

Annex I  
Public Redacted  
Registry Report on Victims' Representations

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## Introduction

1. The victim representation process in the Situation in the Republic of the Philippines (“Situation” and “Philippines”, respectively) is the fifth victim consultation exercise carried out by the Victims Participation and Reparations Section (“VPRS”) of the Registry pursuant to article 15(3) of the Rome Statute (“Article 15 process”).<sup>1</sup> The present process commenced with the Prosecutor’s notice to victims of 15 June 2021<sup>2</sup> and ended on 13 August 2021.<sup>3</sup> During this phase, the VPRS met with individuals and organisations that have extensive knowledge of the context of the Situation. This allowed the Registry to collect victims’ views on a potential investigation by the Office of the Prosecutor (“OTP”) as outlined in the request for authorization of an investigation pursuant to article 15 of the Statute (“OTP Request”).<sup>4</sup>
2. At present, 204 representations<sup>5</sup> have been assessed by the VPRS as meeting the conditions set in Rule 85 of the Rules of Procedure and Evidence and transmitted to the Chamber (“Rule 85” and “Transmitted Representations”, respectively).<sup>6</sup> The representations received overwhelmingly support the OTP Request. They also bring forward the victims’ views and concerns regarding justice, the ICC, the potential scope of an investigation and the impact of the so-called “War on Drugs” (“WoD”) on victims’ lives and their society.
3. The report consists of three parts. The first part tries to display in the most

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<sup>1</sup> Article 15 processes were previously carried out in the Kenya, Côte d'Ivoire, Georgia, Afghanistan and Bangladesh/Myanmar Situations.

<sup>2</sup> <https://www.icc-cpi.int/itemsDocuments/20210615-public-notice-to-victims.pdf>.

<sup>3</sup> Pre-Trial Chamber I, “Decision on the ‘Registry Request for Extension of Notice Period and Submissions on the Article 15(3) Process’”, 17 June 2021, ICC-01/21-9, para. 9 and page 6 (“Decision of 17 June 2021”).

<sup>4</sup> Office of the Prosecutor, “Public redacted version of ‘Request for authorisation of an investigation pursuant to article 15(3)’, 24 May 2021, ICC-01/21-7-SECRET-Exp”, 14 June 2021, ICC-01/21-7-Red.

<sup>5</sup> Out of the total of 212 representations received, see *infra*, para. 14.

<sup>6</sup> Registry, “Registry Transmission of Victims’ Representations”, 27 August 2021, ICC-01/21-10. See *infra*, para. 19.

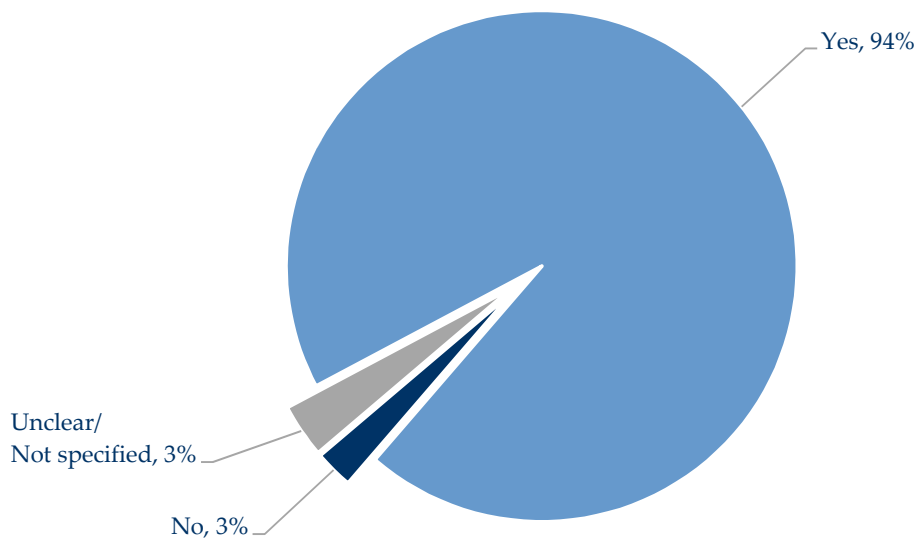
authentic fashion possible victims' views as they were communicated to the Registry as part of the present process. It is based on quotes extracted from the representations received; the VPRS had invited victims and their representatives to imagine themselves sitting around a table with the ICC Judges having a conversation about their views and concerns related to the OTP Request. The second part provides further details of the representations received by the VPRS in terms of types, statistical data and content, whilst the third part offers an overview of the Article 15(3) process with an emphasis on the challenges and obstacles encountered.

## **I. Victim's views and concerns**

4. This section of the present report is not intended to replace the original representations, which were transmitted for the Chamber's consideration. Rather, the objective of this section is to provide an overview which draws out the major themes mentioned by the victims in their representations, in the interest of assisting the Chamber to identify some patterns and general themes in the views presented by the victims.

## A. Views on the Prosecutor's request

### Do Victims Want an Investigation by the ICC Prosecutor?



5. The VPRS notes that altogether 192 forms indicated that the victims want the Prosecutor to investigate the crimes committed in the context of the WoD.<sup>7</sup> The main motivating factors invoked are: genuine investigation by an impartial international court; identifying and bringing the perpetrators to justice; ending impunity; preventing future crimes; knowing the truth about what happened to victims and clearing their names of false accusations; and allowing for victims' voices to be heard. A sample of relevant quotes is provided below:

- ) "Without the ICC, many of the families would choose not to pursue any form of justice. The prospect of an ICC investigation has rekindled their hopes of achieving justice and surfacing the truth."<sup>8</sup>
- ) "[...] we don't need to be quiet, we are the victims, we are the ones who

<sup>7</sup> Collective representations which state that the majority of victims want an investigation are also included in this number.

