

POLÍTIKA

CRITICAL ISSUES OF PHILIPPINE POLITY

3RD QUARTER



Pressing Public Issues and Concerns

The continuing lockdowns and surge in the COVID-19 cases across the country have led to exhaustion and widespread suffering of the populace

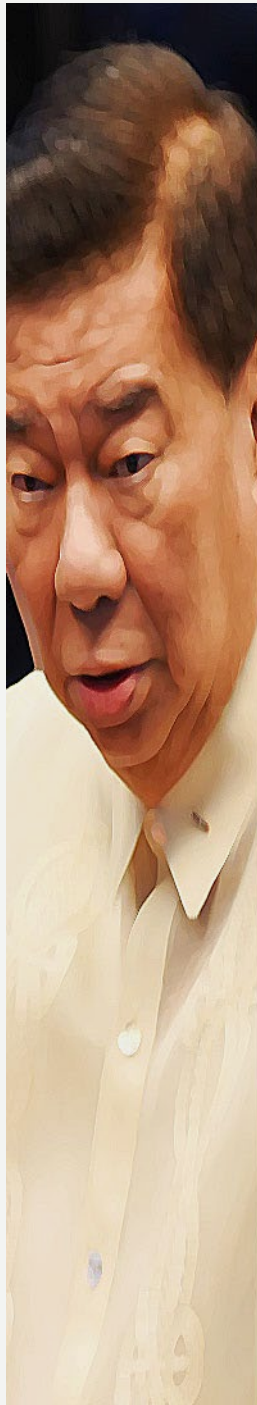
The 1951 Mutual Defense Treaty Enables the 2014 Enhanced Defense Cooperation Agreement

Secretary Lorenzana admitted that the Philippines had benefitted from its alliance with the U.S. because of the MDT, VFA and EDCA

Legislative Accomplishments and Updates

Several legislative movements were seen during the third quarter of 2021 as President Duterte winds down his term as President

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ON THE COVER & CONTENTS

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OVERVIEW

Into the remaining months of President Rodrigo Duterte's political timeline, this issue of POLITIKA for the Third Quarter of 2021 focuses on the most pressing public issues and concerns that the Duterte administration has to address with the ongoing pandemic and election period.

The first section discusses urgent national issues and concerns, prolonged economic hardships aggravated by the less-than-desirable pandemic management, the superficiality of political appearances and rhetoric, and the existing socio-economic conditions on the ground. In addition to this, the dwindling performance of the present administration on selected national issues is given particular attention.

Four notable survey findings should warrant our attention— (1) political integrity is more or less what the Filipinos are looking for in a national candidate; (2) eradicating or fighting corruption in government is now a top concern, (3) gut economic concerns has persistently been on top of the minds of Filipinos, and (4) the West Philippine Sea issue has finally gained the attention of our countrymen.

The second section focuses on the 1951 Mutual Defense Treaty (MDT) in the context of national security and international relations. Specifically, the MDT is considered as the enabling element of the 2014 Enhanced Defense Cooperation Agreement. This section also clarifies the changing position of the U.S. concerning the MDT and its general commitment to Philippine security.

In the third and last section, the legislative accomplishments of the Congress and updates on legislative priorities and bills are presented. Both houses of Congress will be taking a month-long break in October to give way to the filing of certificates of candidacy for local and national elective positions for the May 2022 elections. By this, Congressional sessions will resume on November 8, 2021.

I. PRESSING PUBLIC ISSUES AND CONCERNS

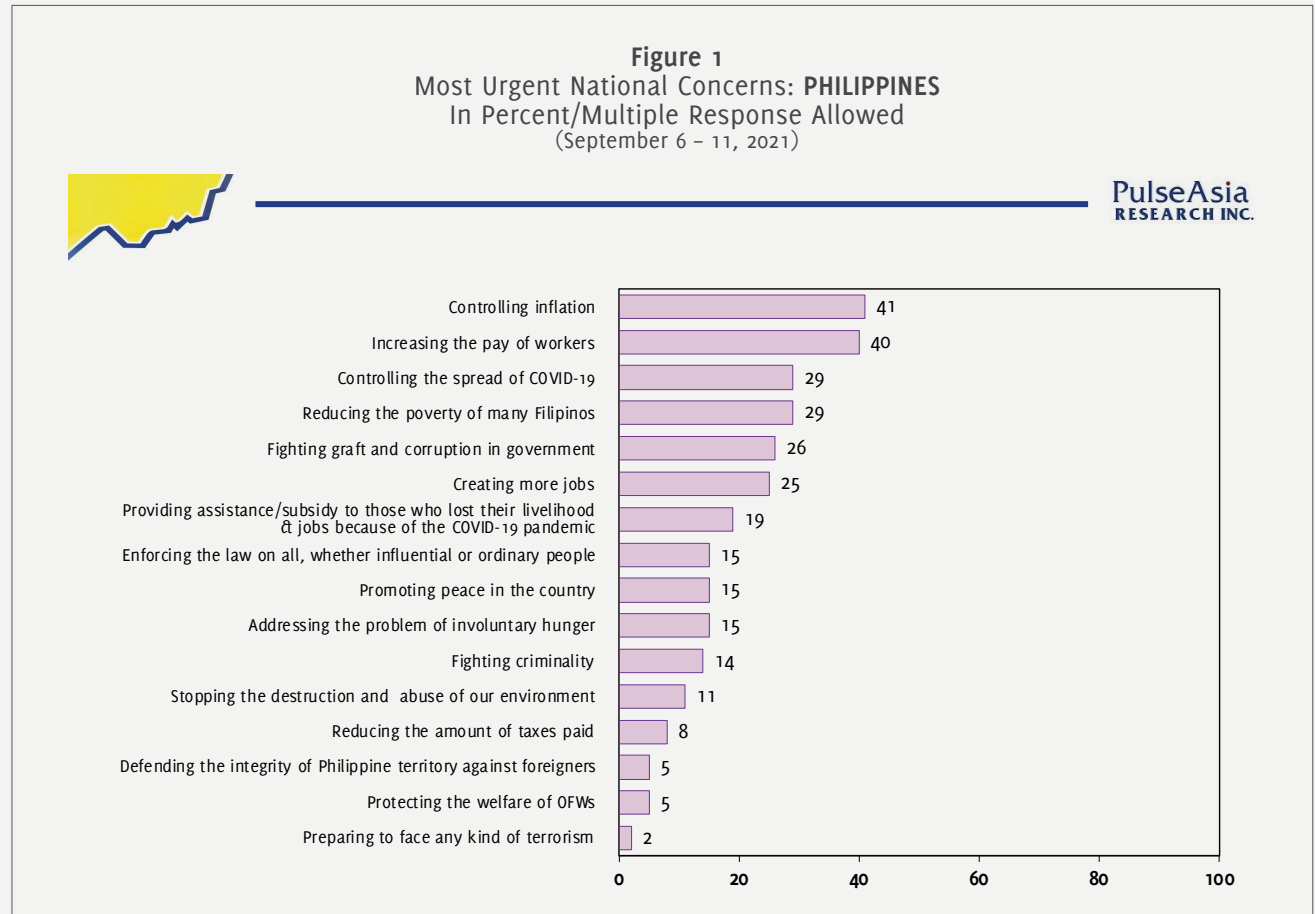
The continuing lockdowns and surge in the COVID-19 cases across the country have led to exhaustion and widespread suffering of the populace. As a result, the situation fuels the mounting concerns and demands from the different sectors to improve the country's COVID-19 response measures to mitigate and end the crisis.

Among the population's concerns, the issues of providing jobs, controlling the prices of essential commodities and services, and eradicating corruption in government are dominant. Moreover, as we enter the election season, Filipinos are bent to vouch for pro-poor national candidates, not being corrupt and honest and trustworthy. Thus, these top demands, taken together, shape the Philippine socio-political climate driven by political, economic issues.

Moreover, as the COVID-19 pandemic ravages our population and the economy, the continuing crisis worsens by less-than-desirable pandemic management, the superficiality of political appearances and rhetoric, and the deteriorating performance of the national administration on select national issues.

Urgent National Issues and Concerns

Growing concerns are driven by pressing public issues that represent the gut issues of the population and revolve around their socio-economic conditions. The third-quarter survey of PULSE Asia demonstrates the situation. The top two urgent national concerns, according to the survey, are "controlling inflation" (41%) and "increasing the pay of workers" (40%). The next four urgent concerns pertained to "controlling the spread of COVID-19" (29%), "reducing the poverty of many Filipinos" (29%), "fighting graft and corruption in government" (26%), and "creating more jobs" (25%). See Figure 1.



Cognizant of the impact of the current socio-political climate in the pre-electoral period, the Stratbase ADR Institute commissioned a Social Weather Stations' survey to determine the "Issues That Should Be Addressed By Candidates Running For National Positions In The May 2022 Elections." Remarkably, findings from the survey directly reflect the abovementioned most urgent national concerns.

According to the survey, the top three issues that should be addressed by the Presidential, Vice-Presidential, and Senatorial candidates are political-economic issues: "providing jobs" (56%), "controlling the prices of basic services and commodities" (54%), and "eradicating graft and corruption in government" (43%).

