

The Social and Collateral Damages in the Philippines' War Against Drugs

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Abstract

The war against drugs in the Philippines, which commenced during the administration of then president Rodrigo Duterte, triggers the vulnerable state of human rights in the country. This essay about the social and collateral damages caused by the drug war will tackle (1) the first one hundred days of the former president; (2) a documentation of EJK victims who are deemed as “collateral damages” in the drug war; (3) a synthesis of reports in relation to the investigation of the International Criminal Court (ICC) regarding the controversy; and (4) a review of the EJKs’ depiction in culture and the arts. All of these topics are essential in understanding the roots and consequences of Duterte’s war on drugs, especially in light of the preservation of human rights in the Philippines.

Keywords

drug war, Duterte, extrajudicial killings, Philippines, war on drugs

“Hitler massacred 3 million Jews ... there’s 3 million drug addicts. There are. I’d be happy to slaughter them.” (Duterte, 2016)

These words from Rodrigo Duterte, the 16th president of the Philippines, resonate the kind of fear and conviction – the *change* – that he promised to propagate once he was seated in power. Consequently, he proved his disciplinary approach through his immediate enforcement of the so-called

war against drugs upon being elected into office. Since then, the Philippines has faced numerous challenges that make the international community curious and concerned about the welfare of the country, including various controversies connected to human rights and international relations. For this essay, a chronological account with regard to the drug war during Duterte's term from 2016 to 2022, as well as the violations of human rights by his government will be discussed.

Extrajudicial killings (EJKs) are “killings committed—e.g., by vigilante groups or secret government agents—outside judicial or legal process—that is, in contravention of, or simply without, due process of law” (Vera Files, 2017). The term is also sometimes referred to as “extra-legal killings” or “extrajudicial executions.” In the Philippines, EJKs already occurred even before Duterte's time as chief executive; most notably during the tenure of Ferdinand Marcos Sr. when martial law was declared in the country. During Marcos Sr.'s time, an estimate of 3,000 extrajudicial killings were recorded (Reyes, 2016). Because of the violence and brutality caused by the dictatorial government at that time, the 1987 Constitution abolished capital punishment. However, it was revived in 1993 during the time of Fidel Ramos, the 12th President of the Philippines, and was abolished again in 2006 by Gloria Macapagal-Arroyo, the 14th and second female president of the country (Johnson and Fernquest, 2018: 362). Acknowledging the modern history of capital punishment in the Philippines is essential because this topic somehow clarifies the (un)constitutionality of extrajudicial killings. As Martin Andanar, the Secretary of the Presidential Communications Operations Office in the Duterte administration, previously stated, “We do not have judicial killing, we do not have capital punishment. It is prohibited to kill in our country. ... it is not in our Constitution” (Andanar, 2017). Andanar's remark is relevant because the existence of capital punishment in a country makes “killings” legal and constitutional, and even allows “extrajudicial” killings if due process is overlooked. However, the abolition of capital punishment does not necessarily mean that extrajudicial killings do not happen in a country because this is “a pattern that has been seen before and that will be seen again in polities with weak law, strong executives, and fearful and frustrated citizens” (Johnson and Fernquest, 2018: 361). These are “state killings.” This notion of state killings that are done “extra-judicially” fits how the Duterte administration handled the issue of EJKs, especially when the president admitted that he was responsible for “authorizing extrajudicial killings”

(Ellis-Petersen, 2018) in the Philippines. Moreover, Duterte noted his *pleasure* in executing. Duterte's admission last September 27, 2018 that "his 'only sin' was extrajudicial killings," (Ellis-Petersen, 2018), alongside the occurring cases of EJKs since the start of his presidency, proves that there were EJKs despite the absence of capital punishment in the country.