<sup>8</sup> r/60111/21.

have lost, are we going to be afraid? We should be brave in seeking justice.”<sup>9</sup>

) "To seek justice and to stop the torture and killings. If these are not investigated, the state authorities will continue to commit human rights violations.”<sup>10</sup>

) “The thousands of Filipino deaths during Duterte's reign of terror [...] have destroyed so many lives. I stand for them, I stand for my brother. You are our last hope ICC. Please help us investigate on this and hold those people involved accountable. Thank you.”<sup>11</sup>

) “For us to receive justice due to us.”<sup>12</sup>

) “I hope that ICC can help us achieve justice.”<sup>13</sup>

) “I learned that when you cry, you gain more strength to fight. To fight for justice no matter how long. [...] When we defeat those who oppress us, [justice] will eventually come.”<sup>14</sup>

) “[The victim’s father] knows that his son was included in the *Barangay* watch list [...] however, his son should not have been killed, but given due process, [...] it is only God who has the right to get the life of anyone.”<sup>15</sup>

) "The left-behind family is asking the ICC to serve justice [for the] incidents that involved the direct victims in the name of the drug war, [they] are grateful that there are institutions like the ICC willing to help the victims [and they] want the voices of victims to be heard by the ICC.”<sup>16</sup>

) "We hope that the investigation will push through especially with all

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<sup>9</sup> r/60152/21

<sup>10</sup> r/60104/21.

<sup>11</sup> r/60218/21.

<sup>12</sup> r/60012/21.

<sup>13</sup> r/60020/21.

<sup>14</sup> r/60207/21.

<sup>15</sup> r/60036/21.

<sup>16</sup> r/60038/21.

those involved and that the cases will not be disregarded. [...] All those responsible should be held accountable."<sup>17</sup>

) "I don't know what happened to my grandson, his whereabouts, situation and even if he's alive or dead. There are nights that I cannot sleep when I remember the uncertainty of not knowing what happened to my grandson. [...] The uncertainty of not knowing still hurts to this day."<sup>18</sup>

) "All we wish for is justice for each and every one of us victims. Even if it is difficult to get it here in our country, it is all we can shout for our loved ones."<sup>19</sup>

) "There is a total impunity here, the police and their cohorts just killed and the President gave the orders to kill in his public announcement that's why the killing continues and this has to be stopped. This is so inhuman and cruel."<sup>20</sup>

) "The victims are in favour of conducting an investigation because according to them, the President's statements on *nanlaban* cases and denial of his actions should be investigated for they are false."<sup>21</sup>

) "But they didn't give my son a chance to live. That's why I'm so mad at Duterte. I wouldn't even wish the same for him in return. I am not a criminal like him. That's why there needs to be a case for my son. [...] He really should be jailed. We do not need him to die or be killed. We want him to suffer in jail for what he is doing to our country. For the suffering he is giving to the people of this country and the powerless."<sup>22</sup>

) "Please help us give justice to our family, we are financially drained and mentally and emotionally distressed we are hoping that God will

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<sup>17</sup> r/60062/21.

<sup>18</sup> r/60065/21.

<sup>19</sup> r/60066/21.

<sup>20</sup> r/60082/21.

<sup>21</sup> r/60085/21.

<sup>22</sup> r/60206/21.

finally put an end to Duterte's drug war killing the poor and the innocents."<sup>23</sup>

) "They came to us to bring their voices to the ICC. They say they want an investigation because there seems to be no hope for their loved ones to attain justice here in the Philippines. There has been no accountability in the Philippines for the thousands of executions that have taken place since the start of the War on Drugs, leading to a climate of total impunity for these crimes."<sup>24</sup>

) "I am grateful ICC gave us the opportunity to participate and hear our views."<sup>25</sup>

6. Altogether five representations stated that the victims represented did not want an investigation. The reasons provided were not always clear; the VPRS believes that fear of reprisals and re-traumatization motivated these refusals:

) "I cannot make a decision because I do not know what happened."<sup>26</sup>

) "I have a young child. It will be inconvenient for me."<sup>27</sup>

) "We want our family to be at peace."<sup>28</sup>

) "I would rather not. I would entrust what happened to God. [...] I got sick because of too much worry."<sup>29</sup>

) "[I have] concerns about my security and for my family."<sup>30</sup>

7. Finally, in seven representations, the relevant questions<sup>31</sup> were either not answered or from the information provided it is unclear whether the victims want or do not want an investigation to be authorized.

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<sup>23</sup> r/60088/21.

<sup>24</sup> r/60140/21.

<sup>25</sup> r/60084/21.

<sup>26</sup> r/60003/21.

<sup>27</sup> r/60014/21.

<sup>28</sup> r/60035/21.

<sup>29</sup> r/60037/21.

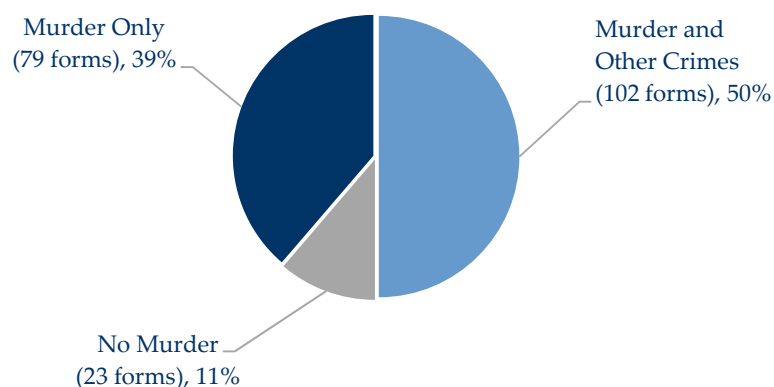
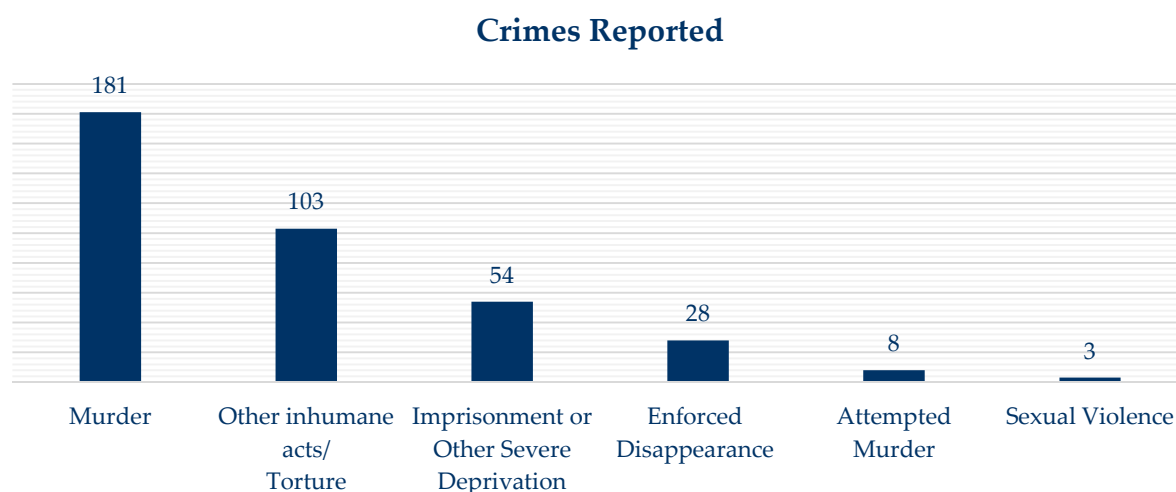
<sup>30</sup> r/60120/21.