The second set of issues that needs to be addressed refer to two socio-economic concerns: "increasing the wage of workers" (23%) and "reducing the poverty of Filipinos (25%); while the last four issues are socio-political in nature: "fighting illegal drugs" (19%), "addressing the COVID-19 and other public health concerns (17%), "defending the territories of the Philippines against China (14%), and "fighting crimes that victimize ordinary citizens" (14%). See Table 1.

Table 1
Issues That Should be Addressed by Candidates Running for
National Positions in the May 2022 Elections: **PHILIPPINES**
(June 2021)

Providing jobs	56%
Controlling the prices of basic services and commodities	54%
Eradicating graft and corruption in government	43%
Increasing the wages of workers	33%
Reducing the poverty of Filipinos	25%
Fighting illegal drugs	19%
Addressing the COVID -19 and other public health concerns	17%
Defending the territories of the Philippines against China	14%
Fighting crimes that victimize ordinary citizens	14%

Further, Stratbase also commissioned a PULSE Asia survey about the "National Issues A National Candidate Should Have Clear Solutions If Elected In The Coming 2022 Elections," and results are directly similar to the SWS survey results.

The respondents, when asked about the national issues that a candidate should have clear solutions if elected, pointed to the following concerns: (1) "controlling inflation" (63%), increasing the pay of workers (53%), and "creating more jobs" (45%) as the top response, (2) "fighting graft and corruption" (41%) and "reducing the poverty of many Filipinos (30%), and (3) "fighting criminality" (23%), "defending the integrity of the Philippine territory against foreigners (22%), and "addressing the problem of COVID-19 and other health problems" (21%). See Table 2.

Table 2
National Issues a National Candidate Should Have Clear Solution if
Elected in the Coming 2022 Elections: **PHILIPPINES**
In Percent/Multiple Response Allowed
(June 7-16, 2021)



PulseAsia
RESEARCH INC.

Base: Total Interviews, 100%

At this time, which of the following are the most important traits or characteristics to have for whoever is running for a national position in our government? You may choose up to three traits. You may include others not included in the list.

	RP	LOCATION				CLASS		
		NCR	BL	VIS	MIN	ABC	D	E
Controlling Inflation	63	66	66	66	52	62	63	60
Increasing the Pay of Workers	53	52	59	49	46	62	54	42
Creating More Jobs	45	46	49	36	45	45	46	39
Fighting graft and corruption in government	41	41	41	48	36	34	43	35
Reducing the poverty of many Filipinos	30	32	27	29	36	27	29	39
Fighting criminality	23	8	20	34	29	21	22	31
Defending the integrity of Philippine territory against foreigners	22	28	23	19	19	31	20	24
Addressing the problem of COVID-19 and other health problems	21	25	15	19	33	18	21	26

The survey findings on the most urgent national concerns and issues that candidates should address and have clear solutions to if elected, mutually reinforce one another. In essence, the top public issues and concerns are persistent and complex problems that need to be addressed by the government. In turn, the government should engage the various stakeholders, particularly the private sector and civil society, as these problems adversely affect every social fabric of the Filipino nation.

Prolonged Economic Hardships

The health crisis, exacerbated by the emergence of new COVID-19 variants, continues to haunt governments worldwide, with some countries doing better than others in managing the pandemic. In the case of the Philippines, a necessary condition would be an acknowledgment beyond lip service that the government cannot do it alone and that a whole-of-society approach is needed.

Pandemic Management

Deficiencies were at the start noteworthy in terms of controlling our national borders. While other countries have immediately closed their borders, Philippine borders remained open for Chinese tourists and Philippine Off-Shore Gaming Operators (POGO) workers. In terms of limiting the movement of people within and across domestic borders, the Duterte administration created and implemented vague guidelines that

even government leaders have a hard time distinguishing one from another.

The same holds with the “ECQ-MECQ-GCQ-ECQ” cycle of imposing quarantine restrictions. These restrictions are often delineated by phrases like “with limitations,” “with strict limitations,” and the like. The practice, however, becomes more confusing not only among the population but also among implementers and government leaders. Further, the government belatedly gave the frontline health workers its sincere attention.

Concerning the movement of people, the Philippine government one-sidedly emphasized social control. Empirically, the quarantine measures have, by and large, constrained people’s movement leading to more hunger, job losses, and eventually poverty. The number of COVID-19 cases is still up by more than 10,000 cases, and the spread of infection has not been subdued, and the economy is in a deep slump. Additionally, the government has not been impartial in imposing penalties and punishment on health protocol and quarantine violators.

Another questionable performance is the provision of social protection. The administration implemented the distribution of “ayuda” or social assistance. Already tainted with issues of corruption and nepotism, the distribution of social assistance further reinforces patronage politics through mendicancy and dependency. For instance, the provision of hazard pay to local governments was used by President Duterte to intimidate a possible electoral opponent. In general, one can see a minute semblance of strategic leadership in the country’s pandemic management.

What makes the country’s pandemic management more contestable is the latest audit findings of the Commission on Audit (COA) concerning the negligence and non-compliance of the Department of Health (DOH) with established procurement laws, processes, and guidelines. The audit report revealed that “various deficiencies” amounting to PhP 67.3 billion in DOH’s funds resulted in “missed opportunities” in the Philippines’ pandemic response.” Moreover, the agency’s negligence in proper documentation, the existence of appropriated funds but not committed to any contracts, and in-donations that were not correctly accounted for due to the failure to submit required documents amounting to more than PhP 18 billion in total.

The government’s implementation of the Bayanihan Law to provide the much-needed health and social protection for the Filipinos in this COVID-19 pandemic may be commendable. But the gains may now be tainted with corruption issues that hit very close to the President, with such allies as his former economic adviser Michael Yang, being linked to the accusations.

Further, an evaluation of the 2020 Audited Financial Statements of Pharmally Pharmaceutical Corp, conducted by certified public accountants Jahleel-AN A. Burao and John Michael T. Lava in partnership with the Citizens’ Budget Tracker and Right to Know, Right Now! Coalition revealed more facts. Their publication, entitled “PHARMALLY: FINANCIAL STATEMENTS ANALYSIS,” lists five (5) “high-risk” observations and one (1) “medium-risk” observation relative to the contracts awarded to the Company by the Procurement Service-Department of Budget and Management (PS-DBM) that are worth reviewing.

The questionable financial capacity of Pharmally, which could render all its COVID-19 contracts with the government void from the very start, is indicated in the following observations: “Potential under-declaration of input VAT related to purchases amounting to P402.2-M; insufficient contracting capacity; insufficient disclosures and details for donations that were declared as fully deductible expenses; missing and incomplete material disclosures in the 2020 Financial Statements; sources of interest expense and foreign exchange gains/losses are not presented and disclosed; and reported amounts cannot be matched in the disclosures.”

Appearances and Rhetoric

Since March 17, 2020, the country has been under a pandemic leadership where President Duterte, his spokesperson, and cabinet members provide bi-weekly or weekly briefings, pronouncements, and appearances. However, the underlying reasons behind the regular appearances have seemingly exposed the

president's strategy to persecute and criticize the political opposition, reform-oriented government leaders and agencies, independent thought leaders, and critical sections of civil society with the goal of further polarizing the country, exemplified by the following:

First, the regularity of President Duterte's speeches or bi-weekly/weekly COVID-19 announcement and updates redounds to what we call the politics of appearance. It is to primarily show the population that he is doing something about the pandemic situation. Such an appearance also serves to embellish the perceived shortcoming and missteps in the pandemic management of his administration.

His pre-recorded appearances have also become his method to divert the public's attention to the growing COVID-19 infections and pandemic hardships. Invariably, he blames the "unruly" Filipinos, the lackluster performance of mayors, the poor status of the country, the communists, the media, the opposition, and just about anybody except the government.

Third, the president has also unwittingly or wittingly demonstrated his preference for personal oversight over institutional oversight. He directly defends his cabinet members, allies, and friends and even invalidates, for instance, the essence of having the Commission on Audit. Such institutional oversight is being undertaken by the Blue-Ribbon Committee or the Senate Committee on Accountability of Officers and Investigations.

Fourth, he aims to polarize Philippine society and capitalize on social, cultural, economic, and political cleavages to pit one sector with another. Eventually, using his appeals to emotions and misplaced authority, he tries to persuade the population that he and his administration are for the masses and the betterment of society while the rest are for the nation's detriment.

Fifth, he utterly uses the speeches and pronouncements to rehash his old narratives or rhetoric on drugs to justify EJKs and assert the righteousness of his "strongman" leadership.

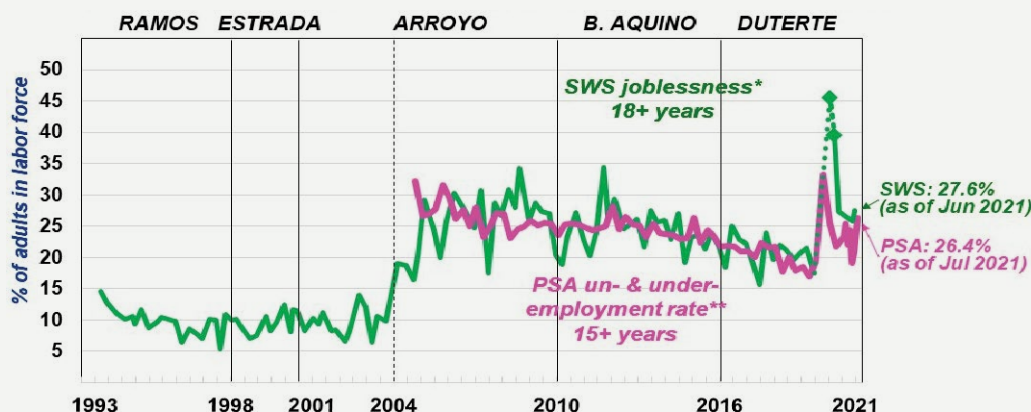
Lastly, the significance of the 2022 elections cannot be overemphasized. The President will continue with his tirades against the "opposition" but perhaps, more focused on candidates he feels can challenge his perceived stronghold. Invariably, his assessment will consist mainly of ad hominem attacks and a blanket statement of how they have not contributed anything to the country.