Before thoroughly discussing the effects of EJKs in the context of human rights, events related to the drug war must be explained. In this essay, the first one hundred days of Duterte's presidency will be tackled, as this period covers the beginning of his "bloody war" against drug users and dealers. Next, a documentation of EJK victims will be reviewed and how many of them are deemed as "collateral damage" in the drug war—a term that President Duterte nonchalantly used in describing individuals, mostly the youth, who are mistakenly killed by the police. Afterwards, reports related to the preliminary investigation of the International Criminal Court (ICC) will be synthesized, in order to determine the effects of the drug war from the perspective of the international community. Finally, an awareness about EJKs through the lens of culture and the arts will also be exhibited in this paper. All of these topics are essential in understanding the roots and consequences of Duterte's war on drugs, especially in light of the preservation of human rights in the Philippines.

Duterte' s First 100 Days

Upon taking power, President Duterte immediately imposed an elimination of criminality through *Oplan Tokhang*, the name of the drug war operations which translates as "knock and plead" in the Visayan dialect (Canceran, 2018: 94). This maneuver led by police officers starts with a "knock on a suspected drug trafficker or drug addict's home to persuade them to surrender and stop their illegal activities" (Caliwan, 2019: 2). The process seems uncomplicated, but due to the fear and force imposed by those in authority, *Oplan Tokhang* became associated with extrajudicial killings (Canceran, 2018: 94). In various reports about EJKs, narratives with similar patterns are discovered. According to Peter Kreuzer of the Peace Research Institute Frankfurt, vigilantes in uniform consider EJKs as "perfectly legal acts of self-defense in the context of legitimate encounters with suspects" (Kreuzer, 2016: 1). This means that police authorities are only trying to defend themselves from being shot by the alleged suspects or drug users who

eventually and ironically become victims of EJKs. This narrative sometimes, if not usually, opposes the accounts of eyewitnesses and footage from CCTV when available. Given this strategy, in addition to the absolute pardon that President Duterte promised “in the performance of their duties” (Mendez, 2016), the police appear more audacious because of their position and the support of the government.

According to Arugay, the drug war was apparently supported by Filipinos, with an approval rating of 84% from a public opinion poll in 2016, because of how the operations improved peace and order in areas where illegal drug usage was chronic (2017: 287). This development is also evident in the relationships of families and/or communities destroyed by drug addiction, as these users tended to “make up for their mistakes” (Obordo, 2016). Moreover, Duterte received a “very good” rating for his performance in his first hundred days as president. According to *Rappler*, “The survey results showed that 76% of Filipinos are satisfied with Duterte’s performance so far” (Ranada, 2016). This rating was published in 2016 and can be compared to the initial ratings of previous presidents where Duterte was considered “the second highest among Chief Executives polled by the Social Weather Stations” (Ranada, 2016).

Despite the satisfactory response of the masses, the campaign against criminality insinuated fear especially in the first few months of its implementation because of the increasing number of victims who were unjustly killed. In July 2016, *Inquirer.net* reported a tally of “2,126 deaths (1,104 by police and 1,022 by unknown hitmen)” for the first seven months of the Duterte administration (Sarao, 2021). The number continuously grew in the next few years, which revealed the uncertainty and lack of accountability by the government. For instance, according to Amnesty International, a global movement that campaigns for human rights, a total of 7,025 persons were executed in drug-related killings between July 1, 2016 and January 21, 2017 (2017, 6). Meanwhile, Zacarian Sarao (2021) of *Inquirer.net* wrote in a news article that, “Between July 1, 2016, and Dec. 31, 2020, the official government figures list 6,011 deaths in anti-drug operations. The UN Office of the High Commissioner for Human Rights (OHCHR), however, found that as of March 2020 at least 8,663 deaths have been recorded” (Sarao, 2021). The report of Fatou Bensouda, the prosecutor in the International Criminal Court who investigated the EJKs in the Philippines, also provides a different number.

She says in her investigative report that the “total number of civilians killed in connection with the War on Drugs between July 2016 and March 2019 appears to be between 12,000 and 30,000” (Bensouda, 2021: 3). Up to the end of Duterte’s administration in 2022, the total number of EJK victims is still in question due to the lack of accountability of the previous government. Despite the obscurity of reports, the numbers are alarming because the killings involve people who (1) did not undergo due process, or (2) were mistakenly and unjustly murdered by those in power. Furthermore, these data exemplify how human rights are being compromised to foster the “greater good”.

