuted before the Court, including Duterte, will be given an impartial and fair trial, free from political interference.

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