State of Pandemic Hardships

After 18 months under the "ECQ-MECQ-GCQ-ECQ" cycle of leadership, the state of pandemic realities that beset the Filipinos has hardly improved. Though felt throughout the socio-economic ladder, the burden particularly impacts the poor, marginalized, and vulnerable sectors of the population.

Though down by 1.5 points, with half a million people being more employed from November 2020 (27.3%) to May 2021 (25.8%), joblessness rises again to 27.6% in June 2021. As a result, the improvement gained from November 2020 (12.7 million) to May 2021 (12.2 million) in jobless adults has been superseded. The joblessness rate now stands at 13.5 million. See Figure 2.

Figure 2
SWS Joblessness Rate* and PSA Un- & Under- Employment Rate**: PHILIPPINES
(September 1993-June 2021)



*% of the Labor Force without a job at present and looking for a job.

**% of the Labor Force unemployed and underemployed. Figures from January to April 2021 are preliminary estimates.

Note: All points connected by broken lines are from mobile phone surveys. Face-to-face interviewing resumed in November 2021.

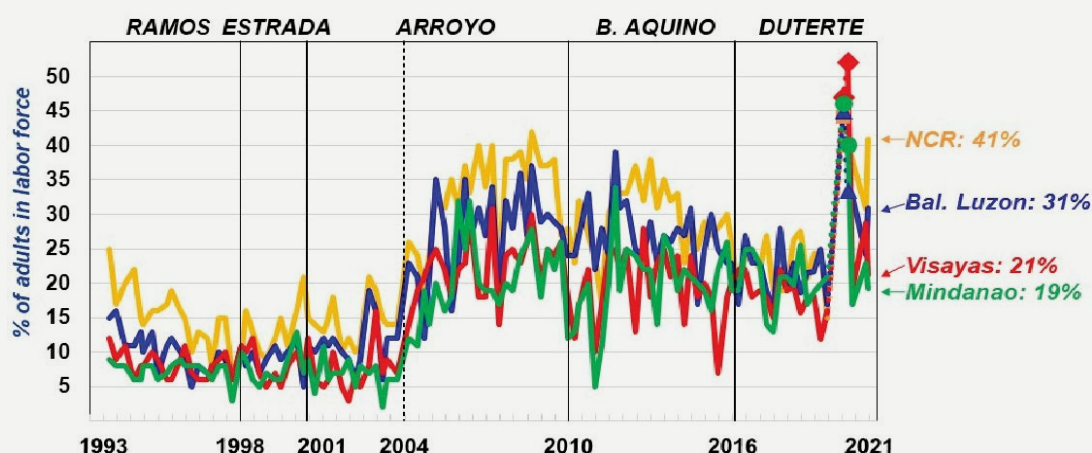
Sources: Social Weather Surveys and Philippine Statistics Authority



Second Quarter 2021 Social Weather Report
June 23-26, 2021 National Survey

Across geographic areas, joblessness rises 10 points (from 30.8% in May 2021 to 40.9% in June 2021) in Metro Manila and by 7 points in the Balance Luzon (from 24.2% to 30.9%); while it decreased by 8 points in the Visayas (from 28.7% to 21.3%) and by 4 points in Mindanao (from 23.0% to 19.2%) in the same period under consideration. See Figure 3.

Figure 3
SWS Joblessness Rate, by Area: PHILIPPINES
(September 1993-June 2021)



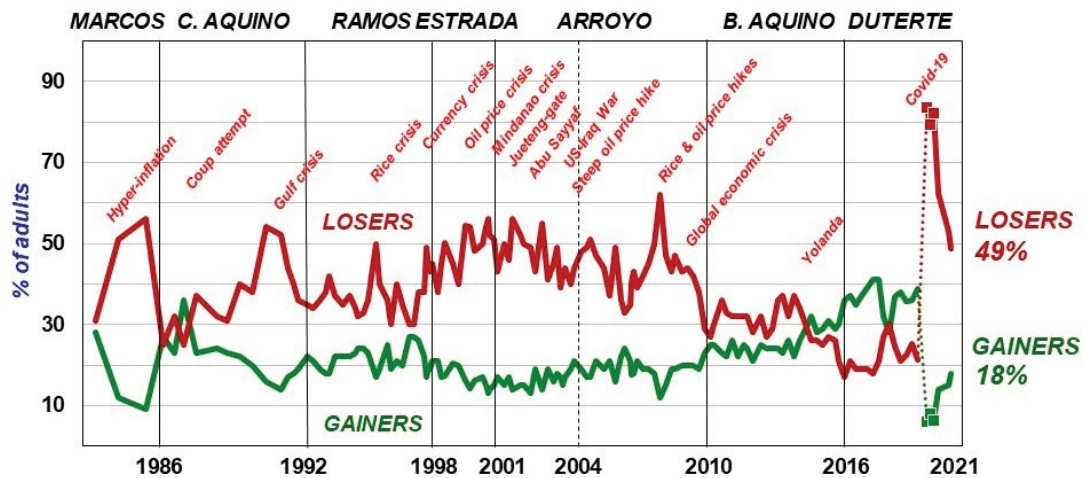
*% of the Labor Force without a job at present and looking for a job.

Note: All points connected by broken lines are from mobile phone surveys. Face-to-face interviewing resumed in November 2021.



Second Quarter 2021 Social Weather Report
June 23-26, 2021 National Survey

Figure 4
Gainers and Losers
Change in Personal Quality-of-Life Over the Past 12 Months: PHILIPPINES
(April 1983-June 2021)



Notes: Don't know and non-responses are not shown. All points connected by broken lines are from mobile phone surveys. Face-to-face interviewing resumed in November 2020.

Q22. Kung ikukumpara ang uri ng inyong kasalukuyang pamumuhay sa nakaraang 12 buwan, masasabi ba ninyo na ang uri ng inyong pamumuhay ay... MAS MABUTINGAYON KAYSA NOON ("GAINER"), KAPAREHO NG DATI, O MAS MASAMA NGAYON KAYSA NOON ("LOSER")?

Figure 5
Optimists and Pessimists
Expected Change in Personal Quality-of-Life In the Next 12 Months: PHILIPPINES
(April 1984-June 2021)



Note: All points connected by broken lines are from mobile phone surveys. Face-to-face interviewing resumed in November 2020.

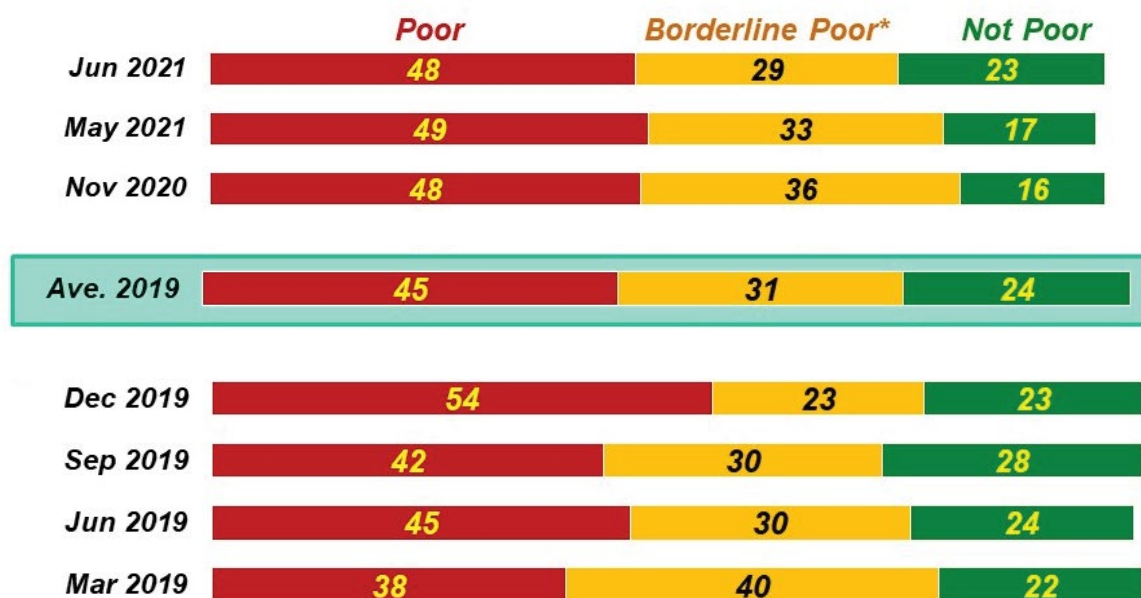
Q. Sa inyong opinyon, ano ang magiging uri ng inyong pamumuhay sa darating na 12 buwan? Masasabi ba ninyo na ang uri ng inyong pamumuhay ay... BUBUTI ("PERSONAL OPTIMIST"), KAPAREHO LANG, O SASAMA ("PERSONAL PESSIMIST")?