<sup>31</sup> Questions 11 to 13.



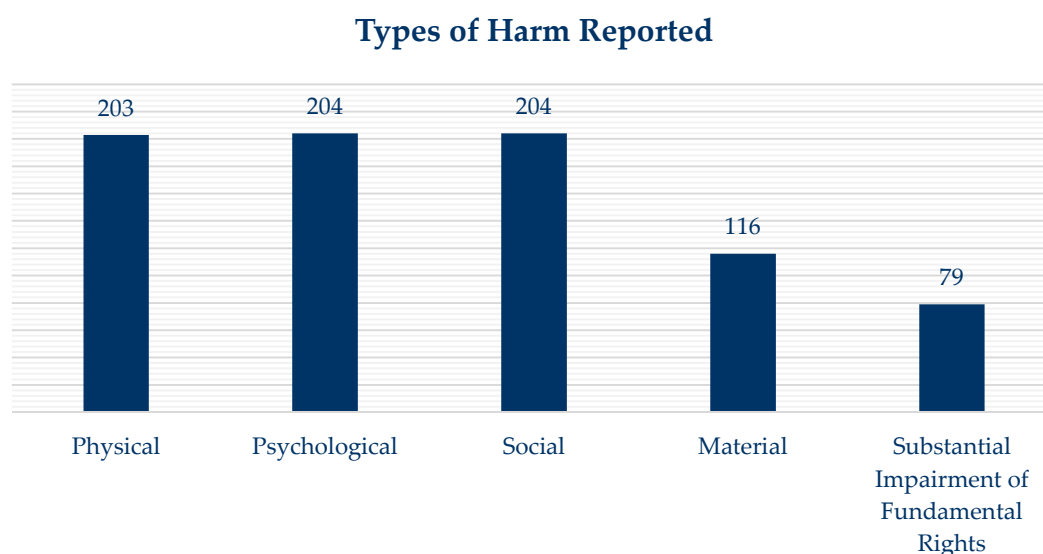
## B. Views on the scope of the investigation

8. The VPRS notes that the following potential crimes against humanity, allegedly committed in the Philippines in the context of the WoD were reported: murder; attempted murder; imprisonment or other severe deprivation of liberty; rape and other forms of sexual violence; enforced disappearance of persons, torture and other inhumane acts. The crimes reported in the Transmitted Representations were allegedly committed by the police, [redacted]<sup>32</sup> and unidentified men usually wearing civilian clothes, bonnets, masks and who, in a number of cases, rode in tandem when committing the alleged crimes.



<sup>32</sup> [Redacted]

9. The types of harm reported in the representations by both direct and indirect victims include physical, psychological, material, social harm,<sup>33</sup> as well as substantial impairment of fundamental rights.<sup>34</sup>



10. The VPRS notes that only three representations report the crimes of rape and other sexual violence.<sup>35</sup> However, the VPRS was informed that this type of crimes is severely underreported with victims of sexual violence being extremely reticent to come forward because of fear and the stigma associated with it. Moreover, according to reports, “with killings becoming rampant in the government’s war on drugs, potential victims have become more vulnerable, [t]hey now tend to give in more easily to demands for sexual favours, if only to ensure their safety or that of a family member.[...] Their fear has intensified because now, death is a possibility.”<sup>36</sup>
11. The VPRS further notes that the majority of the direct victims of the crimes reported in the Transmitted Representations are men and the women

<sup>33</sup> Social harm was systematically inferred for all representations on account of the stigma linked to the WoD for both the suspected drug users and their families.

<sup>34</sup> Substantial impairment of fundamental rights was listed when victims alleged the loss of education opportunities and deprivation of liberty.

<sup>35</sup> [Redacted]

<sup>36</sup> See, Inquirer.Net, “NGO: Drug war worsens ‘palit-puri’”, 5 November 2018, <https://newsinfo.inquirer.net/1050369/ngo-drug-war-worsens-palit-puri#ixzz74NvOSjwi>. [Redacted]

survivors of murdered family members<sup>37</sup> are seen as collateral victims “largely ignored by the Government and deprived of its services.”<sup>38</sup>

12. Most representations indicated that the investigation should cover the crimes reported in the respective representations. Others requested that all crimes against humanity committed in the context of the WoD be investigated. [Redacted]. A sample of relevant quotes regarding the scope of the investigation and the alleged perpetrators is provided below:

) "The families of victims are crying for justice. [...] The ICC Judges should not just investigate the killings but also other human rights violations done in the context of the Philippine government's campaign against drugs. [S]ome of the victims suffered from illegal arrest and detention, physical injuries, torture, harassment and intimidation, enforced disappearance, aside from summary execution, extrajudicial killings, and killings by stray bullets or what the police calls, 'collateral damage'."<sup>39</sup>

) "[W]hile killings and arrests were predominantly committed against the victims, these are sometimes attended by other types of crimes. Specifically, the crimes reported by victims range from abuse of power, assault, “palit-ulo” scheme, planting of evidence, irregularities in police operations, rape, illegal search of dwelling, threats and intimidation, and torture. In particular, a scheme known as “palit-puri”<sup>40</sup> or “sex-for-freedom” has also been documented in which female victims are made to have sexual intercourse in exchange for their freedom from incarceration.”<sup>41</sup>

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<sup>37</sup> Representations were also submitted by or on behalf of LGBTQI+ individuals.