The first 100 days of Duterte’s presidency saw a combination of favorable and negative responses from the public, whether on the local or international scale. Apparently, the president’s supporters affirmed the actions imposed by their elected official, not only because they easily recognize the “change” that Duterte promised in his campaign, but also because of the discipline in conjunction with fear that is observed in society. Duterte was dubbed “The Punisher” and “Strongman” by *Time Magazine* in 2016 (Campbell, 2016). His popularity was an added factor accounting for positives remark towards EJKs. However, this approval did not persist as the opposition and the international community criticized the actions of the president. Violations of human rights were reported and investigated, especially when victims of EJKs were mostly identified to have been from the lower classes. Additionally, the drug war became more questionable due to the reports on “collateral damages” that were being recounted. The most popular case in relation to this issue was the death of Kian delos Santos last 2017.

Kian delos Santos and collateral damage

Kian delos Santos was a 17-year-old student from Caloocan City in Metro Manila who pleaded for his life before being fatally shot by policemen. His case was caught in CCTV footage and by eyewitnesses who saw how he was forcefully dragged “across alleys and into a corner where he was shot” (Gavilan, 2018). The pieces of evidence and witness accounts about the incident only prove the contradiction of the narratives of the police regarding their operations. As mentioned by Kreuzer in his study, vigilantes, even in uniform, create self-defense narratives in order to be acquitted from the execution, and these strategies are seen as a pattern in *Oplan Tokhang*. Likewise, this “turnaround” of stories leads to a lack of accountability by those in authority. As a result

of Kian delos Santos' case, people, especially advocates and human rights organizations, protested against the killings. As delos Santos' case was deemed high profile, Duterte himself unexpectedly addressed the plea of the people and delos Santos' family who were crying for justice. Hence, in 2018, the policemen who were charged with murder were found guilty and sentenced to "*reclusion perpetua* 'without eligibility of parole'" (GMA, 2018). Unfortunately, as of this writing, only the police officers responsible for delos Santos' death have been convicted in relation to EJKs.

Despite the "high profile" case of delos Santos and the exposé of *Oplan Tokhang*, there were still many killings that are considered "isolated cases" or, in President Duterte's words, "collateral damage." These incidents may be due to lack of evidence or the hesitancy of the victims' families to report *truthfully* about the situation. Examples of these narratives are found in the study of the World Organisation Against Torture (OMCT) about these "collateral damages" where cases of victims aged 1 to 17 years old are analyzed (2020). The individuals cited in the article were "killed during police operations in alleged self-defense, in custody of barangay authorities, as witness to an extrajudicial killing" or merely as "collateral damage" (OMCT, 2020). This information implies that the killings were apparently not well-planned nor well-executed, because the authorities allowed for these innocent individuals to serve as "collateral damage" in their operations. Furthermore, it greatly proves the violations on human rights that the government constantly dismisses. It also appears that, in spite of the uproar of the masses since the murder of Kian delos Santos, those in authority do not listen to the people whom they lawfully pledge "to serve and protect"¹ because they only follow the orders of the chief executive. Initially, the objective of the drug war was to expunge drug cases in the Philippines, but given the extrajudicial killings and the consequences attached to them, particularly with regard to the violation of human rights, *Oplan Tokhang* is nowhere near victory.

The Investigation of the International Criminal Court

In 2018, Fatou Bensouda of the International Criminal Court (ICC) "announces that [they have] initiated a preliminary examination" about the drug war in the Philippines (Gavilan, 2022). The investigation was due to

1 This is the PNP's motto, according to the Philippine National Police Guidebook on Human Rights-Based Policing.

the disparity in the number of EJK victims since 2016, the numerous reports covering the killings, as well as the neglect of the Duterte government in addressing human rights concerns. Moreover, the call for justice by the families of EJK victims and other human rights movements proves the gravity of violations done by the Duterte-led government with regard to humanity.