With an additional 1.3 million jobless adults, it is not surprising that 49% of adult Filipinos say that their quality of life became worse (termed by SWS as “Losers”). In contrast, 18% say it got better (“Gainers”), and 33% say it was the same (“Unchanged”) compared to a year ago. Net Gainers eases to ‘very low’ in Metro Manila and ‘low’ in Balance Luzon, but worsens to ‘extremely low’ in the Visayas and ‘very low’ in Mindanao. See Figure 4.

About 49% perceive themselves as ‘Losers’. The level of optimism is relatively low, with only 37% of adults saying that their quality of life will improve (Optimists), 7% saying it will worsen (Pessimists), and 42% saying it will stay the same (No Change) in the next twelve months. See Figure 5.

With more unemployed and almost half of the Filipinos considering themselves getting worse-off, the SWS survey of June 23-26, 2021 also revealed that 48% of Filipino families rate themselves as Mahirap or Poor, 23% rate themselves as Hindi Mahirap or Not Poor, and 29% place themselves on the borderline dividing the two categories (recorded by SWS as Borderline Poor). This scenario is similar to the findings in May 2021 when 49% felt Poor, 17% felt Not Poor, and 33% felt Borderline Poor. See Figure 6.

Figure 5
Self-Rated Poverty
Self-Rated Poverty, Families Who Are “Mahirap”: PHILIPPINES
(March 2019-June 2021)

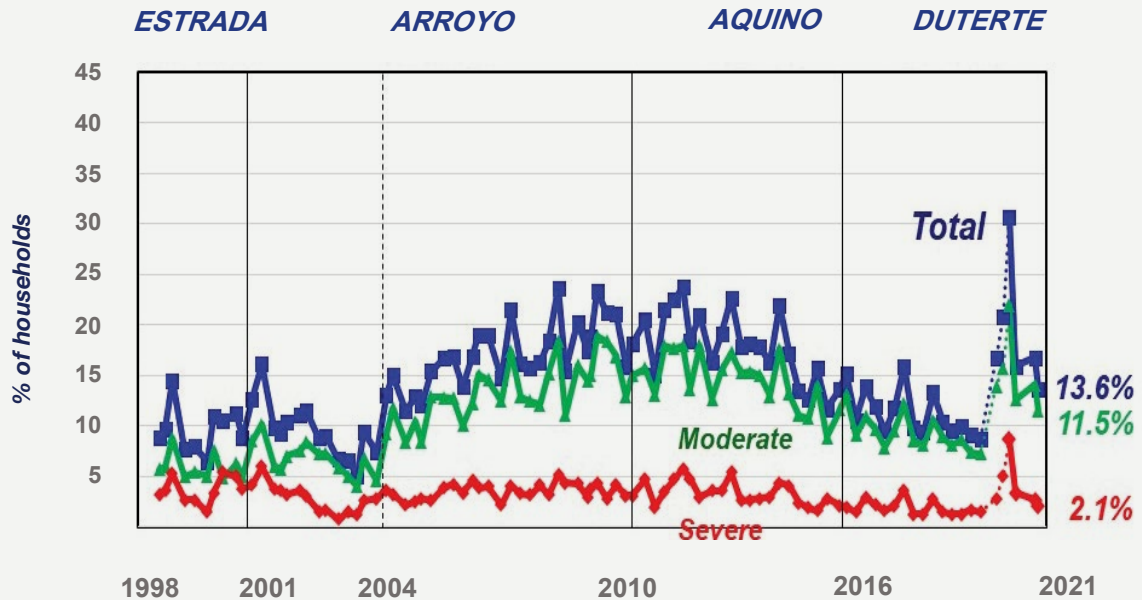


Self-Rated Poverty Question: Where would you place your family in this card? (Not poor, On the line, Poor)

*Those who pointed to the horizontal line separating the options MAHIRAP (poor) and HINDI MAHIRAP (not poor) are classified as 'Borderline Poor.'

Despite increasing joblessness and the unchanged self-rated poverty, the same survey revealed that 13.6% or an estimated 3.4 million families experienced involuntary hunger – hunger due to lack of food to eat – at least once in the past three months. This rate is 3.2 points below the 16.8% (estimated 4.2 million families) in May 2021. It is 7.5 points below the 2020 annual average of 21.1% but still above the December 2019 pre-pandemic level of 8.8% (est. 2.1 million families). See Figure 7.

Figure 7
Hunger Rate
Total, Moderate, and Severe Hunger: **PHILIPPINES**
(July 1988-June 2021)



Note: Don't Know and Refused responses are not shown. All points connected by broken lines are from mobile phone surveys. Face-to-face interviewing resumed in November 2020.

Q: In the last 3 months, did it happen even once that your family experienced hunger and not have anything to eat?
[Moderate: Only once + A few times; Severe: Often + Always]

With the current state of pandemic management, worsening economic conditions of the population, and superficiality of political appearances, the comparative ratings of the administration on selected national issues are on the downward trend.

As early as November 2020, the comparative ratings have deteriorated in terms of responding to or addressing social, political, and economic needs of the population: controlling inflation at -12 points; increasing the pay of workers at -8 points; and stopping the destruction and abuse of our environment, creating jobs, and reducing the poverty of many Filipinos, all at -7 points. See Table 3.

Then for February 2021, in comparison with the November 2020 data, the approval ratings again commonly showed negative improvements: -10 points in fighting graft and corruption in government and reducing the poverty of many Filipinos; -9 points in creating jobs, -8 points in increasing the pay of workers, -6 points in controlling inflation; and -3 points in defending Philippine territorial integrity against foreigners. See Table 4

Most notable is the deteriorating performance of the national administration in three aspects: in "Controlling the spread of COVID-19," -12 points, from 77 in February to 65 in June 2021; in "Providing assistance/subsidy to those who lost their livelihood and jobs because of the COVID-19 pandemic," -11 points, from 77 to 66; and in "Defending the integrity of Philippine territory against foreigners," -10 points, from 62 to 52 within the period under consideration.

Table 3
Comparative Ratings of the National Administration on Selected National Issues: **PHILIPPINES**
In Percent
(September and November 2020)



PulseAsia
RESEARCH INC.

Selected National Issues	Approval			Undecided			Disapproval		
	September 20	PR1d2 minus November 20	Change November 20 minus September 20 (B-A)	September 20	PR1d2 minus November 20	Change November 20 minus September 20 (D-C)	September 20	PR1d2 minus November 20	Change November 20 minus September 20 (F-E)
	(A)	(B)		(C)	(D)		(E)	(F)	
Enforcing the law on all, whether influential or ordinary people	76	74	-2	17	20	+3	7	6	-1
Stopping the destruction and abuse of our environment	75	68	-7	16	22	+6	9	10	+1
Creating more jobs	72	65	-7	22	25	+3	6	10	+4
Increasing the pay of workers	73	65	-8	18	24	+6	9	11	+2
Defending the integrity of Philippine territory against foreigners	65	65	0	22	23	+1	13	13	0
Reducing the poverty of many Filipinos	65	58	-7	22	26	+4	13	16	+3
Controlling inflation	63	51	-12	21	25	+4	17	24	+7

Table 4
Comparative Ratings of the National Administration on Selected National Issues: **PHILIPPINES**
In Percent
(November 2020 and February 2021)



PulseAsia
RESEARCH INC.

Selected National Issues	Approval		Change	Undecided		Change	Disapproval		Change
	PR1d2		February 21 minus November 20 (B-A)	PR1d2		February 21 minus November 20 (D-C)	PR1d2		February 21 minus November 20 (F-E)
	November 20 (A)	February 21 (B)		November 20 (C)	February 21 (D)		November 20 (E)	February 21 (F)	
Fighting graft and corruption in government	77	67	-10	14	22	+8	9	12	+3
Stopping the destruction and abuse of our environment		65	-3	22	25	+3	10	10	0
Defending the integrity of Philippine territory against foreigners	68	62	-3	23	24	+1	13	15	+2
Creating more jobs	65	56	-9	25	29	+4	10	15	+5
Increasing the pay of workers	65	57	-8	24	24	0	11	19	+8
Reducing the poverty of many Filipinos	58	48	-10	26	27	+1	16	24	+8
Controlling inflation	51	45	-6	25	26	+1	24	29	+5

Table 5.1
Comparative Ratings of the National Administration on Selected National Issues: **PHILIPPINES**
In Percent
(November 2020 and February 2021)



PulseAsia
RESEARCH INC.

Selected National Issues	Approval			Undecided			Disapproval		
	PR102		Change June 21 minus February 21 (B-A)	PR102		Change June 21 minus February 21 (D-C)	PR102		Change June 21 minus February 21 (F-E)
	February 21 (A)	June 21 (B)		February 21 (C)	June 21 (D)		February 21 (E)	June 21 (F)	
Fighting graft and corruption in government	67	64	-3	22	24	+2	12	12	0
Stopping the destruction and abuse of our environment	65	61	-4	25	28	+3	10	11	+1
Defending the integrity of Philippine territory against foreigners	62	52	-10	24	33	+9	15	16	+1
Creating more jobs	56	54	-2	29	28	+1	15	18	+3
Increasing the pay of workers	57	54	-3	24	29	+5	19	16	-3
Reducing the poverty of many Filipinos	48	44	-4	27	34	+7	24	22	-2
Controlling inflation	45	43	-2	26	27	+1	29	30	+1

The others pertain to: “Responding to the needs of areas affected by calamities,” -9 points; “Promoting peace in the country,” -5 points; “Stopping the destruction and abuse of environment” and “Reducing the poverty of many Filipinos,” both at -4 points. See Tables 5.1 and 5.2.