<sup>38</sup> [Redacted] See also, <https://fma.ph/2019/03/09/fma-signs-joint-statement-on-wmw-pilipinas-international-womens-day-2019>.

<sup>39</sup> r/60102/21.

<sup>40</sup> The VPRS notes that the term *palit-katawan* (“rape-for-freedom”) is used in the literature and considered more adequate for the context, see, for example <https://www.ugent.be/ps/conflict-ontwikkeling/crg/en/research/research-clusters/regimes-of-violence/violence-against-women.htm>.

<sup>41</sup> r/60111/21.

- ) "The extrajudicial killings [redacted] take place in a context of increased violations of other fundamental rights [redacted] under the "War on Drugs", including arbitrary arrests and detention, torture and ill-treatment but the victims also observed these are condoned by the State. [...] These human rights violations must stop and be investigated"<sup>42</sup>
- ) [Redacted].<sup>43</sup>
- ) "[T]he investigation should be expanded to all forms of human rights violations in the name of the drug war and not just the killings. [Victims] also ask the ICC to look into the violations that occurred after March 2019."<sup>44</sup>
- ) "The investigation should include all [extra judicial killings], illegal detentions, and related persecution acts committed pursuant to the anti-drug campaign of the Duterte administration. The investigation should be national in scope and include Duterte's leadership as Mayor and as President."<sup>45</sup>
- ) "Duterte must be prosecuted for the many people that he killed; an investigation is important to show the families of those who died that justice can be served. [...] Investigate the police, and the higher ups who ordered them to do it. This was the order of the President of the Philippines."<sup>46</sup>
- ) "Because of the horrible crimes that are happening in our country especially the killings of individuals who allegedly fought back or *nanlaban* [...] we hope that the ICC will take action on our grievances."<sup>47</sup>
- ) "The ICC should investigate all the senseless killing in the 'War on

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<sup>42</sup> r/60142/21.

<sup>43</sup> [Redacted]

<sup>44</sup> r/60125/21.

<sup>45</sup> r/60184/21.

<sup>46</sup> r/60154/21.

<sup>47</sup> r/60033/21.

Drugs'. [...] Perpetrators are police authorities who follow the 'kill order' from the president and there is total impunity. Until when shall we [wait for] justice? The killings continue."<sup>48</sup>

) "What the policemen did to us [...] was inhuman, it is a grave human rights violation that should be investigated and the authorities (policemen) who did this should be jailed including the higher authorities that gave the orders to kill suspected drug users or pushers."<sup>49</sup>

) "We are hoping that there will be an action in the ICC for the killings of [extra judicial killings] victims."<sup>50</sup>

### C. Other issues raised by victims in their representations

13. The VPRS notes that a series of other issues and concerns were raised in the victim representations. A list of these views and concerns is provided below and relevant quotes are provided.

#### a. [Redacted]

) [Redacted]<sup>51</sup>

) [Redacted]<sup>52</sup>

) [Redacted]<sup>53</sup>

) [Redacted]<sup>54</sup>

) [Redacted]<sup>55</sup>

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<sup>48</sup> r/60052/21.

<sup>49</sup> r/60053/21.

<sup>50</sup> r/60074/21.

<sup>51</sup> [Redacted]

<sup>52</sup> [Redacted]

<sup>53</sup> [Redacted]

<sup>54</sup> [Redacted]

<sup>55</sup> [Redacted]

) [Redacted]<sup>56</sup>

) [Redacted]<sup>57</sup>

) [Redacted]<sup>58</sup>

) [Redacted]<sup>59</sup>

) [Redacted]<sup>60</sup>

**b. [Redacted]**

) [Redacted]<sup>61</sup>

) [Redacted]<sup>62</sup>

) [Redacted]<sup>63</sup>

) [Redacted]<sup>64</sup>

) [Redacted]<sup>65</sup>

) [Redacted]<sup>66</sup>

) [Redacted]<sup>67</sup>

) [Redacted]<sup>68</sup>

) [Redacted]<sup>69</sup>

) [Redacted]<sup>70</sup>

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<sup>56</sup> [Redacted]

<sup>57</sup> [Redacted]

<sup>58</sup> [Redacted]

<sup>59</sup> [Redacted]

<sup>60</sup> [Redacted]

<sup>61</sup> [Redacted]

<sup>62</sup> [Redacted]

<sup>63</sup> [Redacted]

<sup>64</sup> [Redacted]

<sup>65</sup> [Redacted]

<sup>66</sup> [Redacted]

<sup>67</sup> [Redacted]

<sup>68</sup> [Redacted]

<sup>69</sup> [Redacted]

<sup>70</sup> [Redacted]

**c. Concerns about the effectiveness of the Filipino judicial system and the ability and willingness to investigate the WoD-related crimes:**

- J "Even if the spokesman of the state insists that there exists a justice system, it is not working to the benefit of the oppressed [...] most especially when prosecutors believe there is a threat to their lives if the rumour goes out that they had dismissed a drug case. In a legal climate like the Philippines, it is almost unheard of for citizens to sue the state for wrong imprisonment."<sup>71</sup>
- J "Family representatives prefer an investigation by the ICC because of their distrust, in terms of both capacity and fairness, in any investigation by Philippine government agencies. They believe that the ICC, not being under any influence from the Philippine government, will be able to conduct genuine and effective investigations."<sup>72</sup>
- J "Legal processes within the country are manipulated/ pressured by the state to the disadvantage of the victims' families."<sup>73</sup>
- J "I want the ICC to investigate because here they did not do it. [...] There is no justice here."<sup>74</sup>
- J "This justice is elusive here because it doesn't work for the victims of the war on drugs, and the state condones these killings and torture, state authorities who perpetrated the human rights violations are not investigated."<sup>75</sup>
- J "[The victim] is disillusioned with the domestic legal system and calls for an investigation of higher ups, in particular, President Duterte. She wants him investigated and stripped of power, in order to stop the

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<sup>71</sup> r/60215/21.

<sup>72</sup> r/60111/21.

<sup>73</sup> r/60213/21.

<sup>74</sup> r/60056/21.