According to Jodesz Gavilan's article in *Rappler*, an online news site in the Philippines, events leading to the investigation of the ICC started as early as 2016 when Bensouda was "keeping an eye on the incidents in the Philippines as the number of deaths in drug war operations continues to rise almost four months into the Duterte administration" (2022). The issue became more alarming when news about Kian delos Santos' death and the circulating CCTV footage of the police mishandling and eventually killing the victim broke out on different media platforms. Delos Santos' death served as the trigger, not only for the masses to protest against the drug war and the government, but also for the administration itself to "pause" *Oplan Tokhang*. When the announcement of the ICC was released to the public, Duterte, through his presidential spokesperson, "welcomes this move 'because he is sick and tired of being accused of the commission of crimes against humanity'" (Gavilan, 2022). However, a few weeks after Harry Roque² made this remark, the president declared the withdrawal of the Philippines as a member-state of the ICC, effective immediately. Although technically the withdrawal will take effect a year after receiving the notification, the government pursued its withdrawal which, for the public, was evidence of its fear and an admission of the human rights' violations it had committed. Despite the official departure, the ICC may still proceed with its investigation, but difficulties "in getting cooperation from the Philippine government" (Gavilan, 2022) are expected.

In the succeeding years, with the onset of the coronavirus pandemic, there has been little but significant progress in the initiative of the ICC to investigate the drug war. For instance, the ICC has revealed that it "grants limited immunity" (Buan, 2021) to Arturo Lascañas, a former Davao City police official and self-confessed DDS³ 'hitman' (Gavilan, 2022). According to reports, the agreement is "unprecedented and considered a

2 Duterte's former presidential spokesperson

3 Duterte Death Squad

first in Philippine history” (Gavilan, 2022). The information that Lascañas will provide in the investigation “will not be used as evidence against him” despite his admitting to kill and cover up for Duterte (Buan, 2021). Critics view it as a “form of use immunity” and/or a “means by which the OTP is treating a witness as an insider, although he could also be a suspect.” (Gavilan, 2022). Another proof of progress is the continuous plea of the masses and human rights activists to hold Duterte accountable for his violations against humanity. Despite these instances, the Philippines’ government, even under the new administration of Ferdinand Marcos Jr., remains detached from the issue by claiming that the ICC has no jurisdiction over the country given the withdrawal that occurred in 2018 (France 24, 2022). Likewise, Marcos Jr. has previously stated that the Philippines will not be re-joining the ICC and that there is an ongoing local investigation about EJKs already. Hence, jurisdiction to allow the ICC to independently investigate the drug war is no longer necessary (Al Jazeera, 2022).

As of writing, the ICC investigation in the Philippines is led by Prosecutor Karim Khan. He succeeded Bensouda after the latter’s retirement in 2021. Khan is currently requesting the ICC pre-trial chamber “to resume his office’s investigation into the killings under Duterte’s war on drugs and those committed in Davao City between 2011 and 2016” (Gavilan, 2022). As the investigation continues, there is hope that justice for the families of victims of EJKs will be served and those in power will be held accountable.

EJKs in other fields (cultural studies)

Ever since EJKs became a prevalent issue in the Philippines, the media, both locally and abroad, has frequently been present in reporting the government’s war against drugs, and informing people about it. News about police involvement or vigilantism in EJKs as well as human rights violations are the center of the matter. Apart from academic articles in the sociopolitical field, EJKs have also become an emerging theme in the arts, more particularly in film, photography, and even literature. For the past six years, several films, photo exhibits, and literary works have been produced and shown in the Philippines and overseas to showcase what has been happening in the country.

Most of the films that tackle EJKs and/or the drug war were released in 2017 alone. Miguel Escobar of *Esquire Philippines* enumerates them in his

article: “How Has The Drug War Figured In Filipino Films?” These films include *EJK* by Roland M. Sanchez, *The Right to Kill* by Brillante Mendoza, and *Madilim Ang Gabi (Dark Is The Night)* by Adolfo Alix Jr. to name a few. The relevance of these films lies in their depiction of the reality about EJKs and the drug war. They help the audience picture possible scenarios from the points of view of people who may have experienced or witnessed this horrific situation in the country since 2016. Aside from fictional narratives through film, EJKs are also featured in documentaries. The most recent one is entitled *Aswang* (2019), a documentary film directed by Alyx Ayn Arumpac, in which the reality of EJKs in the Philippines has been exposed in a more truthful manner, as the film uses different perspectives to highlight what really happens in the aftermath of an EJK incident.