Table 5.2
Comparative Ratings of the National Administration on Selected National Issues: **PHILIPPINES**
In Percent
(November 2020 and February 2021)



PulseAsia
RESEARCH INC.

Selected National Issues	Approval			Undecided			Disapproval		
	PR102		Change June 21 minus February 21 (B-A)	PR102		Change June 21 minus February 21 (D-C)	PR102		Change June 21 minus February 21 (F-E)
	February 21 (A)	June 21 (B)		February 21 (C)	June 21 (D)		February 21 (E)	June 21 (F)	
Fighting criminality	80	79	-1	15	16	+1	5	5	0
Responding to the needs of areas affected by calamities	82	73	-9	13	21	+8	4	5	+1
Protecting the welfare of OFWs	76	73	-3	19	20	+1	4	7	+3
Promoting peace in the country	75	70	-5	19	23	+4	7	7	0
Enforcing the law on all whether influential or ordinary people	69	67	-2	21	26	+5	9	7	-2
Providing assistance/subsidy to those who lost their livelihood and jobs because of the COVID-19 pandemic	77	66	-11	17	25	+8	6	10	+4
Controlling the spread of COVID-19	77	65	-12	16	26	+10	7	9	+2

Finally, the downhill trend of the approval rating of the national administration showed further decline in all aspects of addressing selected national issues when the June 2021 survey is compared with the third-quarter survey (September 2021): “fighting graft and corruption in government” down by -12 points; “protecting the welfare OFWs” and “enforcing the law on all, whether influential or ordinary people” by -7 points; “increasing the pay of workers,” “controlling inflation,” “Promoting peace in the country,” and “controlling the spread of COVID-19” by -6 points; “stopping the destruction and abuse of the environment,” “creating jobs,” and “fighting criminality” by -5 points; and “Reducing the poverty of many Filipinos” and “Defending the integrity of Philippine territory against foreigners” by -3 points. See Tables 6.1 and 6.2.

Table 6.1
Comparative Ratings of the National Administration on Selected National Issues: **PHILIPPINES**
In Percent
(June and September 2021)



PulseAsia
RESEARCH INC.

Selected National Issues	Approval PR1Q2		Change September 21 minus June 21 (B-A)	Undecided PR1Q2		Change September 21 minus June 21 (D-C)	Disapproval PR1Q2		Change September 21 minus June 21 (F-E)
	June 21 (A)	September 21 (B)		June 21 (C)	September 21 (D)		June 21 (E)	September 21 (F)	
Fighting criminality	79	74	-5	16	17	+1	5	9	+4
Responding to the needs of areas affected by calamities	73	71	-2	21	20	-1	5	9	+4
Protecting the welfare of OFWs	73	66	-7	20	28	+8	7	6	-1
Promoting peace in the country	70	64	-6	23	27	+4	7	9	+2
Providing assistance/subsidy to those who lost their livelihood and jobs because of the COVID-19 pandemic	66	64	-2	25	22	-3	10	14	+4
Enforcing the law on all, whether influential or ordinary people	67	60	-7	26	29	+3	7	11	+4
Controlling the spread of COVID-19	65	59	-6	26	23	-3	9	17	+8

Table 6.2
Comparative Ratings of the National Administration on Selected National Issues: **PHILIPPINES**
In Percent
(June and September 2021)



PulseAsia
RESEARCH INC.

Selected National Issues	Approval PR1Q2		Change September 21 minus June 21 (B-A)	Undecided PR1Q2		Change September 21 minus June 21 (D-C)	Disapproval PR1Q2		Change September 21 minus June 21 (F-E)
	June 21 (A)	September 21 (B)		June 21 (C)	September 21 (D)		June 21 (E)	September 21 (F)	
Stopping the destruction and abuse of our environment	61	56	-5	28	28	0	11	15	+4
Fighting graft and corruption in government	64	52	-12	24	27	+3	12	22	+10
Defending the integrity of Philippine territory against foreigners	52	49	-3	33	32	-1	16	19	+3
Creating more jobs	54	49	-5	28	29	+1	18	22	+4
Increasing the pay of workers	54	48	-6	29	31	+2	16	21	+5
Reducing the poverty of many Filipinos	44	41	-3	34	26	-8	22	32	+10
Controlling inflation	43	37	-6	27	28	+1	30	36	+6

Political Integrity

As the candidacy filing for the national elective positions is set between October 1 to 8, 2021, the Stratbase ADR Institute commissioned a PULSE survey to determine the “Most Important Traits or Characteristics a National Candidate Should Possess” based on the people’s perception.

In anticipation of the May 2022 elections, it is highly noteworthy that the June 7 – 16, 2021 PULSE Survey found that the traits Filipinos look for in a national candidate revolve around political integrity: Has concern for the poor, pro-poor (48%), Not corrupt (47%), Trustworthy and honest (37%), Has a good platform and can give solutions to the problems of the country (32%), Fights anomalies in the government (25%), Untarnished name and reputation (22%), and Fulfills promises (21%). In addition, other perceived essential traits or characteristics are: Can defend Philippine territory against China (18%); Strong political will (15%); Approachable (13%).

In aggregate, almost 5 out of 10 Filipinos at the time of the survey would vouch for pro-poor, not corrupt, and trustworthy and honest candidates. These top three traits, which exemplify leadership qualities, are also significantly admired or preferred across geographic areas and classes. See Table 7.

Table 7
Most Important Traits or Characteristics a National Candidate Should Possess: **PHILIPPINES**
In Percent/ Up to Three Responses Allowed
(June 7 to 16 2021)

PulseAsia
RESEARCH INC.

Base: Total Interviews, 100%

	RP	LOCATION				CLASS		
		NCR	BL	VIS	MIN	ABC	D	E
Has concern for the poor, pro-poor	48	52	45	53	49	57	46	52
Not corrupt	47	40	53	49	37	58	47	34
Trustworthy and honest	37	40	37	35	36	27	40	31
Has a good platform and can give solutions to problems of the country	32	38	39	20	25	32	33	26
Fights anomalies in government	25	24	23	30	24	27	24	26
Untarnished name and reputation	22	15	18	39	21	14	23	24
Has good leadership skills	22	29	19	21	24	26	21	22
Fulfills promises	21	23	22	14	23	27	20	20
Can defend Philippine territory against China	18	15	18	18	19	16	16	28
Strong political will	15	15	16	9	19	10	16	13
Approachable	13	9	9	11	23	5	12	22
UNAIDED								
Others	0.2	0	0	0	0	0	0	0
<i>Maka-Diyos</i>	0.1	0	0	0	0	0	0	0
<i>Maganda ang educational background</i>	0.1	0	0	0	0	0	0	0
<i>May isang salita</i>	0.004	0	0	0	0	0	0	0
<i>Hindi nagmumura</i>	0.003	0	0	0	0	0	0	0

Also, based on the people’s perception, Stratbase commissioned a survey by SWS between June 23-26, 2021 to determine the “Qualities that One Looks for in Candidates Running for National Positions In The May 2022 Elections”. The findings of the survey revealed that the national candidates’ qualities that Filipinos are looking for refer to the following: “Has concern for the poor” (63%), “Will not be corrupt” (43%); and “Honest and trustworthy” (42%).

These top three qualities boil down to the qualities of being pro-poor and of political integrity. Further, the following two refer to the candidates' political capability or capacity: "Has a clear plan for solving the country's problems" (25%) and "Fulfills his/her promises" (21%). Finally, the third set of qualities are a combination of political and personal qualifications: "Cares for a person like me" (18%), "Has helped so many people" (18%), "Has good leadership qualities" (17%), "Approachable" (14%), "Defends the territories of the Philippines against China" (12%), and "Honors and respects the law" (11%). See Table 8.

Table 8
Qualities that One Looks For in Candidates Running for National Positions
in the May 2022 Elections: **PHILIPPINES**
(June 2021)

Has Concern for the poor	63%
Will not be corrupt	43
Honest and trustworthy	42
Has a clear plan for solving country's problems	25
Fulfills his/her promises	21
Cares for a person like me	18
Has helped so many people	18
Has good leadership qualities	17
Approachable	14
Defend the territories of the Philippines against China	12
Honors and respects the law	11

Note: Don't knows are not shown. Q: Anu-ano pong mga katangian ang hinahanap ninyo sa mga kandidatong tatakbo sa mga pang-nasyonal na posisyon tulad ng President, Bise-Presidente, o Senador sa halalan sa Mayo 2022? Maaari po kayong magbigay ng hanggang tatlong katangian. (Shuffle Cards: Allow up to 3 answers)

On the West Philippine Sea issue

On top of Filipinos' pandemic hardships, tensions in the West Philippine Sea continue to brew. However, the Duterte administration also continues to overlook the situation or take it for granted, while the issue has gained a spot in the country's top national concerns.

On this aspect, a significant majority of the adult Filipinos agree that "The Philippine government should form alliances with other countries for defending the Philippines' territorial and economic rights in the West Philippine Sea," 69%, while 29% is undecided and 6% disagree. See Figure 8.