<sup>75</sup> r/60107/21.

killings."<sup>76</sup>

- ) "Justice cannot be reached through domestic mechanisms. We look to the international bodies for redress [...] for the violation of the victims' rights and the rights of their families, relatives, and community members."<sup>77</sup>

**d. Request for expeditious proceedings:**

- ) "Please expedite the investigation and hold accountable those who gave order to the killing of my son."<sup>78</sup>
- ) "I want the investigation to be fast tracked for us to have justice and we want to seek any help for our livelihoods."<sup>79</sup>
- ) "Even if the investigation that will be conducted by the ICC will take a long period of time, we will wait"<sup>80</sup>

**e. Reparations for victims:**

- ) "The victims are seeking justice and reparation."<sup>81</sup>
- ) "We hope that my children and I will receive help so that my children can finish schooling and we can attain justice for my husband."<sup>82</sup>
- ) "I also want to ask for assistance for medical and livelihood of our family."<sup>83</sup>
- ) "[We] seek assistance for [our] financial and medical needs."<sup>84</sup>
- ) "Hopeful that the Office of the Prosecutor's request will be granted and

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<sup>76</sup> r/60202/21.

<sup>77</sup> r/60184/21.

<sup>78</sup> r/60075/21.

<sup>79</sup> r/60079/21.

<sup>80</sup> r/60018/21.

<sup>81</sup> r/60219/21.

<sup>82</sup> r/60045/21.

<sup>83</sup> r/60079/21.

<sup>84</sup> r/60089/21.



that an investigation will be opened, we contemplate that arrest warrants be issued against the persons responsible for the alleged crimes, and that reparations be made to all the victims who have suffered under the hands of the administration's 'War on Drugs'.<sup>85</sup>

**f. Trauma and stigma related to the WoD**

- J "It's like there's a thorn in my chest whenever I hear news of killings of people by policemen and authorities because of drug war, I remember my son and I can't breathe. [...] Anger, no closure, where is the perpetrator is always my question. Why the authorities make us suffer."<sup>86</sup>
- J "Many of the victims' families suffer from psychological trauma, sleepless nights, and fear that the perpetrators of the crimes that their loved ones suffered will target them as well. This is further amplified by the fact that the cases of victims who died were attended by violence, with many being shot, tortured, and sexually assaulted by the perpetrators, often within their view or earshot."<sup>87</sup>
- J "We were traumatized and we continue to suffer from depression."<sup>88</sup>
- J "We experience so much fear. We were traumatized and all got sick."<sup>89</sup>
- J "We were traumatised. I suffered mentally [nervous] and my diabetes worsened. The victim's children are also unable to continue their stud[ies]."<sup>90</sup>
- J "We are afraid and very sad. My husband's parents sold the house that

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<sup>85</sup> r/60186/21.

<sup>86</sup> r/60083/21.

<sup>87</sup> r/60111/21.

<sup>88</sup> r/60017/21.

<sup>89</sup> r/60026/21.

<sup>90</sup> r/60027/21.

we were living in."<sup>91</sup>

- ) "To this date we still have phobia every time we hear a gunshot, we are all afraid because of what happened."<sup>92</sup>
- ) "Trauma, child bullying, displacement (hard to rent a new house and we were forced to). [...] The next day the police forced them to point to other people in the community who were using drugs and they were threatened that if they did not do so they will be summarily executed. [...] We felt the stigma of being an accused user of illegal drugs."<sup>93</sup>
- ) "Suffered too much social stigma, spent sleepless nights due to that very tragic [death]."<sup>94</sup>

**g. WoD – an alleged war against “the poor and the innocent”<sup>95</sup>**

- ) "Because authorities kill without [investigating]. They suspect every poor family involved in drugs because authorities only kill poor people like my nephew. I have met other families of victims killed, they are all poor. There is no justice here."<sup>96</sup>
- ) "While nearly a half of those killed were 'known, confessed or former users', what is disturbing is that one-third have 'no known criminal records'".<sup>97</sup>
- ) "It is hard to be seen as 'collateral damage' and not have any compensation or justice for what happened to us. [...] All of the victims of this war on drugs are the poor people and they should be given

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<sup>91</sup> r/60033/21.

<sup>92</sup> r/60068/21.

<sup>93</sup> r/60071/21.

<sup>94</sup> r/60156/21.

<sup>95</sup> See also, *inter alia*, Amnesty International, "If You Are Poor, You Are Killed" Extrajudicial Executions In The Philippines", 2017, <https://www.amnesty.org.uk/files/2017-04/ASA3555172017ENGLISH.PDF>; Reuters, "Most Filipinos believe drug war kills poor people only, survey shows", 2 October 2017, <https://www.reuters.com/article/us-philippines-drugs-idUSKCN1C71HH>.

<sup>96</sup> r/60058/21.

<sup>97</sup> r/60102/21.

justice. [...] As a survivor, I hope that we are given attention and [we are] acknowledged as well."<sup>98</sup>

) “[The victim] was the typical countryside boy who was respectful, kind, and caring towards his family and other people. He knew nothing about drugs until he was initiated into it by city people who came to our place and was unable to resist due to peer pressure, his youth, and naiveté. He didn’t cause anybody great harm (except for occasional petty theft) which showed that he wasn’t really a heavy drug user who had lost his mind completely beyond reform. And reform he did try by undergoing rehab several times before relapsing again due to the lack of opportunities to lead a new life after his release. If anything, his drug dependence was both a product and a symptom of his desperate circumstances in life. [...] Since this war on drugs started, I have yet to hear any wealthy or powerful person shot like a pig at his/her home like what they did to my poor brother and his friend.”<sup>99</sup>

#### **h. The impact of the WoD on children<sup>100</sup>**

) "When I see my scars, I remember the policemen; the worst part is that

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<sup>98</sup> r/60065/21.

<sup>99</sup> r/60201/21.

