

Arrest the unvaccinated? That may be unconstitutional, CHR says

[Xave Gregorio](#) January 8, 2022 | 5:45pm



January 8, 2022 | 5:45pm

MANILA, Philippines — President Rodrigo Duterte's [threat to arrest](#) those who have not been vaccinated against COVID-19 may be illegal, unconstitutional and violative of human rights, the Commission on Human Rights said as it noted that there is no law criminalizing being unvaccinated.

CHR spokesperson Jacqueline Ann de Guia [said in a statement](#) that while the 1987 Constitution does provide that movement can be restricted in the interest of national security, public safety or public health, a law is necessary to make this restriction legal.

“Presently, there is no law that makes being unvaccinated a crime, nor is there any law that would satisfy the constitutional provision on curtailing freedom of movement,” De Guia said.

She went on to say that warrantless arrests go against the constitutional guarantee of due process, as these are only permitted when someone is caught in the act of committing a crime, during hot pursuit, or during the re-arrest of escaped prisoners.

“The present directive to arrest unvaccinated individuals on-the-spot does not satisfy the said exemptions, aside from the fact that, as mentioned, no crime is being committed,” De Guia said.

She added that the government should consider the consequences of arresting the unvaccinated as detention facilities are already congested which may further worsen the transmission of COVID-19.

In a televised address to the nation aired Thursday, Duterte

said those who have not yet been vaccinated against COVID-19 should be ordered to stay home and they can be arrested by village chiefs if they resist.

“If he refuses, he goes out of the house and goes around in the community or maybe wherever he goes, he can be restrained. And if he refuses, then the barangay captain being a person in authority is empowered now to arrest the recalcitrant persons,” [he said](#).

Domingo Egon Cayosa, a constitutional law expert and former Integrated Bar of the Philippines president, had already said that there is [no legal basis to arrest unvaccinated individuals](#) who are outside their homes.

Duterte's administration has been criticized for its heavy-handed and militarized approach in dealing with a public health crisis, as seen in lockdowns enforced by the police and military.

The tough-talking Duterte had also threatened arrest for quarantine protocol violators, [people without face masks](#), [barangay captains who fail to enforce a ban on mass gatherings](#), [those not wearing face masks properly](#) and [people who refuse to be vaccinated](#). — **with a report from**

Kristine Joy Patag