When asked about the "importance of building structures on the vacant islands in the West Philippine Sea to assert our rights over these islands," 69% said it is important (45% very important, 24% somewhat important). In comparison, 21% were undecided, and 10% said it is not important (6% somewhat not important, 4% not at all important). Across geographic areas, at least two-thirds consider it important (% very important and % somewhat important) to build structures, with the highest percentage in Metro Manila at 78% (correctly rounded), followed by the Visayas at 71%, Mindanao at 69%, and Balance Luzon at 66%. See Figure 9.

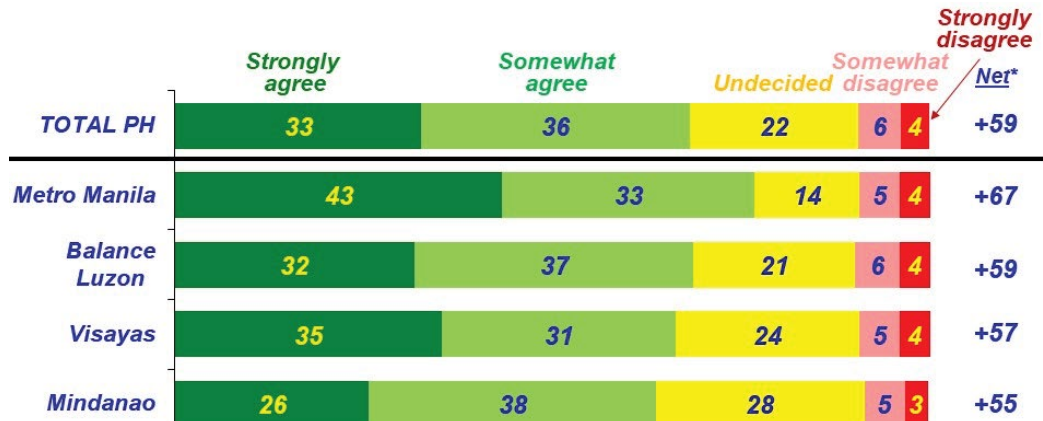
Given the tensions stirred by China's aggressive expansionism, the respondents selected from the pre-listed proposals on what the Philippine government should do about the West Philippine Sea: 77% chose Strengthen the military capability of the Philippines, especially the Navy and Coast Guard; 65% chose Conduct joint maritime patrols and military exercises with allied countries; and 57% chose Fully implement the terms of the Visiting Forces of Agreement (VFA) and the Enhanced Defense Cooperation Agreement. See Table 9.

The next top responses are "Finalize the ASEAN Code of Conduct or an agreement on how countries would act within the South China Sea" (39%) and "Bring the issue to the United Nations General Assembly" (38%). Finally, across all areas, majorities chose "Strengthen the military capability of the Philippines, especially

the Navy and Coast Guard” as the most effective measure: 81% in Mindanao, 78% in Metro Manila, 76% in Balance Luzon, and 75% in the Visayas.

As the level of trust to other countries, Filipinos continue to put Little Trust on China (48%), while putting Much Trust to the United States (71%), Japan (55%), and Australia (50%). See Figure 10.

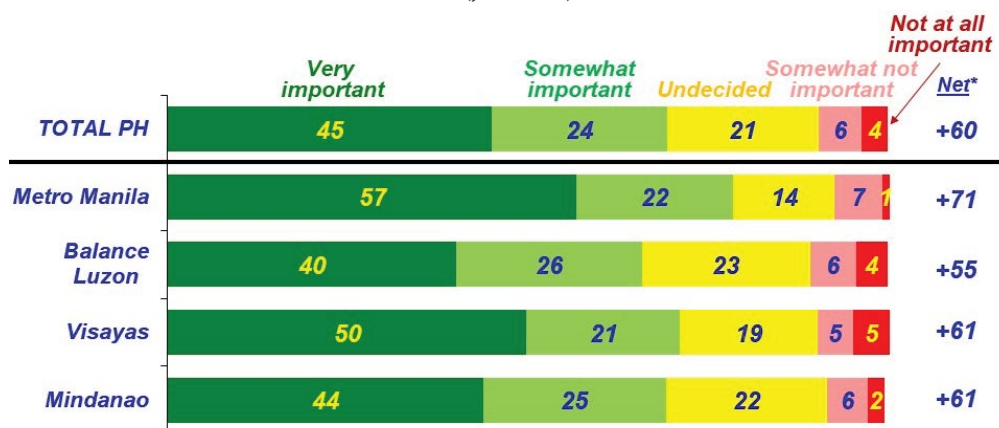
Figure 8
Agree-Disagree, “The Philippine government should form alliances with other countries for defending the Philippines’ territorial and economic rights in the West Philippine Sea”: **PHILIPPINES**



* Net figures (% Agree minus % Disagree) are correctly rounded. Don't know and non-responses are not shown.

Q109. Gaano po kayo SUMASANG-AYON o HINDI SUMASANG-AYON sa pangungusap na ito: “Ang pamahalaan ng Pilipinas ay dapat bumuo ng alyansa sa ibang mga bansa sa pagtatanggol ng mga karapatang pang-teritoryo at pang-ekonomiya ng Pilipinas sa West Philippine Sea.” (LUBOS NA SUMASANG-AYON, MEDYO SUMASANG-AYON, HINDI TIYAK KUNG SUMASANG-AYON O HINDI, MEDYO HINDI SUMASANG-AYON, LUBOS NA HINDI SUMASANG-AYON)

Figure 9
Importance of Building Structures on the Vacant Islands in the West Philippine Sea to Assert our Rights Over these Islands, by Area: **PHILIPPINES**
(June 2021)



*Net figures (% Important minus % Not important) are correctly rounded. Don't know and non-responses are not shown.

Q110. Sa inyong palagay, importante po ba para sa inyo na gumawa ang pamahalaan ng Pilipinas ng mga imprastraktura sa mga bakanteng isla sa West Philippine Sea upang iiglit ang ating karapatan sa mga islang ito? Masasabi po ba ninyo na ito ay... (TALAGANG IMPORTANTE, MEDYO IMPORTANTE, HINDI TIYAK KUNG IMPORTANTE O HINDI, MEDYO HINDI IMPORTANTE, TALAGANG HINDI IMPORTANTE)

Table 9
Effective Measures the Philippine Government Should do Regarding
the West Philippine Sea Issue, by Area: **PHILIPPINES**
(June 2021)

	PH	NCR	BAL LUZON	VIS	MIN
Strengthen military capability of the PH, especially the Navy and Coast Guard	77%	78%	76%	75%	81%
Conduct joint maritime patrols and military exercises with allied countries	65	59	64	66	70
Fully implement the terms of the VFA and EDCA	57	63	58	60	47
Finalize the ASEAN Code of Conduct or an agreement on how countries would act within the South China Sea	39	43	41	39	34
Bring the issue to the United Nations General Assembly	38	42	38	40	37

Note: Don't know, No answer, and refused responses are not shown.

Q111: Sa inyong palagay, alin po sa mga sumusunod ang mga mabibisang pamamaraan na dapat gawin ng pamahalaan ng Pilipinas ukol sa isyu ng West Philippine Sea? Maaari po kayong mabigay ng hanggang tatlong sagot Alin po dito ang pinaka-importante para sa inyo? Mayroon po bang pangalawang pinaka-importante? Mayroon pa po bang pangatlong pinaka-importante? (SHUFFLE CARDS; ALLOW UP TO 3 ANSWERS)

Table 9
Trust in the United States, Japan, Australia and China: **PHILIPPINES**
(June 2021)



II. THE 1951 MUTUAL DEFENSE TREATY ENABLES THE 2014 ENHANCED DEFENSE COOPERATION AGREEMENT

In December 2018, Philippine Defense Secretary Delfin Lorenzana revealed that the Department of National Defense (DND) was reviewing the 1951 Philippine-U.S. Mutual Defense Treaty (MDT) as he questioned its relevance in the second decade of the 21st century.

During a press briefing, he stated that the time had arrived for the MDT “to be revisited, given that its provisions were formulated in the early 1950s.”

Secretary Lorenzana admitted that the Philippines had benefitted from its alliance with the U.S. because of the MDT and its side agreements like the 1997 Visiting Forces Agreement (VFA), and the 2014 Enhanced Defense Cooperation Agreement (EDCA). Still, he wanted to see “how the treaty is helping the Philippines position itself in a rapidly changing regional security environment marked by deepening U.S.-China geopolitical rivalry and brewing tension in the Taiwan Straits.”

The MDT in Retrospect

The 1951 MDT is the sole legal foundation of the 21st century Philippine-U.S. alliance. However, when Manila and Washington signed the treaty in 1951, the MDT was deemed as a mere supplementary agreement. It was not intended to deter external threats the two allies might face in the Western Pacific as it was just an addendum to the 1947 Military Bases Agreement (MBA).

The MDT merely established a consultative security relationship; this relationship was expressed in broad terms as the U.S. resisted the inclusion of any additional provision. It was not negotiated and signed as an actual mutual defense treaty against any possible armed attack on the Philippines. It simply provided for mutual consultation rather than an automatic assistance.