<sup>100</sup> The VPRS notes that many representations reflect on the impact of the WoD on children. See also, Human Rights Watch, “Our Happy Family Is Gone: Impact of the “War on Drugs” on Children in the Philippines”, 27 March 2020, <https://www.hrw.org/report/2020/05/27/our-happy-family-gone/impact-war-drugs-children-philippines>. The report touches upon many of the issues raised in the representations and concludes that “the harmful consequences for children of Duterte’s anti-drug campaign go beyond the immediate violence of the raids. Many suffer psychological distress after witnessing the killing of a loved one. Some children have had to leave their homes and community, either going into hiding or relocating because they and their family members feared for their lives. At school and in their own communities, some experienced bullying because of the stigma of alleged drug use by a now deceased parent.[...] A number of children have stopped going to school because they no longer had enough money for transportation, food, and school supplies. The loss of a parent who is the main breadwinner can plunge an already impoverished family into even more extreme poverty. Many children are left with no choice but to work, and some end up homeless and living in the streets, further exposing themselves to danger, violence, and criminal activity.”

they also left a mark of pain in our hearts. We are not treated as humans, more so as minors."<sup>101</sup>

- ) "Since the start of the drug war of the administration, children apprehended for curfew violations or illegal gambling have found themselves charged with possession of illegal drugs, which would warrant their continued detention in detention facilities. An alarming pattern of evidence-planting and malicious prosecution for drug-related offenses has been the practice of policemen to minors. The 'War on Drugs' makes Filipino children, especially those who live in poverty, more vulnerable to abuse and torture."<sup>102</sup>
- ) "The death of these minors resulted to the family being ostracized by the community especially when the death is in relation to the drug war."<sup>103</sup>
- ) "Many families suffered and lost a parent because of his War on Drugs. Children are orphaned, and they carry with them the pain of losing their parent in a violent manner."<sup>104</sup>
- ) "[The victim's] children stopped going to school and they experienced discrimination."<sup>105</sup>
- ) "A lot of families were broken and suffered because of the death of their relatives, often their parents. The children left behind struggle so much."<sup>106</sup>
- ) "We are all traumatised until now and find it hard to speak about it and to cope with life without him. [...] We are all traumatised and did not know what to do. One second he was just there and the next he was lifeless lying face down on the road then he was dead. It was painful

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<sup>101</sup> r/60142/21.

<sup>102</sup> r/60142/21.

<sup>103</sup> r/60140/21.

<sup>104</sup> r/60085/21.

<sup>105</sup> r/60028/21.

<sup>106</sup> r/60065/21.

and hard because he was our family's breadwinner at the time. [We] stopped schooling because we were being bullied, labelled as 'children of a drug addict.'<sup>107</sup>

) "Their family is still struggling and are fearful because the killings are still ongoing. [...] [They worry] that the children of the victim will also be targeted by the police".<sup>108</sup>

) "At night, I cannot fall asleep. I cry and cry. My children are afraid every day. Financially struggling to support my children."<sup>109</sup>

) "What happened to my husband brought so much pain and grief to our family. My children immensely miss their father and they were traumatised."<sup>110</sup>

#### **i. Cultural and social impact of the WoD**

) "There is a new social norm now that is brainwashing and is gaining acceptance by many Filipinos today as a result of not only this physical but also culture war on drugs. That is, if you were a victim of [extra judicial killing], you deserved to die and that you did it to yourself because you were a bad person, a menace to society [...] [The WoD] is redefining and superseding the traditional values and moral fibre of Philippine society to the extent that it legitimizes the use of violence at all cost in such a way that people become blind to its abuse... It is a very dangerous mind set and lethal trend, which if not stopped now, could throw the country into an endless cycle and ever-deepening reign of killings, terror, and bloodshed/thirst at the hands of a few who have

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<sup>107</sup> r/60066/21.

<sup>108</sup> r/60042/21.

<sup>109</sup> r/60044/21.

<sup>110</sup> r/60046/21.

appointed themselves to play god over the powerless."<sup>111</sup>

J “That’s the nightmare that never left my mind. Seeing all the dead people. I realized that all I said about supporting killing addicts was hurtful. I realized it hurts when you’re the one who has a loved one that becomes a victim.”<sup>112</sup>

J “To my fellow Filipinos who believe in their idol, maybe this hasn’t happened to you? ... [those] who believe so much and also maybe benefit during this period. That’s why I break their notion that this isn’t what’s happening in our country. You just haven’t seen it yourself. That’s why I tell them not to act blind or deaf. Your eyes and ears should be clear because this is what’s happening.”<sup>113</sup>

## **II. Details of the victim representations received**

### **A. Number, format, means of receipt and language of all representations received**

14. The total number of victim representations received by the VPRS in the context of the Situation is 212.<sup>114</sup>

15. All representations were submitted on the standard representation form or in a different written format.<sup>115</sup> [Redacted].<sup>116</sup>

16. [Redacted].<sup>117</sup>

17. [Redacted].<sup>118 119</sup>

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<sup>111</sup> r/60201/21.

<sup>112</sup> r/60151/21.

<sup>113</sup> r/60207/21.

<sup>114</sup> 17 victim representation forms received after the 13 August 2021 deadline are included in this total number. No victims were directly assisted by VPRS staff members in filling in victim representation forms.

<sup>115</sup> Word documents or text included in the body of emails. A number of representations were submitted on the Bangladesh/Myanmar version of the form.

<sup>116</sup> [Redacted]

<sup>117</sup> [Redacted]

<sup>118</sup> [Redacted]

## B. VPRS preliminary legal assessment

18. The VPRS conducted a preliminary legal assessment of whether each individual or group making the representation falls within the definition of victim under Rule 85 of the Rules of Procedure and Evidence (“Rules”) on the basis of the intrinsic coherence of the information provided in the documentation received. Annex II to the present report contains the VPRS preliminary legal assessment of each representation. A detailed explanation of the assessment criteria applied is contained in Annex III.
19. Following its legal assessment, the VPRS has transmitted to the Chamber a total of 204 victim representations.<sup>120</sup> Eight representations, assessed as not meeting the conditions set out in Rule 85, have not been transmitted to the Chamber.<sup>121</sup>
20. All data and quotes provided in this report are based on the information contained in the Transmitted Representations.

## C. Types of representations

21. Out of the 204 Transmitted Representations, four were assessed by the VPRS as individual<sup>122</sup> and 200 representations were assessed as collective.
22. The representations assessed as individual were either submitted by direct victims who exclusively referred to the harm they suffered personally as a

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<sup>119</sup> [Redacted]

<sup>120</sup> Registry, “Registry Transmission of Victims’ Representations”, 27 August 2021, ICC-01/21-10.

