Will the ICC prosecute Philippine President Duterte?

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<https://www.dw.com/en/will-the-icc-prosecute-philippine-president-duterte/a-39181179>

Two Filipino legislators filed a supplemental complaint against [President Rodrigo Duterte](https://www.dw.com/en/why-is-duterte-so-popular-in-the-philippines/a-19540056) at the International Criminal Court (ICC) this week urging the court to conduct a preliminary examination into Duterte's [brutal crackdown on drugs](https://www.dw.com/en/muted-outrage-over-philippine-drug-killings/a-35913943) that has left thousands dead.

Senator Antonio Trillanes and Congressman Gary Alejano submitted the complaint to the ICC supporting the charges filed in April by Jude Sabio, a lawyer representing self-confessed assassin Edgar Matobato of the alleged [vigilante group Davao Death Squad](https://www.dw.com/en/duterte-paid-for-killings-including-radio-host/a-37628787).

In his complaint, Sabio alleged that Duterte has been "repeatedly, unchangingly, and continuously" propagating murder in the Southeast Asian country and accused the president of [mass murder and extrajudicial killings](https://www.dw.com/en/philippine-police-conducted-vigilante-killings-human-rights-watch-says/a-37777193), constituting crimes against humanity.

The complaint filed by Trillanes and Alejano detailed accounts of extrajudicial killings and also provided a list of killings which transpired after the first communication was filed by Sabio.

"These updates prove that the killings are widespread, systematic and perpetrated by police through the so-called legitimate police operations or through vigilante-style executions. These killings are state-sponsored and the Philippine government has no intention to stop this policy, and is unwilling and unable to investigate the people behind this," Trillanes told DW.

Since Duterte assumed the presidency last year, he has been relentless in carrying out his bloody war on drugs.

The latest figures provided by the Philippine National Police (PNP) in May estimate that more than 3,000 suspected drug users and dealers have been killed in what they have called legitimate police operations. There are close to 8,000 homicide cases related to the drug war under investigation.

"The fact that the killings continued after the filing of the first complaint heightens the need for the ICC to investigate right away," Trillanes said.

**Political harassment**

A lawyer for Duterte dismissed the filing of the supplemental complaint as a futile attempt to politically harass the president.

"This belated and remedial effort only goes to show that the initial complaint was based merely on hearsay and unsubstantiated allegations," Salvador Panelo Chief Presidential Legal Counsel told DW via text message from Manila.

"Unfortunately for the misguided lawmakers, they cannot hope to cure a complaint which is intrinsically flawed and, worse, was filed before a tribunal that does not even have jurisdiction in the first place," added Panelo.

The ICC's reach is limited to countries that signed and ratified the Rome Statute that created the court in 1998 and have not since rescinded their approval. Among the countries not covered by the court are the United States, Russia, China and Israel.

"The filing of the supplemental complaint does not mean that the first complaint was not considered. On the contrary, it will further strengthen the information provided by Sabio," countered Trillanes.

**Failed impeachment**

In March, Alejano filed an impeachment complaint against Duterte accusing him of high crimes for supporting and calling for the killing of suspected drug addicts, betrayal of public trust and having a ["defeatist" approach](https://www.dw.com/en/dutertes-embarrassing-to-and-fro-on-south-china-sea/a-38368612) toward China's continued encroachment in the South China Sea.

A congressional panel of lawmakers unanimously voted to veto the impeachment complaint, claiming it lacked substance.

"[The impeachment complaint](https://www.dw.com/en/philippines-president-rodrigo-duterte-survives-impeachment-bid/a-38844245) was the sole remedy to make Duterte accountable for his crimes against the Filipino people. Agencies of government, particularly the department of justice, cannot be relied on since its secretary has been vocal in defending and justifying the actions of the president," Alejano told DW.

Political analyst Richard Heydarian said that the dismissal of the impeachment complaint "shows Duterte's grip on the legislative branch."

With impeachment ruled out, the opposition was left with no other option but to pursue an alternative strategy through the ICC.

"The impeachment was railroaded with no serious attempt to consider the charges and the evidence. This will help an ICC case against President Duterte as it shows unwillingness to hold him accountable," international law expert Tony La Viña told DW via email from Manila.

**Martial law**

Additional tensions are arising from Duterte's May 23 [declaration of martial law](https://www.dw.com/en/dutertes-real-motives-behind-imposing-philippine-martial-law/a-38969393) in the [entire province of Mindanao](https://www.dw.com/en/philippines-black-flags-and-smoke-engulf-mindanao/a-39097429) after a terrorist group inspired by the so-called "Islamic State" took over Marawi City three weeks ago.

Duterte claimed that his implementation of martial law would be "harsh" and would be no different from that during the time of ex-dictator Ferdinand Marcos.

The country's constitution dictates that congress and senate convene a joint session within 48 hours from the proclamation of martial law to deliberate on the measure. The two chambers of the legislature have the prerogative to call off a president's martial law declaration.

To date, the two houses have not convened with certain lawmakers saying that it was not necessary.

"Prolonged martial law combined with protracted combat tends to wear down the military saddled with additional responsibilities and powers. If there is no effective guidance from the top levels of government, this may lead to griping and as fatigue sets in, griping can lead to politicization in the ranks," military and security expert Jose Antonio Custodio told DW.