From 1947 to 1991, the MBA was deemed the most important agreement in Philippine-U.S. security relations. This was because the U.S. military bases in the Philippines loomed large, not only in the security of the host country, but the whole of Southeast Asia. U.S. forces operating from the Philippine bases secured sea and air lanes in the entire Philippines archipelago and provided for the regional defense for Southeast Asia.

Two developments in the early 1990s led to the MDT’s transformation from a mere supplementary agreement to the 1947 MBA to being the legal cornerstone of the 21st century Philippines-U.S. alliance. The first was the withdrawal of the American forces from the Philippine bases in November 1992. The second was the U.S.’ and the Philippines’ decision to keep their alliance.

In November 1992, before the last U.S. marine left Subic Bay, and when Manila and Washington decided to keep the MDT in force without any amendment, the two allies also agreed to convene the Mutual Defense Board (MDB) every three months. This was to provide an effective mechanism for consultation on mutual security concerns. Washington, however, downgraded its political and security relations with Manila by declaring that the U.S. could not guarantee the external defense of the Philippines since American forces had been deprived of vital military facilities from which they could operate.

Enter EDCA

Then-Defense Secretary Voltaire Gazmin and former U.S. Ambassador to the Philippines Philip Goldberg signed the EDCA on April 28, 2014. It was not a new security pact; it was merely an updated version of the 1951 MDT as it provided the framework by which the Philippines and the U.S. could develop their individual

and collective (defense) capabilities. Such a task can be accomplished through the rotational deployment of American forces in agreed locations inside five Philippine Air Force (PAF) bases.

American use of these five operationally agreed locations all over a sprawling archipelagic country along the South China Sea is aimed to neutralize China's planning and efforts in denying U.S. forces from operating in the disputed waters. These initiatives would force the U.S. Navy's ships and planes to operate from distances farther than what the U.S. military would prefer otherwise as futile. American use of these airfields all over the Philippines will facilitate the rapid deployment of U.S. air assets from Hawaii, Guam, and Australia in case of a crisis in the South China Sea. The EDCA will enable the U.S. to honor American treaty commitment to the Philippines under the MDT if armed conflict erupts in the West Philippine Sea.

Undermining EDCA

The EDCA's original objectives, however, cannot be realized because of the change in Philippine foreign policy under the Duterte administration. Upon his assumption to the presidency, President Duterte showed his bias toward Chinese strategic interests in the South China Sea. He began weaning the Philippines away from the U.S.

The EDCA became a victim of this change in policy. First, the EDCA's original goals of assisting the AFP's modernization program and developing the U.S. forces deterrent capability were redirected into providing support to Humanitarian Assistance and Risk Reduction (HADR) and counterterrorism/counter-narcotics operations. Second, when the construction of the EDCA-related facilities was announced, President Duterte raised wild and unfounded accusations that the U.S. was building an arms depot that could store nuclear tip weapons. This policy caused major delays in the implementation of EDCA-related projects.

If Secretary Lorenzana wants a clear and credible U.S. security guarantee under the MDT, he and the defense and foreign policy community should push for the full implementation of the EDCA in the remaining months of the current administration. The agreement's designated agreed locations, if built and developed within the five PAF air bases, will become pivotal in kick-starting the alliance in terms of increased training and enhanced operability between the two allies.

More significantly, EDCA will also enable the U.S. to honor its treaty commitments under the 1951 MDT to the Philippines in the face of China's maritime expansion in the West Philippine Sea.

Washington's Changing Position

Secretary Lorenzana declared: "We believe it is time to sit down with our U.S. counterparts and revisit the terms of our alliance. We are partners. We have deep historical ties. We must clearly define our roles and responsibilities when the need arises to be joined in arms."

The secretary and the defense establishment feared that the Philippines might be unnecessarily dragged into an armed confrontation between the U.S. and China. The two major powers' military activities in the South China Sea – for example, the Chinese construction and fortification of several artificial islands and the American Navy's active exercise of freedom of navigation and overflights in the disputed waters -- are proverbial powder kegs.

There are real anxieties within the DND and the AFP despite assurances by American officials that the MDT is an "iron-clad" commitment, which the U.S. will honor, even in the contested islands in the South China Sea. The DND's move to reassess the MDT was driven by uncertainties over what the U.S. can bring to the table and what it expects from the AFP in case of an armed clash between the American and Chinese forces in the South China Sea.

Changing U.S.'s Position on the MDT

In June 2011, Manila sought an unequivocal U.S. commitment to its defense. Philippine officials argued that an armed attack on its forces anywhere in the Pacific should trigger an automatic U.S. armed response. According to the Philippine interpretation, the U.S. security guarantee should not be confined to Philippine metropolitan territory but should also extend to its naval and air units in the South China Sea.

The 1951 MDT, unfortunately, does not specify a retaliatory armed response to an external armed aggression. It only requires each signatory to consult each other and determine what armed action, if any, both would take.

U.S. policy remains vague and ambiguous regarding the nature of its treaty commitment. It stops short of any reference to an automatic response if an armed conflict erupts in the South China Sea. Instead, it emphasizes the treaty's diplomatic (rather than the military) deterrence. It argues that since the U.S. is a treaty ally of the Philippines, China cannot simply assert that events in the South China Sea, including the contested islands, are not any of Washington's business.

Secretary Lorenzana's call for an MDT review coincided with the changing American position regarding the MDT. Washington maintains its neutrality over the sovereignty issue and ensures certain ambiguities on the MDT. Recent U.S. attitude toward China, however, has become more critical as the Trump administration engaged this emergent power in a strategic competition. In President Donald Trump's last full year as president, the U.S. openly challenged China's expansive claims in the South China Sea as it clarified that the MDT would obligate the U.S. to honor its treaty commitments to the Philippines.

In late January 2021, newly appointed Secretary of State Antony Blinken called his Philippine counterpart to reiterate the MDT's implications for the security of the two countries, specifically in case of an armed attack against the Philippine armed forces, public vessels, or aircraft in the Pacific, which includes the South China Sea.

The Whitsun Reef Stand-off

Two events signified the changing U.S. position regarding the MDT. The first was in March 2019, when then-Secretary of State Michael Pompeo directly addressed Secretary Lorenzana's concern about the MDT during his official visit to the Philippines. "As the South China Sea is part of the Pacific; any armed attack on Philippine forces, aircraft, or public vessels in the South China Sea will trigger mutual defense obligations under Article 4 of our mutual defense treaty," Pompeo said.

And then, on March 20, 2021, Secretary Lorenzana revealed the presence of around 220-blue hulled Chinese fishing vessels moored in line formation at Julian Felipe Reef (international name Whitsun Reef). He issued a statement announcing that the Philippines is ready to defend its national sovereignty and protect the country's marine resources.

Washington promptly announced its support to Manila. National Security Adviser Jake Sullivan called his Filipino counterpart, Hermogenes Esperon, to emphasize that Washington backed the Philippines and that the MDT was applicable to the area. On April 9, 2021, U.S. Secretary of State Blinken called Philippine Foreign Affairs Secretary Teodoro Locsin to express Washington's concern over the massing of Chinese maritime militia vessels in the South China Sea, and more importantly, to reaffirm the applicability of the 1951 MDT in the South China Sea. U.S. Department of Defense Secretary Lloyd Austin called Secretary Lorenzana to say that the U.S.S.-Theodore Roosevelt, along with the amphibious assault ship the U.S.S. Makin Island, was on its way to the South China Sea.

In a statement, however, President Duterte declined Washington's offer of assistance. Instead, he expressed doubt that the Philippines could count on its ally in case of a full-blown conflict in the West Philippine Sea.

Nevertheless, the incident revealed that top Biden administration defense and foreign affairs officials worked effectively with their Filipino counterparts against China's coercive attempt to control Whitsun Reef. They affirmed the MDT's applicability in the South China Sea imbroglio.

III. LEGISLATIVE ACCOMPLISHMENTS AND UPDATES

Several legislative movements were seen during the third quarter of 2021 as President Duterte winds down his term as President. Among those that had notable movements was Senate Bill 2094 (Amendments to the Public Service Act). The bill was amended by substitution last September 15, 2021, as airports and seaports are now included as Public Utilities in addition to the distribution of electricity, transmission of electricity and water and pipeline distribution, and wastewater pipeline distribution. In addition, telecommunications, railways, and subways, tollways, and expressways are now deemed and included as critical infrastructure. As a critical infrastructure, 100% foreign equity may only be allowed once vetted and cleared by the National Security Council.

Another measure that was approved on the third and final reading was SB 1156 (Foreign Investments Act). The bill is expected to further open up the country, reduce the number of direct hires for foreign companies from 50 to 15, and allow foreigners to invest 100% equity in domestic market enterprises. Additionally, foreign investors will also be allowed to set up and own 100% of small and medium-sized enterprises (SMEs).

Furthermore, House Bill 7425 (Imposition of VAT on Digital Transactions) was approved on the third and final reading. The bill seeks to impose a value-added tax as high as 12% on digital transactions in the Philippines. It plans to impose a VAT on any person engaged in the sale, exchange, or lease of goods or properties and services using digital or electronic platforms.

Lastly, SB 1840 (Amendments to the Retail Trade Liberalization Act) was approved by both Houses on September 21, 2021. The bill is meant to reduce the investment requirement for foreign retailers, and hopefully usher in more foreign direct investments and create jobs.