<sup>121</sup> One representation was assessed as falling outside the material scope of the Situation since it reported domestic crimes with no link to the WoD and seven representations were assessed as falling outside the temporal scope of the Situation since they reported crimes committed after 17 March 2019. The VPRS notes that representations reporting crimes committed between 1 November 2011 and 1 July 2016 in locations in the Philippines other than the city and region of Davao were assessed as falling inside the temporal scope of the Situation.

<sup>122</sup> The representations assessed as individual were either submitted by direct victims who exclusively referred to the harm they suffered as a result of alleged crimes within the Court’s jurisdiction, or by representatives on behalf of only one victim.

result of crimes sufficiently linked to the WoD, or by a representative(s) on behalf of only one victim.

23. The VPRS assessed as collective those representations which include either *i)* a number or a list of victims in the answer provided to question 3<sup>123</sup> of the representation form; or *ii)* information, contained anywhere in the form, that other individuals connected to the person who submitted the representation have also suffered harm as a result of crimes within the jurisdiction of the Court as described above.<sup>124</sup> When the information provided was insufficient to assess with certainty the number of individuals who suffered harm, the VPRS assessed the representations as introduced by family(s) or community(s).

#### **D. Number of victims represented**

24. The Transmitted Representations were introduced on behalf of approximately 1,530 individual victims, 1,050 families [Redacted].<sup>125</sup>

### **III. Overview of the Article 15 victim representation process**

25. The final part of this report details the circumstances in which the Article 15(3) process took place with a focus on the challenges and obstacles encountered.

#### **A. Security situation**

26. At the outset of the process, the VPRS liaised with relevant sections of the

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<sup>123</sup> Question 3 reads as follows: "If a collective representation, for how many victims is this form submitted?"

<sup>124</sup> A number of representations mentioned as victims only those individuals who were killed, abducted, detained or tortured. This reflection was also confirmed by the interlocutors - the concept of who is a victim is in most cases understood to only cover direct victims of violent crimes.

<sup>125</sup> [Redacted]



Registry in order to evaluate the security situation in the Philippines. Risk assessments were carried out in order to determine the risks that might arise for all of those involved in the process, [redacted] and to identify measures that could mitigate those risks.<sup>126</sup>

27. [Redacted].

28. The Philippines' withdrawal from the Rome Statute became effective on 17 March 2019 [redacted].

29. After the ICC Prosecutor's statement declaring the intention to open a preliminary examination into the situation in the Philippines,<sup>127</sup> media reported President Rodrigo Duterte's explicit hostility towards the Court and his declared refusal to cooperate.<sup>128</sup> Following the OTP Request, Mr Duterte's animosity towards the ICC amplified and he continued to challenge the Court and its legitimacy.<sup>129</sup>

30. On 21 July 2021, the Supreme Court of the Philippines made public its ruling that the ICC retains jurisdiction "over any and all acts committed by government actors until March 17, 2019. [The] withdrawal from the Rome

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<sup>126</sup> On 25 and 28 June 2021, security assessments were received from [redacted], Division of External Operations.

<sup>127</sup> ICC Prosecutor, "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, <https://www.icc-cpi.int/Pages/item.aspx?name=180208-otp-stat>.

<sup>128</sup> See, *inter alia*, Reuters, "Jail me, hang me: Philippines' Duterte says won't answer to ICC", 20 December 2019, <https://www.reuters.com/article/us-philippines-drugs-idUSKBN1YO184>; The Guardian, "Philippines: Duterte threatens to arrest International Criminal Court prosecutor", 13 April 2018, <https://www.theguardian.com/world/2018/apr/13/philippines-duterte-threatens-to-arrest-international-criminal-court-prosecutor>;

<sup>129</sup> On 15 June 2021, the Philippines' presidential spokesperson, Harry Roque, stated that he believes "that the decision to move forward into a formal investigation stage is legally erroneous politically motivated." He also added that "[t]he president will never cooperate until the end of his term on June 30, 2022." See <https://twitter.com/PhilippineStar/status/1404675233903042562> and CNN, "Palace: Duterte will not cooperate with ICC probe on drug war", 15 June 2021, <https://cnnphilippines.com/news/2021/6/15/Palace-Duterte-will-not-cooperate-ICC-probe-drug-war.html>. Furthermore, in a statement from August 2021, Mr Duterte said that "[if] you really want me... it's over my dead body. You can take my dead body to the Netherlands. You will have a carcass. I will not go there alive. But if I see you here, I'll go [kill you] first." See, CNN, "Duterte: I will never go to the ICC alive", 3 August 2021, <https://www.cnn.ph/news/2021/8/3/Duterte-will-never-face-ICC-probe-alive.html>; Philstar, "Duterte on ICC probe: Over my dead body", 4 August 2021, <https://www.philstar.com/headlines/2021/08/04/2117431/duterte-icc-probe-over-my-dead-body>.

Statute does not affect the liabilities of individuals charged before the International Criminal Court for acts committed up to this date.”<sup>130</sup> However, the Government’s position towards the ICC remained unchanged and it was reiterated that the Philippines would not cooperate with the Court in case of a potential ICC investigation.<sup>131</sup>

31. [Redacted]. Heightened and additional Covid-19 related restrictions, including a longer curfew, were imposed in the Metro Manila region from 1 to 15 August 2021 and subsequently extended until 31 August 2021.<sup>132</sup>

32. [Redacted].

## **B. Approach implemented**

33. In designing its approach to the representation process, the VPRS was guided by the “security first” principle. It considered in particular: (a) limitations due to the security situation (see above); (b) its limited knowledge of the context on the ground and the lack of access to the country, (c) limitations due to the

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<sup>130</sup> Supreme Court of the Philippines, Senator Francis “Kiko” N. Pangilinan, et al. Vs. Alan Peter S. Cayetano, et al./Philippine Coalition for the International Criminal Court (PCICC), et al. Vs. Office of the Secretary, represented by Hon. Salvador C. Medialdea, et al./Integrated Bar of the Philippines Vs. Office of the Executive Secretary, represented by Salvador C. Medialdea, et al., G.R. No. 238875/G.R. No. 239483/G.R. No. 240954. March 16, 2021 [Date Uploaded: 7/21/2021], <https://sc.judiciary.gov.ph/20238/>.