In relation to *Aswang* is a photography exhibit of some of the same photojournalists who are involved in the filming of the documentary. The project entitled *Dark Lens / Lente ng Karimlan: The Filipino Camera in Duterte's Republic* is “an online exhibition of Filipino photographs on the work of death. These digital images of killings are sites of what we might consider martial law ‘memory work.’ These photographs rearticulate and narrate the Philippines’ authoritarian past and present” (“Dark Lens,” 2018). The photographs of the group called “Night Shift” were exhibited in New York last 2018. The exposition of EJKs abroad tends to be more alarming because of the possible remarks that the international audience may make about the country.

Meanwhile, there are also literary works that address EJKs, especially with the death of one of the EJK victims. An elegy entitled *Elehiya Para Kay Kian delos Santos*, written by E. San Juan, Jr., is a tribute to Kian delos Santos (2017). The poem is written in both Filipino and English and is about the nation’s drive to revolt against the state because of the injustices that have happened since Duterte was elected president and how death due to EJKs can become a motivation for Filipinos to wake up and see the reality brought by the administration. This is somewhat similar to Randy Ribay’s inspiration to write *Patron Saints of Nothing* (2019), a young adult novel about the journey of Jay Reguero, its protagonist, who is investigating the death of his cousin, Jun, an alleged victim of extrajudicial killings in the Philippines. He wrote *Patron Saints of Nothing* because he aims to enlighten young people about sociopolitical issues that happen, not only in the Philippines, but also in the

world. Both literary works cite and are motivated by the case of Kian delos Santos. In addition to these literary works, an anthology of short stories entitled *Triggered* (2021), was recently published in the Philippines. Co-edited by Jocelyn Martin and Cyan Abad-Jugo, the book comprises young adult stories written by young adults and portrayed in illustrations drawn by contributors, to give its readers numerous perspectives about EJKs, both from the point of view of victims and perpetrators.

Using EJKs as a subject matter for any platform is difficult in the Philippines because of the possible dangers that may occur. The Duterte administration and its constituents were too powerful and manipulative so that one “slip” from an opposing person might lead to his fall. But then again, the types of medium/media cited here have a different kind of influence on their audience because they allow people to understand or interpret realities based on what is presented or represented.

Aftermath

Duterte’s term ended in 2022. The EJKs that happened under his administration leave questions and injustices more than resolutions of the problems of the nation. One may wonder if the weight of the president’s responsibilities has affected the outcome of his plans for the country. However, given the lack of accountability, as seen in the response of the government to certain issues, criticism prevails more than praise. Moreover, the social and collateral damage incurred in the drug war has not only traumatized defenseless individuals and families but also affected the nation as a whole. For example, the reaction of the masses to Kian delos Santos’ death and their participation in protests against EJKs and the administration serve as a collective trace of melancholia in the country. Filipinos mourn for the victims because they are one with them. They, who may also be potential EJK victims or “collateral damage,” belong to one society and are all considered victims of an atrocious system.

No one and nothing is certain as to where and when justice will be served to the victims of extrajudicial killings. Yet, many Filipinos, along with the international community, are certainly not losing hope in this fight for the sake of humanity.

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菲律賓反毒品戰爭的社會與附帶損害

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摘要

在菲律賓總統杜特蒂執政時期所發起的反毒品戰爭，引發菲律賓境內人權侵害的情形。本文探討毒品戰爭造成社會和附帶損害，將聚焦於：(1) 前總統的第一個一百天、(2) 被視為是毒品戰爭中「附帶損害」的法外處決受害者的紀錄、(3) 國際刑事法庭 (ICC) 針對該爭議進行調查的綜合報告、(4) 從文化和藝術角度檢視對法外處決的描述。前述這些主題對理解杜特蒂毒品戰爭的根源和後果極為重要，尤其是在菲律賓人權保障議題。

關鍵字

毒品戰爭、杜特蒂、法外處決、菲律賓、反毒戰爭