Table 10
Status of Legislative Measures

Bill	Status
SB 2094- Amendments to the Public Service Act	Period of Individual Amendments (Sept 22, 2021)
Counterpart Bill: HB 78	Transmitted to and received by the Senate (March 11, 2020)
SB 1840- Amendments to the Retail Trade Liberalization Act	Ratified (Sept 21, 2021)
SB 1156- Foreign Investments Act	Approved on Third and Final Reading (Sept 14, 2021) Senate requested HOR for a conference on disagreeing provisions of SB 1156 and BN 300 (Sept 15, 2021)
SB 1591- Internet Transactions Act	Referred to the Committee(s) on Trade, Commerce and Entrepreneurship; Ways and Means and Finance
SB 2003- GUIDE Act	Conducted Technical Working Group (October 22, 2020) Referred to the Committees on Banks, Financial Institutions and Currencies, Government Corporations and Public Enterprises, Ways and Means, and Finance (March 03, 2021) Conducted Technical Working Group (March 4, 2021)
SB 2232- Taxing Philippine Offshore Gaming Operations	Enacted Into Law – Republic Act No. 11590 (September 23, 2021)
HB 7425- Digital Transactions Act	Approved on Third and Final Reading (Sept 21, 2021)
Counterpart Bill: SB 406	Transmitted to and Received by the Senate (Sept 22, 2021) Read on First Reading and Referred to the Committee on Ways and Means (August 5, 2019)

Amendments to the Public Service Act (SB 2094)

The Senate bill aims to open different services sectors to foreign ownership by defining ‘public utilities’ and separating them from ‘public services.’ These services include electric distribution, electricity transmission, and water pipeline distribution or sewerage pipeline system. The Senate bill also stipulates that the President can suspend or prohibit any merger, acquisition, or investment in public service in the interest of national security. Foreign nationals can only invest if there is reciprocity with Philippine nationals, signifying that Filipinos must also be able to invest in the country of the foreign investor.

Amendments to the Retail Trade Liberalization Act (SB 1840)

Both Houses approved SB 1840 or the Retail Trade Liberalization Act, which amends the minimum investment hurdle for foreign retailers and aims to attract higher direct investments and create more jobs as the country goes through the struggles brought about by the pandemic. Under the proposed measure, foreign retailers will peg a minimum investment of PhP 25 million with per-store minimum of PhP 10 million.

Imposition of VAT on Digital Transactions (HB 7425)

On September 21, 2021, the House of Representatives approved on third and final reading HB 7425 which seeks to impose as high as 12% value-added tax on digital transactions. Under the bill, a VAT will be imposed on any person engaged in the sale, exchange, or lease of goods or properties and services using a digital or electronic platform.

According to the House bill, the VAT is an indirect tax, and the amount of tax may be shifted or passed on to the buyer, transferee, or lessee of the goods, properties, or services. It also defines a digital service provider as a “service provider of digital service or goods to buyers through operating an online platform or by making transactions for the provision of digital services on behalf of any person.”

A digital service provider may be any of the following (Persons Liable):

- Third-party seller of goods and services who, through information-based technology or the internet, sells multiple products for its own account, or who acts as an intermediary between a supplier and buyer of goods and services collecting or receiving payment from a buyer in behalf of the supplier and receives a commission thereon;
- Platform provider for promotion using the internet to deliver marketing messages;
- Host of online auctions through the internet;
- Supplier of digital services for a regular subscription fee;
- Supplier of electronic and online services delivered through an information technology (IT) infrastructure, such as the internet; or
- Digital service is defined as “any service delivered or subscribed over the internet or other electronic network and can’t be obtained without the use of IT [information technology].”

Digital services shall include:

- Online licensing of software, updates, and add-ons, website filters and firewalls;
- Mobile applications, video games, and online games
- Webcast and webinars
- Provision of digital content such as music, files, images, text, and information
- Advertisement platform

- Online platforms such as electronic marketplaces or networks for the sale, display, and comparison of prices of trade products/services
- Search engine services
- Social networks
- Database and hosting such as website hosting, online data warehousing, file sharing and cloud storage services
- Internet-based telecommunication
- Online training such as provision of distance teaching, e-learning, and online courses and webinars
- Online newspapers and journal subscription
- Payment processing services

VAT Exemption

Letter “H” was added to Sec. 109. Exempt Transactions, exempting educational services like online courses and webinars rendered by private educational institutions accredited by the Department of Education, Commission on Higher Education, the Technical Education and Skills Development Authority, and those rendered by government educational institutions.

Withholding of VAT

Payments to non-VAT registered nonresidents for services rendered in the Philippines subject to 12% withholding VAT at the time of payment.

VAT Registration

Nonresident digital service provider is liable to register for VAT if:

- Gross sales/receipts for past twelve (12) months before date of filing for VAT return exceeded P3 million;
- There are reasonable grounds to believe that gross sales/receipts for next 12 months from date of filing VAT return will exceed P3 million.

One of the objectives behind the push for the passage of HB 7425 is to generate revenues from new sources in order to fund the country’s pandemic recovery efforts. The government expects to gain PhP 10 billion upon the enactment of the measure, which can be immediately used to fund efforts to address challenges including economic hardships and the rising cases of COVID-19 in the country. Its Senate counterpart, SB 406, is currently pending in the Committee on Ways and Means since 2019

Amendments to the Foreign Investments Act – SB 1156

The Senate version of the bill was certified by President Duterte for immediate enactment last May 2021, and the original committee report was amended by substitution on August 26, 2021. Generally, the amendments will prospectively make the rules less stringent for foreign businesses as the Philippines is known for being one of the most restricting countries in terms of foreign investing. Furthermore, the bill will boost the economy as more jobs will be created along with the opening of more businesses.

One of the salient features of the bill aims to allow foreigners to own small and medium-sized enterprises with a minimum paid-up capital of less than USD 100,000 if it involves advanced technology or employs at

least 15 direct employees. This rate would purportedly attract more foreign investments and encourage the transfer of technology thereby generating more jobs for Filipinos.

Additionally, the proposed bill provides regulations for offshore business entities which conduct transactions locally through e-commerce as domestic market enterprises, which will make such entities subject to the Act and other relevant laws.

Another feature of the bill would allow pertinent agencies to review proposed foreign investments that may pose a threat to national security or jeopardize international investments. In addition, the said agencies may make recommendations to the President for appropriate action.

In order to appease the fears of total foreign takeovers, the amendment provides that the National Security Council will be able to review proposed foreign investments to proscribe any signs of possible encroachments in the control of critical infrastructure.

POGO Tax Regime – RA 11590

The President signed into law Republic Act 11590 or An Act Taxing Philippine Offshore Gaming Operators (POGOs). The law aims to regulate all forms of legal gambling and explicitly prohibit illegal gambling operations which are synchronous to the government's mission and objective.

Under the law, 60% of the total revenue collected from POGOs will be used and allocated for the implementation of the Universal Health Care Act, while the remaining 40% will be divided equally for the health facilities' enhancement programs and the attainment of Sustainable Development Goals by the National Economic and Development Authority.

Furthermore, under RA 11590, POGO employees will have to pay a final withholding tax of 25% on their gross income and imposes a minimum final withholding tax due of PhP 12,500 for any taxable month. The non-gaming revenues of Philippine-based offshore licensees will also be subject to an income tax equivalent to 25% of the taxable income derived during each taxable year from all sourced within and outside the Philippines.

Another feature of the bill excludes accredited service providers to offshore gaming licensees from being subject to the gaming tax, however, must pay such rate of tax and will be subject to all other applicable local and national taxes.

Table 11
Legislative-Executive Development Advisory Council (LEDAC)

BILL	STATUS	APPROVAL TIMELINE
Amendments to the Retail Trade Liberalization Act	Ratified	Ratified on Sept 21, 2021
Amendments to the Foreign Investments Act	Bicam	November 2021
Amendments to the Public Service Act	Plenary	November 2021
POGO Tax Regime	Ratified	Ratified on July 28, 2021
Department of Migrant Workers and Overseas Filipinos Act	Plenary	November 2021
GUIDE	Committee	W3 November 2021
PIFITA	Committee	W1 November 2021
Virology Science and Technology Institute of the Philippines	Committee	W3 November 2021
Rural Agricultural and Fisheries Development Financing System Act	Committee	W3 November 2021
CTRP Package 3 / Valuation Reform Bill	Committee	W1 of December 2021

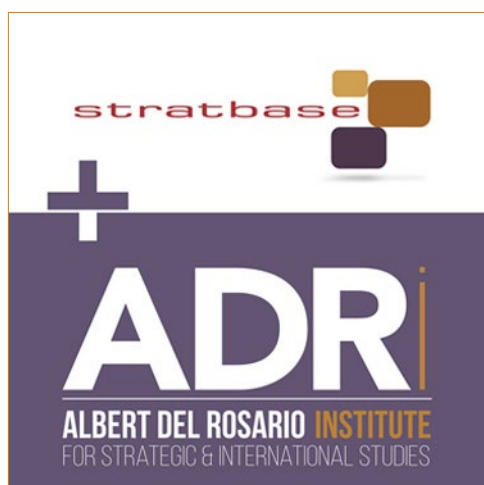
Priority Legislative Measures

Both houses of Congress will be taking a month-long break in October to give way to the filing of certificates of candidacy for local and national elective positions for the May 2022 elections. By this, Congressional sessions will resume on November 8, 2021.



POLÍTICA

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