<sup>131</sup> GMA News, “Palace insists non-cooperation with possible ICC probe on drug war killings despite SC ruling” 22 July 2021, <https://www.gmanetwork.com/news/news/regions/796344/palace-insists-non-cooperation-with-possible-icc-probe-on-drug-war-killings-despite-sc-ruling/story/>. On 21 June 2021, President Duterte reportedly said that “[t]his ICC is bullshit. Why would I defend or face an accusation before white people? You must be crazy. They used to be colonizers. They have not atoned for their sins against the countries that they invaded including the Philippines. And now, they’re trying to set up a court outside our country and making us liable to face them”, [https://manilastandard.net/news/top-stories/357835/duterte-won-t-stand-trial-before-icc.html?utm\\_content=buffer1b21c&utm\\_medium=social&utm\\_source=twitter.com&utm\\_campaign=buffer](https://manilastandard.net/news/top-stories/357835/duterte-won-t-stand-trial-before-icc.html?utm_content=buffer1b21c&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer).

<sup>132</sup> See, inter alia, CNN, “Metro Manila still under week-long GCO, to shift to ECQ starting August 6”, 30 July 2021, <https://cnnphilippines.com/news/2021/7/30/Metro-Manila-GCO-stricter-restrictions.html>; CNN, “Metro Manila extends curfew hours under ECQ starting Aug. 6”, 2 August 2021, <https://cnnphilippines.com/news/2021/8/2/Metro-Manila-extends-curfew-hours-10-4-ECQ.html#:~:text=startIndex%3A,enhanced%20community%20quarantine%20on%20Friday>; CNN, “List: Prohibited activities, other restrictions in Metro Manila under ECQ”, 2 August 2021, <https://cnnphilippines.com/news/2021/8/2/LIST-prohibited-activities--other-restrictions-ECQ.html>.

Covid-19 pandemic (see above); and (d) [redacted] the VPRS followed both an open approach and a targeted one.

*Open approach*

34. The VPRS followed an ‘open approach’ including through online dissemination of relevant information and representation forms [Redacted]. The VPRS used a victim representation form, designed to be used by individuals or groups of victims, and related guidelines on how to fill in this form.<sup>133</sup> [Redacted].
35. On 22 June 2021, the English online form and a downloadable fillable PDF form were made available on the website of the Court.<sup>134</sup> Guidelines on how to fill in the form, translations of the form in Tagalog and Cebuano, and a *Questions and Answers* document were also made available on the ICC website in the following weeks.

*Targeted approach*

36. In addition to the open approach, the VPRS also implemented a more targeted approach [Redacted].
37. [Redacted].
38. The information provided to interlocutors included: i) an overview of the ICC and proceedings to date; ii) the different functions of various organs of the Court and their independence from each other; iii) that VPRS staff members are not part of the Office of the Prosecutor and that the Registry is neutral to the proceedings; iv) that unless and until authorization is given by the Chamber, no investigation by the ICC Prosecutor can take place; v) an

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<sup>133</sup> The victim representation form and the guidelines for victims/representatives on how to fill in the form used were similar to the ones used in the Bangladesh/Myanmar situation, with some necessary minor adjustments to the current Situation, including the Chamber’s relevant guidance. See, Registry, “Registry’s Request for Extension of Notice Period and Submissions on the Article 15(3) Process”, 15 June 2021, ICC-01/21-8-Conf (public redacted version ICC-01/19-8-Red), para. 16.

<sup>134</sup> <https://www.icc-cpi.int/philippines>.

explanation of the participation rights victims have before the ICC; vi) explanation of the Article 15(3) process; vii) the fact that victims' views on a potential investigation are sought by the ICC Judges; viii) that submitting representations to the Court is entirely voluntary and free of charge; ix) that victim representations are not evidence and will only be shared with the Judges; x) that victims can submit representations individually or collectively; xi) that representations can be submitted to the VPRS until 13 August 2021; xii) that representations can be made in writing or in video/audio format; xiii) that the Court will keep the representations confidential; xiv) that it is important [Redacted] to maintain the confidentiality of information provided to the ICC through this process, for reasons which include but are not limited to their safety and security; xv) explanations on how to fill in and submit representations; xvi) that the Registry will revert to interlocutors in order to disseminate and explain the Judges' eventual decision on the Prosecutor's request to open an investigation.

39. [Redacted].<sup>135</sup>

40. The VPRS also highlighted in all its meetings [Redacted] and in the information posted on the website that before victims and representatives decide whether to submit a representation or not, they need to consider the following aspects: i) victim representations are not collected by the Prosecutor's office and they are not considered evidence; ii) the victim representation process is not an application process for participation in court proceedings or for obtaining reparations before the ICC; by submitting a representation form victims are not automatically able to participate in potential future judicial proceedings or to request reparations; iii) if the Judges authorize the Prosecutor to start an investigation, all victims, irrespective of whether they submitted a representation or not, will have the right to apply separately for participation in any potential future proceedings against one or

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<sup>135</sup> [Redacted]

more persons suspected to be responsible for alleged crimes; iv) the ICC process can take a long time and may not always result in suspects being identified, tried or found guilty.

### C. Obstacles and challenges reported

41. The VPRS interlocutors listed the following main obstacles encountered throughout the process:

- i. *The challenging security situation* [Redacted].
- ii. *Covid-19 related restrictions* [Redacted].<sup>136</sup>
- iii. *Relatively short period of time during which victims could submit representations* [Redacted] despite the extension of time granted by the Chamber for the Article 15(3) process, the time allotted for victims to make submissions proved insufficient [Redacted], including the compounding Covid-19 restrictions.
- iv. [Redacted].
- v. *Fear of re-traumatisation* [Redacted].
- vi. *The Court's limited temporal jurisdiction.* [Redacted].
- vii. [Redacted].<sup>137</sup>
- viii. [Redacted].
- ix. [Redacted].<sup>138</sup>

42. [Redacted].

43. All interlocutors emphasized the victims' and victim families' longing for justice and their overwhelming support for an ICC investigation into the crimes linked to the WoD committed in the Philippines. [Redacted].

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<sup>136</sup> [Redacted]

<sup>137</sup> [Redacted]

<sup>138</sup> [Redacted]

## **Conclusion**

44. In conclusion, the VPRS found that victims overwhelmingly support an investigation by the ICC Prosecutor into all crimes against humanity allegedly committed in the context of the so called WoD in the Philippines between 1 November 2011 and 17 March 2019.